

(e) of this section apply. Because the areas listed in § 51.464 are not required to demonstrate reasonable further progress and attainment the provisions of paragraphs (b) and (c) of this section do not apply to these areas.

* * * * *

10. Section 93.128 is amended by removing paragraph (g), redesignating paragraphs (h) and (i) as (g) and (h), and revising paragraphs (a) through (d) and the newly designated paragraph (g) to read as follows:

§ 93.128 Transition from the interim period to the control strategy period.

(a) *Control strategy implementation plan submissions.* (1) The transportation plan and TIP must be demonstrated to conform by 18 months from the date of the State's initial submission to EPA of each control strategy implementation plan establishing a motor vehicle emissions budget. If conformity is not determined by 18 months from the date of submission of such control strategy implementation plan, the conformity status of the transportation plan and TIP will lapse, and no new project-level conformity determinations may be made, until the transportation plan and TIP have been demonstrated to conform.

(2) For areas not yet in the control strategy period for a given pollutant, conformity shall be demonstrated using the motor vehicle emissions budget(s) in a submitted control strategy implementation plan revision for that pollutant beginning 90 days after submission, unless EPA declares such budget(s) inadequate for transportation conformity purposes. The motor vehicle emissions budget(s) may be used to determine conformity during the first 90 days after its submission if EPA agrees that the budget(s) are adequate for conformity purposes.

(b) *Disapprovals.* (1) If EPA disapproves the submitted control strategy implementation plan revision and so notifies the State, MPO, and DOT, which initiates the sanction process under Clean Air Act section 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse 120 days after EPA's disapproval, and no new project-level conformity determinations may be made. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision fulfilling the same Clean Air Act requirements is submitted and conformity to this submission is determined.

(2) Notwithstanding paragraph (b)(1) of this section, if EPA disapproves the submitted control strategy implementation plan revision but makes

a protective finding, the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the Clean Air Act. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision fulfilling the same Clean Air Act requirements is submitted and conformity to this submission is determined.

(c) *Failure to submit and incompleteness.* For areas where EPA notifies the State, MPO, and DOT of the State's failure to submit or submission of an incomplete control strategy implementation plan revision, which initiates the sanction process under Clean Air Act sections 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area for such failure under section 179(b)(1) of the Clean Air Act, unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator.

(d) *Federal implementation plans.* When EPA promulgates a federal implementation plan that contains motor vehicle emissions budget(s) as a result of a State failure, the conformity lapse imposed by this section because of that State failure is removed.

* * * * *

(g) *Nonattainment areas which are not required to demonstrate reasonable further progress and attainment.* If an area listed in § 93.136 submits a control strategy implementation plan revision, the requirements of paragraphs (a) and (e) of this section apply. Because the areas listed in § 93.136 are not required to demonstrate reasonable further progress and attainment the provisions of paragraphs (b) and (c) of this section do not apply to these areas.

* * * * *

§§ 51.452 and 93.130 [Amended]

11. The identical text of §§ 51.452 and 93.130 is amended by redesignating paragraph (b)(5) as paragraph (a)(6); and in paragraph (c)(1) by revising the references, "paragraph (a)" to read "paragraph (b)" in two places.

[FR Doc. 95-27949 Filed 11-13-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[KY-95-01; FRL-5330-2]

Clean Air Act Final Interim Approval of Operating Permits Program; Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating source category-limited (SCL) interim approval of the Operating Permits Program submitted by the Kentucky Natural Resources and Environmental Protection Cabinet 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.

EFFECTIVE DATE: December 14, 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: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365, on the 3rd floor of the Tower Building. Interested persons wanting to examine these documents, contained in EPA docket number KY-95-01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Yolanda Adams, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347-3555, Ext. 4149.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

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. 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 part 70, EPA may grant the program interim approval for a

period of up to 2 years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal program.

On September 5, 1995, EPA proposed SCL interim approval of the operating permits program for the Commonwealth of Kentucky. See 60 FR 46072. The September 5, 1995 notice also proposed approval of Kentucky's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. In this action, EPA is promulgating SCL interim approval of Kentucky's operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above.

II. Final Action and Implications

A. Title V Operating Permits Program

The EPA is promulgating SCL interim approval of the operating permits program submitted by the Commonwealth of Kentucky on December 27, 1993, and as supplemented on November 15, 1994, April 14, 1995, May 3, 1995, and May 22, 1995. Kentucky's program substantially, but not fully, meets the requirements of part 70 and meets the interim approval requirements under 40 CFR 70.4. The Commonwealth must make the following changes to receive full approval: (1) revise the definitions of "emissions unit" and "stationary source" to include emissions of any pollutant listed under section 112(b) of the Act; (2) revise the definition of "regulated air pollutant" to include any pollutant subject to any requirements established under Section 112 of the Act; and (3) revise Rule 401 KAR 50:035 Section 5(2)(a) to provide for EPA review consistent with 40 CFR 70.8 in order to allow for requirements from preconstruction review permits to be incorporated into part 70 permits via administrative amendments.

