

and Accounting), (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on June 13, 2001, (66 FR 31850), announced that a public hearing was scheduled for October 2, 2001, at 10 a.m., in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 441, 442, 706, 898, and 1378 of the Internal Revenue Code. The public comment period for these proposed regulations expired on September 11, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of September 24, 2001, no one has requested to speak. Therefore, the public hearing scheduled for October 2, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[VT-021-1224; A-1-FRL-7069-6]

Full Approval of Clean Air Act Operating Permit Program; State of Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to fully approve the operating permit program for the State of Vermont. Vermont's operating permit program was created to meet the federal Clean Air Act (Act) directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources of air pollution and to certain other sources within the states' jurisdiction. EPA is proposing to approve Vermont's program at the same time Vermont is proposing changes to its state regulations to address EPA's interim approval issues. The public comment period for Vermont's program regulations (Air Pollution Control Regulations, Subchapter X) is open for comment from September 13, 2001 until October 15, 2001.

DATES: Comments on this federal proposed rule must be received on or before October 29, 2001.

ADDRESSES: Comments may be mailed to Donald Dahl, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. EPA strongly recommends that any comments should also be sent to Conrad W. Smith of the Air Pollution Control Division, Department of Environmental Conservation, 2nd floor, South Building, Waterbury, Vermont, 05671-0402. Copies of the State submittal and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the above addresses.

FOR FURTHER INFORMATION CONTACT: Donald Dahl at (617) 918-1657.

SUPPLEMENTARY INFORMATION:

I. Why Was Vermont Required To Develop an Operating Permit Program?

Title V of the Clean Air Act as amended (42 U.S.C. 7401 and 7661, et seq.), requires all states to develop an operating permit program and submit it to EPA for approval. EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs. See 57 FR 32250 (July 21, 1992). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V directs states to develop programs for issuing operating permits to all major stationary sources and to certain other sources. The Act directs states to submit their operating permit programs to EPA by November 15, 1993, and requires 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 (42 U.S.C. 7661a) 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. EPA granted the State of Vermont final interim approval of its program on October 2, 1996 (see 61 FR 51368) and the program became effective on November 1, 1996.

II. What Did Vermont Submit to Meet the Title V Requirements?

Vermont submitted its Title V operating permit program on April 28, 1995. In addition to regulations (Environmental Protection Regulations, Air Pollution Control Chapter V, Definitions and Subchapter X), the program submittal included a legal opinion from the Attorney General of Vermont stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration. This program, including the operating permit regulations, substantially met the requirements of part 70.

III. What Was EPA's Action on Vermont's 1995 Submittal?

EPA deemed the program administratively complete in a letter to the state dated June 12, 1995. On May 24, 1996, EPA proposed to grant interim approval to Vermont's submittal. After responding to comments, EPA granted interim approval to Vermont's submittal on October 2, 1996. In the document granting interim approval, EPA stated that there were several areas of Vermont's program regulations that would need to be amended in order for EPA to fully approve the state's program. EPA has been working closely with the state and has determined that the state is proposing to make all of the necessary rule changes for full approval. The following section contains details regarding the areas of Vermont's regulations where the state is proposing to address EPA's interim approval issues.

IV. What Were EPA's Interim Approval Issues and How Has Vermont Proposed To Amend Its Regulation To Address the Interim Approval Issues?

1. 40 CFR 70.4(b)(12)(i) requires states to allow for facilities to make changes as required by section 502(b)(10) of the Act, "Section 502(b)(10) changes" as defined in part 70, with just a seven day notice. Subchapter X, section 5-1014 of the state's proposed rule has been amended to allow a facility to make changes that are equivalent to "502(b)(10) changes" after a fifteen-day notice. Vermont's regulations satisfy the requirements of Title V regarding "section 502(b)(10) changes."

2. 40 CFR 70.4(b)(12)(iii) requires states to allow facilities to trade emissions under an emission cap

established solely within a permit, provided the emissions are quantifiable and there are replicable procedures to enforce the emission trades. Subchapter X, sections 5-1014 and 5-1015(a)(15) of the state's proposed rule have been amended to require the state to grant emission trades that meet these requirements. Any emissions involved in such a trade are now required to be quantifiable, with replicable procedures to enforce the trade.

