

Because Ohio has historically accepted delegation of section 112 standards through automatic delegation, EPA proposes to approve the delegation of section 112 standards and requirements through automatic delegation. The details of this delegation mechanism will be set forth in a Memorandum of Agreement between Ohio and EPA. This approval applies to both existing and future standards but is limited to sources covered by the part 70 operating permit program.

d. *Limiting HAP Emissions Through a FESOP Program.* On October 25, 1994, EPA conditionally approved OAC 3745-35-07 for establishing a mechanism for creating federally enforceable limits on a sources potential to emit (59 FR 53586). This rulemaking, which became effective on December 27, 1994, authorizes the State to issue federally enforceable State operating permits addressing both criteria pollutants and HAPs.

e. *Title IV.* Ohio's program contains adequate authority to issue permits which reflect the requirements of Title IV and its implementing regulations. Further, Ohio provided a commitment on January 5, 1995, to incorporate by reference the Federal Acid Rain Program regulations (40 CFR part 72) by October 1, 1995.

#### B. Potential Interim Approval Issue

Ohio's definition of "title I modification" does not include changes reviewed under a minor source preconstruction review program. On August 29, 1994, EPA solicited public comment on whether the phrase "modification under any provision of title I of the Act" in 40 CFR 70.7(e)(2)(i)(A)(5) should be interpreted to mean literally any change at a source that would trigger permitting authority review under regulations approved or promulgated under Title I of the Act (59 FR 44573). EPA is currently reviewing the public comments on this issue and is in the process of determining the proper definition of that phrase. EPA does not believe that it is appropriate to determine whether this is a program deficiency for Ohio until EPA completes its rulemaking on this issue. For a more complete discussion of this issue see the November 9, 1994, approval of the operating permit program for the State of Washington (59 FR 55813).

#### C. Proposed Action

EPA is proposing to grant full approval of the operating permit program submitted by Ohio on July 22, 1994, and amended on September 12, 1994, November 21, 1994, December 9, 1994, and January 5, 1995. Among other

things, Ohio has demonstrated that the program meets the minimum elements of an approvable State operating permit program as specified in 40 CFR part 70.

The scope of the Ohio program that EPA proposes to approve in this notice would apply to all part 70 sources (as defined in the approved program) within the State of Ohio.

As outlined in II.A.4.c., EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

### III. Administrative Requirements

#### A. Request for Public Comments

EPA is requesting comments on all aspects of this proposed full approval. Copies of the State's submittal and other information relied upon for the proposed full 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 proposed full approval. The principal purposes of the docket are:

- (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process; and
- (2) To serve as the record in case of judicial review. EPA will consider any comments received by May 15, 1995.

#### B. Executive Order 12866

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

#### C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permit 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.

#### 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.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 29, 1995.  
Valdas V. Adamkus,  
*Regional Administrator.*  
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### 40 CFR Part 76

[AD-FRL-5186-9]

RIN 2060-AD45

### Acid Rain Program; Nitrogen Oxides Emission Reduction Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; Response to Court remand.

**SUMMARY:** The EPA is today issuing a proposed rule in response to a remand by a U.S. Court of Appeals. The rule reinstates emission limitations for nitrogen oxides (NO<sub>x</sub>) from coal-fired utility units under section 407 of the Clean Air Act ("the Act"). The emission limitations for NO<sub>x</sub>, along with emission limitations for sulfur dioxide from utility plants, will reduce acidic deposition and prevent serious adverse effects on natural resources, ecosystems, materials, visibility, and public health.

On March 22, 1994, EPA promulgated a rule establishing NO<sub>x</sub> emission limitations. The rule established emission limits generally achievable using "low NO<sub>x</sub> burner technology" and established a procedure for obtaining an alternative emission limitation if a unit could not achieve the prescribed limit using such technology. On November 29, 1994, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the definition of "low NO<sub>x</sub> burner technology" in the March 22, 1994 rule exceeded EPA's statutory authority. The Court vacated the rule and remanded it to the Agency for further proceedings. On March 28, 1995, EPA and environmental and utility-industry parties signed an agreement addressing the March 22, 1994 regulations, including issues raised by the Court's remand.

Based on the Court's decision and a review of the record, the Agency is now revising the March 22, 1994 regulations. The low-NO<sub>x</sub>-burner-technology definition is revised to comply with the Court's decision. Other provisions concerning the compliance date for Phase I NO<sub>x</sub> emission limitations, AELs, and plans for averaging NO<sub>x</sub> emissions of two or more units are also revised. Because the rule revisions are consistent with the Court's decision and the Agency does not expect to receive adverse comments, the revisions are

also being issued as a direct final rule in the Final Rules section of this Federal Register. The revisions are also consistent with the March 28, 1995 agreement.

