

US EPA ARCHIVE DOCUMENT

and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is because the event is of limited duration, will be conducted at a late hour, and extensive public advisories will be made well in advance of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rulemaking under the principles and criteria contained in Executive Order 12612 and has determined that this temporary final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. An Environmental Checklist and Categorical Exclusion Determination are available for inspection in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section, § 165.T01–137, is added to read as follows:

§ 165.T01–137 Safety Zone: City of Gloucester fireworks. Gloucester, MA.

(a) *Location.* The following area is a safety zone: All waters of Gloucester Harbor within the area bounded by a line drawn from a point west of the mouth of the Blynman Canal in position 42°–36′–33″N, 070°–40′–30″W, thence southeast to lighted bouy 11 in position 42°–36′–20″N, 070°–39′–52″W. The line then continues southward to Ten Pound Island Light in position 42°–36′–08″N, 070°–39′–56″W, then west to position 42°–36′–08″N, 070°–40′–21″W. From this position the line continues northwest to the eastern most point of Stage Head Park at 42°–36′–18″N, 070°–40′–31″W, then northward along the shoreline to the starting position.

(b) *Effective date.* This section is effective at 8:30 p.m. on September 2, 1995. It terminates at 10:30 p.m. on September 2, 1995, unless extended or terminated sooner by the Captain of the Port Boston.

(c) *Regulations.* In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited except as authorized by the Captain of the Port Boston.

Dated: August 22, 1995.

D.M. Maguire,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 95–21693 Filed 8–31–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5289–9]

Clean Air Act Final Interim Approval of Operating Permits Program and Approval of Delegation of Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by Iowa for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources, and to certain other sources. EPA is also approving, under section 112(l), the state's program for accepting delegation of section 112 standards.

EFFECTIVE DATE: This rule will become effective on October 2, 1995.

ADDRESSES: Copies of the state's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: USEPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas, 66101.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval.

Where a program substantially, but not fully, meets the requirements of section 502 and part 70, EPA may grant the program interim approval for a period of up to two years. 40 CFR 70.4(d)(3) sets forth the minimum requirements a state program must meet in order to be eligible for interim approval. The 11 minimum requirements include: (1) Adequate fees, (2) applicable requirements, (3) fixed term permits, (4) public participation,

(5) EPA and affected state review, (6) no permit issuance if objection by EPA, (7) basic enforcement authority, (8) operational flexibility, (9) streamlined procedures for issuing and revising permits and for determining completeness of applications, (10) adequate permit application requirements, and (11) alternative operating scenarios. If EPA has not fully approved a program by two years after the November 15, 1993, date, or by the end of an interim program, it must establish and implement a Federal program.

On April 26, 1995, EPA proposed interim approval of the operating permits program for Iowa (see 60 FR 20465–20469). The EPA received no public comments on the proposal. In this notice, the EPA is taking final action to grant interim approval of the operating permits program for Iowa.

II. Final Action and Implications

A. Analysis of State Submission

In proposing interim approval of the Iowa program, the EPA determined that the state met the minimum requirements for interim approval outlined in 40 CFR 70.4(d)(3)(i)–(xi). In order to receive full approval, the EPA outlined specific requirements in 60 FR 20465–69 that the state must meet.

These requirements included:

1. Four specific rule revisions, as well as corrections to the acid rain regulations. The state adopted all required rule revisions and corrections on May 15, 1995, and submitted them to the EPA in a letter dated June 23, 1995. The rule revision and correction requirements therefore have been met.

2. Finalizing the operating permit fee and submission of a revised fee demonstration as necessary. In section II.A.2.a. of the April 26, 1995, notice of proposed interim approval, the EPA noted the state only collected half of its operating permit fee of \$24 until it could be determined if the full amount was necessary to implement the program.

On March 20, 1995, the state elected to collect the full amount of \$24 and submitted documentation of this action to the EPA on May 26, 1995. Since the EPA previously determined the adequacy of a \$24 operating permit fee, this requirement has been met.

3. Hiring the originally forecasted amount of personnel to implement the Title V program or submission of a revised workload analysis that adequately describes how the program may be successfully implemented with fewer personnel.

Although the state has hired additional personnel for the purpose of

implementing Title V since the April 26, 1995, **Federal Register** notice, the state has not met the original personnel forecast, nor has it submitted a revised workload analysis. This requirement for full approval has not been met; consequently, EPA is granting interim approval of the program.

B. Section 112(g)

To regulate hazardous air pollutants, the EPA will establish performance standards for each industry based on Maximum Achievable Control Technology (MACT) under section 112(g) of the Act.

