

and Information Center (6102), Attention Docket Number A-93-48 (see docket section below), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

**Public Hearing.** If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. JoLynn Collins, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-5671.

**Docket.** Docket No. A-93-48, containing the supporting information for the original national emission standards for hazardous air pollutants (NESHAP) and this action, are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center (6102), 401 M Street SW, Washington DC 20460, or by calling (202) 260-7548. The docket is located at the above address in Room M-1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Durham, Waste and Chemical Processes Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5672.

**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 If significant adverse comments are received the direct final rule will be withdrawn and all public comment received will be addressed in a subsequent final rule based on this proposed rule. Because the EPA 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 provisions, see the information provided in the direct final rule in the final rules section of this Federal Register.

Executive Order 12866 Review

Under Executive Order 12866 [58 FR 51735, (October 4, 1993)], the EPA must

determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or land programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because today's action clarifies existing control requirements and does not add any additional control, monitoring, recordkeeping, or reporting requirements, this rule was classified "non-significant" under Executive Order 12866 and, therefore was not reviewed by OMB.

#### Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because it simply clarifies the applicability of control requirements in the Petroleum Refineries NESHAP, does not alter control, monitoring, recordkeeping, or reporting requirements, and does not include any provisions that create a burden for any of the regulated entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### Unfunded Mandates Reform Act

Under the Unfunded Mandates Reform Act, the EPA must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be \$100 million or more per

year. At the time of promulgation, the EPA determined that the petroleum refineries NESHAP does not include 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. This determination is not altered by today's action, the purpose of which is to add clarity and flexibility to existing requirements. Consequently, an unfunded mandates statement has not been prepared.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Petroleum refineries, Reporting and recordkeeping requirements, Storage vessels.

Dated: February 11, 1997.

Mary D. Nichols,

*Assistant Administrator for Air and Radiation.*

[FR Doc. 97-4325 Filed 2-20-97; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 70

[AD-FRL-5689-5]

#### Clean Air Act Interim Approval of Operating Permits Program; State of Maine

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes adding a sixth interim approval condition to its interim approval of the Operating Permits Program submitted by Maine 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. In today's Federal Register, see the final interim approval granting Maine's program, EPA is granting source category-limited interim approval to Maine's Operating Permits Program subject to five conditions listed in that action.

**DATES:** Comments on this proposed action must be received in writing by March 24, 1997.

**ADDRESSES:** Comments should be addressed to Donald Dahl, Air Permits, CAP, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203-2211. Copies of the State's submittal and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency,

Region 1, One Congress Street, 11th floor, Boston, MA 02203-2211.

**FOR FURTHER INFORMATION CONTACT:**

Donald Dahl, CAP, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203-2211, (617) 565-4298.

**I. Background and Purpose**

**A. Introduction**

As required under title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act ("the Act")), EPA has promulgated rules which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires States to develop, and submit to EPA, 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 EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 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 part 70, EPA may grant the program interim approval for a period of up to 2 years.

**B. Federal Oversight and Sanctions**

If EPA were to finalize this additional condition for interim approval, it would extend for two years following the effective date of final interim approval, which is 30 days from today. During the interim approval period, the State of Maine would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a Federal permits program for the State of Maine. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.<sup>1</sup>

<sup>1</sup> Note that states may require applications to be submitted earlier than required under section 503(c). See Chapter 140, Appendix C.3. of Maine's rules.

Following final interim approval, if the State of Maine failed to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If the State of Maine then failed to submit a corrective program that EPA found complete before the expiration of that 18-month period, EPA would apply sanctions as required by section 502(d)(2) of the Act, which would remain in effect until EPA determined that the State of Maine had corrected the deficiency by submitting a complete corrective program. If, six months after application of the first sanction, the State of Maine still has not submitted a corrective program that EPA finds complete, a second sanction will be required.

If, following final interim approval, EPA were to disapprove the State of Maine's complete corrective program, EPA would be required under section 502(d)(2) to apply sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State of Maine had submitted a revised program and EPA had determined that it corrected the deficiencies that prompted the disapproval. If, six months after EPA applies the first sanction, the State of Maine has not submitted a revised program that EPA has determined corrected the deficiencies that prompted disapproval, a second sanction will be required.