The EPA can grant SCL interim approval to states whose programs do not provide for permitting all required sources if the state makes a showing that two criteria were met: (1) That there were "compelling reasons" for the exclusions and (2) that all required sources will be permitted on a schedule that "substantially meets" the requirements of part 70. EPA considers the omissions in Kentucky's definitions of "emissions unit", "stationary source", and "regulated air pollutant", as compelling reasons for granting SCL interim approval. Kentucky's SCL interim approval request included a revised transition schedule that

demonstrates the Commonwealth will permit at least 60% of its sources and at least 80% of its emissions during the first three years. The revised transition plan demonstrates that all part 70 sources will be permitted on a schedule that substantially meets the requirements of part 70.

The scope of the Commonwealth's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the Commonwealth of Kentucky, except Jefferson County and any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-55818 (Nov. 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; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until December 15, 1997. During this interim approval period, the Commonwealth of Kentucky is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in the Commonwealth. 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 3-year time period for processing the initial permit applications.

If the Commonwealth fails to submit a complete corrective program for full approval by June 16, 1997, EPA will start an 18-month clock for mandatory sanctions. If Kentucky 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 Kentucky has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of the Commonwealth, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determined that Kentucky had come into compliance. In any case, if, six months after application of the first sanction, Kentucky still has not submitted a corrective program that EPA

has found complete, a second sanction will be required.

If EPA disapproves Kentucky's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the Commonwealth has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the Commonwealth, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that Kentucky has come into compliance. In all cases, if, six months after EPA applies the first sanction, the Commonwealth has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if Kentucky has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to Kentucky's 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 for the Commonwealth upon interim approval expiration.

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Kentucky's preconstruction review program found in Rule 401 KAR 50:035 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and Kentucky's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by Kentucky to implement 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide the Commonwealth with adequate time to adopt regulations consistent with Federal requirements.

C. Program for Delegation of Section 112 Standards as Promulgated

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. 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 also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the Commonwealth's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations applies to both existing and future standards and to sources covered by the part 70 program as well as non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the Commonwealth's submittal and other information relied upon for the final interim approval are contained in docket number KY-95-01 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.

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: October 31, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95-28066 Filed 11-13-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[IN001; FRL-5331-2]

Clean Air Act Final Interim Approval of Operating Permits Program; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final interim approval.

SUMMARY: The USEPA is promulgating an interim approval of the operating permits program submitted by Indiana for the purpose of complying with Federal requirements which mandate that States develop, and submit to USEPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: The effective date of this action is December 14, 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 5, 77 West Jackson Boulevard, AR-18J, Chicago, Illinois, 60604. Please contact Sam Portanova at (312) 886-3189 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886-3189.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

As required under Title V of the Clean Air Act ("the Act") as amended (1990), USEPA has promulgated regulations which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the USEPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires States to develop, and submit to USEPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to USEPA by November 15, 1993, and that USEPA act to approve or disapprove each program within 1 year after receiving the submittal. 40 CFR 70.4(e)(2), however, allows the Administrator to extend the review period of a State's submittal if the State's submission is materially altered during the 1-year review period. This additional review period may not

extend beyond 1 year following receipt of the revised submission.

The USEPA'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 part 70, USEPA may grant the program interim approval for a period of up to 2 years. If USEPA has not fully approved a program by 2 years after the November 15, 1993, date, or by the end of an interim program, it must establish and implement a Federal program.

On May 22, 1995, USEPA proposed an interim approval of the operating permits program for Indiana (see 60 FR 27064) and received public comments on the proposal. In this document, USEPA is taking final action to promulgate an interim approval of the operating permits program for Indiana.

II. Final Action and Implications

A. Analysis of State Submission

The USEPA is promulgating an interim approval of the operating permits program submitted by Indiana on August 10, 1994. Indiana's program substantially meets the requirements of part 70; however, certain issues must be addressed in the State's submittal before USEPA can grant full approval.

For more detailed information on the analysis of the State's submission, please refer to the May 22, 1995, proposed interim approval of the Indiana Title V program (see 60 FR 27064) and the technical support document (TSD) included with the docket of the proposed interim approval.

1. Regulations and Program Implementation

a. *Applicability.* The Indiana program meets the requirements of 40 CFR 70.2 and 70.3 for applicability in 326 IAC 2-7-2. Please refer to the proposed interim approval and the TSD included with the docket of the proposed interim approval for more information regarding the language in 326 IAC 2-7-2.

b. *Permit Applications.* A deficiency in the State's permit application requirements exists concerning insignificant activities, which are defined in 326 IAC 2-7-1(20). In the Indiana program, the insignificant activity threshold level for sulfur dioxide (SO₂) is 10 pounds per hour (lb/hr) or 50 pounds per day (lb/day) and the insignificant activity threshold level for hazardous air pollutants (HAP) is 4 tons per year (tpy) for one HAP or 10 tpy of any combination of HAPs. USEPA