On February 14, 1995, the EPA published an interpretation of section 112(g) applicability in 60 FR 8333. The notice postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the interpretation.

The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Iowa must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing Federal regulations.

The EPA is aware that Iowa lacks a program designed specifically to implement section 112(g). However, Iowa has adopted a subrule amendment at IAC 567–22.3(6) that gives the state authority to limit emissions of hazardous air pollutants (HAP). Iowa may use this authority to establish case-by-case MACTs as needed for the review of new or modified HAP sources until such time as it adopts section 112(g).

C. Section 112(l)

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources, as well as for sources not subject to part 70 requirements. Section 112(l)(5) requires that the state's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is granting full approval under

section 112(l)(5) and 40 CFR 63.91 of these programs for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated.

D. Final Action

The EPA is granting interim approval of the operating permits program submitted by Iowa on November 15, 1993. In addition, the EPA is granting approval of the state's program for receiving delegation of section 112 standards. In order to receive full approval of the operating permit program, the state must hire the original amount of forecasted personnel or provide a revised workload analysis describing how the program may be successfully implemented with fewer personnel.

This approval includes the following regulations adopted by the state of Iowa:

1. Iowa Administrative Code 567–22.100–147, effective March 16, 1994;
2. Amendments to Iowa Administrative Code 567–22.3(6); 101–103; 105; 107–108; 110; 120; 123–124; 132; 134; 139; 141–142; 146; 147; adopted May 15, 1995, and effective July 12, 1995; and
3. Iowa Administrative Code 567–2 (effective September 7, 1988); 567–7 (effective September 7, 1988); 567–10 (effective September 16, 1992).

The scope of Iowa's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within Iowa, except any sources of air pollution over which an Indian Tribe has jurisdiction (see 59 FR 55813, 55815–18 (November 9, 1994)). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; 59 FR 43956, 43962 (August 25, 1994); and 58 FR 54364 (October 21, 1993).

This interim approval, which may not be renewed, extends until October 1, 1997.

During this interim approval period, Iowa is protected from sanctions, and EPA is not obligated to promulgate, administer, or enforce a Federal operating permits program in the state.

Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the three-year time

period for processing the initial permit applications.

If Iowa fails to submit a complete corrective program for full approval by April 1, 1997, EPA will start an 18-month clock for mandatory sanctions. If Iowa then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that Iowa has corrected the deficiency by submitting a complete corrective program.

Moreover, if the Administrator finds a lack of good faith on the part of Iowa, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the state has come into compliance. In any case, if, six months after application of the first sanction, Iowa still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if Iowa has not submitted a timely complete corrective program or EPA has disapproved its submitted corrective program.

If EPA has not granted full approval to the Iowa program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer, and enforce a Federal permits program upon interim approval expiration.

III. Administrative Requirements

A. Docket

Copies of the state's submittal and other information relied upon for the final interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not

impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of these operating permit programs, the state of Iowa has elected to adopt the program provided for under Title V of the Clean Air Act. These rules bind the state to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. EPA has determined that this interim final action does not include a mandate that may result in estimated costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 16, 1995.

Dennis Grams,
Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Iowa in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Iowa

(a) The Iowa Department of Natural Resources submitted on November 15, 1993, and supplemented by correspondence dated March 15, 1994; August 8, 1994; October 5, 1994; December 6, 1994; December 15, 1994; February 6, 1995; March 1, 1995; March 23, 1995; and May 26, 1995. Interim approval effective on October 2, 1995; interim approval expires October 1, 1997.

(b) [Reserved]

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[FR Doc. 95–21760 Filed 8–31–95; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 417

[OMC–011–FC]

Medicare Program; Contracts With Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This rule clarifies and updates portions of the HCFA regulations that pertain to the following:

- The conditions that an HMO or CMP must meet to qualify for a Medicare contract (Subpart J).
- The contract requirements (Subpart L).
- The rules for enrollment, entitlement, and disenrollment of Medicare beneficiaries in a contracting HMO or CMP (Subpart K).
- How a Medicare contract is affected when there is change of ownership or leasing of facilities of a contracting HMO or CMP (Subpart M).

These are technical and editorial changes that do not affect the substance of the regulations. They are intended to make it easier to find particular provisions, to provide overviews of the different program aspects, and to better ensure uniform understanding of the rules.

DATES: *Effective Date:* These rules are effective as of October 1, 1995.

Comment Date: We will consider comments received by October 31, 1995.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: OMC–011–FC, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201–0001, or Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850

Because of staffing and resource limitations, we cannot accept comments