Moreover, if EPA has not granted full approval to the State of Maine's program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for the State of Maine upon interim approval expiration.

**II. Proposed Action and Implications**

**A. Analysis of State Submission**

This document focuses on adding a sixth condition for granting full approval of Maine's title V operating permits program. Maine's title V program, submitted on October 23, 1995, contained a list of "insignificant activities" that an applicant did not need to address in its application or have the activity listed in its permit unless that activity was subject to an applicable requirement. See 40 CFR 70.5(c). The list contained 156 activities and was developed by consolidating title V programs from several other States. EPA proposed approving this list, 61 FR 49289 (September 19, 1996). In part, EPA based its proposal to approve Maine's insignificant activity

list on the fact that Maine's program requires that an activity, if subject to an applicable requirement, must be listed in a facility's application. In addition, EPA was not aware that any of the activities listed had emissions above what EPA considered insignificant.

On October 17, 1996, EPA received a comment from the Town of Jay stating that six of the activities listed in Maine's program had significant emissions. The activities the Town listed in its comments were: (1) Paper forming; (2) vacuum system exhaust; (3) liquor clarifier and storage tanks and associated pumping, piping, and handling; (4) stock cleaning and pressurized pulp washing; (5) broke beaters, repulpers, pulp and repulping tanks, stock chests and bulk pulp handling; and (6) sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems. According to the Town, total emissions from these activities at just one facility exceeds 1000 tons of volatile organic compounds (VOCs) per year. However, EPA also received a letter from an industrial facility claiming the emissions were overstated by the Town, and in fact were less than 100 tons of VOCs per year. The Maine DEP submitted a letter questioning the assumptions Jay made in projecting emission levels from these activities. Jay also submitted a second letter explaining its assumptions. All this correspondence is available in the docket supporting this action.

Based on all data EPA has received to date about the emissions from these activities, EPA concludes that the emissions from all of these activities can approach or exceed major source or major modification thresholds under the Act and therefore are not "insignificant" for the purposes of a title V application, even if there is no applicable requirement for these activities. Therefore, these six items should be removed from the list of insignificant activities. Maine still has flexibility; however, to tailor how much information about these activities a source would need to include in its application because it appears that there are no current applicable requirements for these activities. For example, EPA's "White Paper for Streamlined Development of Part 70 Permit Applications," dated July 10, 1995 suggests a general description of the emissions and emission units would suffice for units subject to no applicable requirements.

**B. Proposed Action**

The scope of Maine's Part 70 program covers all Part 70 sources within the

state of Maine, 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). EPA is not taking any position in this action on whether any Federally recognized tribe in Maine has jurisdiction over sources of air pollution.

The EPA is proposing to add a sixth condition to Maine's source category-limited interim approval of the operating permits program submitted by Maine on October 24, 1995. If promulgated, the State must make, in addition to the five conditions stated in the final rules section of today's Federal Register, the following change in its rule to receive full approval:

1. Maine must remove the following activities from Appendix B of Chapter 140 of the State's rules: (1) Paper forming; (2) vacuum system exhaust; (3) liquor clarifier and storage tanks and associated pumping, piping, and handling; (4) stock cleaning and pressurized pulp washing; (5) broke beaters, repulpers, pulp and repulping tanks, stock chests and bulk pulp handling; and (6) sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems.

### III. Administrative Requirements

#### A. Request for Public Comments

The EPA is requesting comments on this additional proposed interim approval condition. Copies of the State's submittal and other information relied upon for the proposed 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 proposed interim 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 administrative record in the event of judicial review. The EPA will consider any comments received by March 24, 1997.

#### 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 Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include 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. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Additionally, it will not cost \$100 million to operate or comply with this program.

#### 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: February 5, 1997.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 97-4328 Filed 2-20-97; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-63, RM-9000]

#### Radio Broadcasting Services; Greenwood, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by Fred R. Morton, Jr. requesting the allotment of Channel 268A to Greenwood, Arkansas, as its second local FM transmission service.

Coordinates used for Channel 268A at Greenwood are 35-12-54 and 94-15-30.

**DATES:** Comments must be filed on or before April 7, 1997, and reply comments on or before April 22, 1997.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Fred R. Morton, Jr., 5103 North Cherry, Lawton, OK 73505.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97-63, adopted February 7, 1997, and released February 14, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.