

and 604.) Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Straight delegation of the section 112 standards unchanged from the Federal standard does not create any new requirements, but simply allows the state to administer requirements that have been or will be separately promulgated. Therefore, because this delegation approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected.

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.

EPA has determined that the approval action promulgated today does not constitute a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. The state voluntarily requested this delegation under section 112(l) for the purpose of implementing and enforcing the air toxics program with respect to sources not covered by part 70. The delegation imposes no new Federal requirements. Since the State was not required by law to seek delegation, this Federal action does not impose a mandate on the state.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

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

Dated: November 2, 1995.

Valdas V. Adamkus,
Regional Administrator.

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40 CFR Part 70

[GA-95-01; FRL-5333-7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the Georgia Department of Natural Resources, Environmental Protection Division 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 22, 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 GA-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 26, 1995, EPA proposed interim approval of the operating permits program for the State of Georgia. See 60 FR 49533. The September 26, 1995 notice also proposed approval of Georgia'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 interim approval of Georgia'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 interim approval of the operating permits program submitted by the State of Georgia on November 12, 1993, and supplemented on June 24, 1994; November 14, 1994; and June 5, 1995. Georgia's program substantially, but not fully, meets the requirements of part 70 and meets the interim approval requirements under 40 CFR 70.4. The State must make the following changes to receive full approval: (1) Revise Rule 391-3-1(10)(d)1.(ii) to provide for the notification requirements and permit shield extension found in § 70.4(b)(12)(iii); and (2) correct all deficiencies in its insignificant activities regulation.

The scope of the State's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the State of Georgia, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-18 (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 22, 1997. During this interim approval period, the State of Georgia is protected from sanctions, and EPA is not obligated to promulgate, administer and 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 3-year time period for processing the initial permit applications.

If the State fails to submit a complete corrective program for full approval by June 23, 1997, EPA will start an 18-month clock for mandatory sanctions. If Georgia 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 Georgia 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 State, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determined that Georgia had come into compliance. In any case, if, six months after application of the first sanction, Georgia still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves Georgia'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 State 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 State, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that Georgia has come into compliance. In all cases, if, six months after EPA applies the first sanction, the State has not submitted a revised program that EPA has determined corrects the deficiencies, 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 Georgia 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 Georgia'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 State upon interim approval expiration.

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Georgia's preconstruction review program found in Rule 391-3-1-.03 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and Georgia'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 Georgia 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 State 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 Georgia's program for receiving delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. In addition, EPA is approving the delegation of all existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final interim approval are contained in docket number GA-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: November 2, 1995.
Patrick M. Tobin,
Acting 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 Georgia in alphabetical order to read as follows:

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

* * * * *

Georgia

(a) The Georgia Department of Natural Resources submitted on November 12, 1993, and supplemented on June 24, 1994; November 14, 1994; and June 5, 1995; interim approval effective on December 22, 1995; interim approval expires December 22, 1997.

(b) (Reserved)

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