**DATES:** Comments on the regulations proposed by this action must be received on or before May 15, 1995.

**ADDRESSES:** *Comments.* All written comments must be identified with the appropriate docket number (Docket No. A-92-15) and must be submitted in duplicate to EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington DC 20460.

*Docket.* Docket No. A-92-15, containing information considered during development of the promulgated standards and requirements in this proposal, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section at the above address. A reasonable fee may be charged for copying. Additional data and information pertaining to the rule may be found in Docket No. A-90-39.

**FOR FURTHER INFORMATION CONTACT:** Peter Tsirigotis, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 (for technical matters) at (202) 233-9620; or Dwight C. Alpern (same address) (for legal matters) at (202) 233-9151.

**SUPPLEMENTARY INFORMATION:** If no significant, adverse comments are timely received, no further activity is contemplated in relation to this proposed rule and the direct final rule in the Final Rules section of this Federal Register will automatically go into effect on the date specified in that rule. If significant, adverse comments are timely received on any portion of the direct final rule, that portion will be withdrawn and all public comment received on that portion will be addressed in a subsequent final rule based on the relevant portions of this proposed rule. Because the Agency will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period.

For further supplemental information, the detailed rationale, and the rule revisions, see the information provided in the direct final rule in the Final Rules section of this Federal Register.

#### List of Subjects in 40 CFR Part 76

Environmental protection, Acid rain program, Air pollution control, Nitrogen oxides, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: March 31, 1995.

Carol M. Browner,

*Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Parts 90, 97 and 148

[CGD 87-069]

RIN 2115-AD02

#### Carriage of Bulk Solid Materials Requiring Special Handling

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking; termination.

**SUMMARY:** The Coast Guard is terminating rulemaking intended to amend the Coast Guard's regulations for the carriage of certain bulk solid materials. The proposed rules would have added to the list of materials permitted under the regulations materials carried under Coast Guard Special Permits issued pursuant to this regulation (Special Permits) and other materials contained in the International Maritime Organization (IMO) Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal. The Coast Guard wishes to focus its available resources to actions of the highest priority; therefore, the Coast Guard is terminating further rulemaking under docket number 87-069.

**DATES:** This proposed rulemaking is terminated April 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank K. Thompson, Hazardous Materials Branch, Office of Marine Safety, Security and Environmental Protection, (202) 267-1217.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On April 28, 1989, an Advance Notice of Proposed Rulemaking (ANPRM) was published in the Federal Register (54 FR 18308). The Coast Guard received 16 letters commenting on the ANPRM. No public hearing was requested, and none was held. The comments received in response to the ANPRM were considered in the development of the Notice of Proposed Rulemaking (NPRM).

On April 12, 1994, a Notice of Proposed Rulemaking was published in the Federal Register (59 FR 17418). The public comment period on this NPRM

had been scheduled to close on July 11, 1994; however, because of several requests from interested members of the public, the Coast Guard published a supplemental NPRM on August 5, 1994 (59 FR 40004) reopening the public comment period for an additional 30 days ending September 6, 1994.

In response to the NPRM, the Coast Guard received 55 letters containing more than 200 comments. Commenters included shippers, carriers, terminal operators, marine surveyors, trade associations, private individuals, and the Canadian Coast Guard. No public hearing was requested, and none was held.

After a comprehensive review of its active regulatory program, the Coast Guard has determined that this rulemaking is of relatively low priority at this time. The Coast Guard wishes to focus its available resources on actions of the highest priority and has determined that the best course of action is to terminate further rulemaking under docket number 87-069. In keeping with the President's direction to Federal agencies to review their regulations, the Coast Guard will reexamine this issue at some point in the future to determine if further rulemaking is necessary. Based on these considerations, the Coast Guard is terminating further rulemaking under docket number 87-069.

Dated: April 5, 1995.

Joseph J. Angelo,

*Acting Chief, Office of Marine Safety Security and Environmental Protection.*

[FR Doc. 95-9037 Filed 4-12-95; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 94-123, DA 95-694]

#### Radio Broadcast Services; Television Program Practices

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of reply comment period.

**SUMMARY:** The Commission granted a joint request by the Network Affiliated Stations Alliance for an extension of time for filing reply comments in this proceeding. The Commission determined that the extension of time was warranted in light of the time necessary to compile information critical to resolution of the numerous and complex issues raised in this