3. 40 CFR 70.6(a)(3)(iii)(B) requires a state to write a source's obligation in every permit to promptly report all permit deviations. The state's permitting rule or each permit itself must also define what is "prompt reporting." Subchapter X, section 5-1015(a)(6) of the state's proposed rule requires Vermont to include a permit condition that mandates sources to promptly report all permit deviations. This proposed section of the rule also requires Vermont to define "prompt" in each permit and provides that such reporting shall be at least as stringent as required by EPA in permits issued under 40 CFR part 71.

4. 40 CFR 70.6(a)(9)(i) requires all permits to contain a condition that a source maintain a record when switching between operating scenarios. Subchapter X, section 5-1015(a)(8) of the state's proposed rule requires Vermont to include a permit condition that specifies a source must maintain records of switches between operating scenarios.

5. 40 CFR 70.6(b)(2) requires a state to designate those permit terms which are enforceable only by the State and are not enforceable under federal law. Subchapter X, section 5-1015(a)(9) of the state's proposed rule requires Vermont to designate in the Findings of Fact section of each permit all terms and conditions of a permit that are not federally enforceable. The Findings of Fact section accompanies each permit and makes the distinction required under section 70.6(b)(2) available to the public and the permittee.

6. 40 CFR 70.6(a)(1)(i) requires a state to indicate in a Title V permit the origin and authority of all permit terms and conditions, and identify any difference in form as compared to the applicable requirement upon which a permit term or condition is based. Subchapter X, section 5-1015(a)(2) of the state's proposed rule requires Vermont to list "[a] reference, but not necessarily all references of the origin and authority for each term or condition." The state's proposed language, although it does appear to anticipate less than all references will be included in some circumstances, is adequate to meet this

program element. Vermont has bound itself to provide a sufficient identification of the origin and authority of permit terms.

7. 40 CFR 70.7(f) requires each permit to contain provisions specifying the conditions when a permit must be reopened and revised. Subchapter X, section 5-1015(a)(13) of the state's proposed rule requires the state to write a permit condition stating when a permit may be reopened and reissued in accordance with section 5-1008 of the proposed rule. Subchapter X, section 5-1008(e)(1) of the proposed rule requires that the state must reopen and reissue permits under certain circumstances. EPA understands that the combination of these provisions has the effect of requiring the reopening of any permit for which cause to reopen exists under section 5-1008(e)(1). The permissive language used in section 5-1015(a)(13) simply incorporates and does not change the mandate in section 5-1008(e)(1) to reopen a permit for cause when necessary. Provided Vermont does not disagree with this interpretation, these two provisions of the state's rule are now consistent with federal requirements.

8. 40 CFR 70.7(f)(1)(i) requires a state to reopen and reissues a permit within 18 months of a source's becoming subject to an additional applicable requirement if there are 3 or more years remaining in the permit term. Subchapter X, section 5-1008(e)(1)(i) of the state's proposed rule requires the state to reopen and reissue a permit under such circumstances.

V. Proposed Action

EPA proposes to fully approve Vermont's Title V program, provided the state finalizes its regulations consistent with the terms and interpretations of this proposed rule and submits its regulations to EPA for approval.

VI. Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded

mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs, provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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: September 19, 2001.

Robert W. Varney,

Regional Administrator, EPA-New England.
[FR Doc. 01-24381 Filed 9-27-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD-FRL-7065-8]

Clean Air Act Final Approval of Operating Permits Program; Commonwealth of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes full approval of the Clean Air Act operating permit program submitted by the Commonwealth of Massachusetts. In the Final Rules Section of this **Federal Register**, EPA is approving the Massachusetts Operating Permit Program as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no relevant adverse comments in response to this action, we contemplate no further activity. If EPA receives relevant adverse comments, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments must be received on or before October 29, 2001.

ADDRESSES: Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the State submittal, and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, (617) 918-1653.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: September 19, 2001.

Robert W. Varney,

Regional Administrator, EPA—New England.
[FR Doc. 01-24065 Filed 9-27-01; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-D-7512]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act.

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under