

Taking of Private Property

This temporary rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This temporary rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

Environment

The Coast Guard has considered the environmental impact of implementing this temporary rule and concluded that under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it

does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01-148 to read as follows:

§ 165.T01-148 Safety and Security Zones: Naval Station Newport, Newport, RI.

(a) *Location.* The following area is a safety and security zone: From a point beginning on land at Latitude 41°32'13" N, Longitude 071°18'43" W; thence westward along the breakwater to a point on the breakwater at Latitude 41°31'58" N, Longitude 071°19'28" W; thence southerly 1150 yards to Coddington Point at Latitude 41°31'26" N, Longitude 071°19'26" W; thence counterclockwise along the shoreline to the beginning point.

(b) *Effective period.* This section is effective from October 2, 2001, through March 31, 2002.

(c) *Regulations.*

(1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones during times in which visiting naval vessels are present is prohibited unless previously authorized by the Captain of the Port (COTP) Providence or his authorized patrol representative.

(2) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones during times in which visiting naval vessels are present, unless previously authorized by the COTP Providence or his authorized patrol representative.

(3) All persons and vessels shall comply with the instructions of the COTP, and the designated on-scene U.S. Coast Guard or Navy patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Navy patrol personnel include commissioned, warrant, and petty officers of the U.S. Navy.

(4) The general regulations covering safety and security zones in §§ 165.23

and 165.33, respectively, of this part apply.

Dated: October 2, 2001.

Mark G. VanHaverbeke,
Captain, U.S. Coast Guard, Captain of the Port.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0135-1135; FRL-7082-5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri. This approval pertains to revisions to a rule which provide reference methods for determining data and information necessary for the enforcement of air pollution control regulations throughout Missouri. In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by November 14, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551-7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final

rule which is located in the rules section of the **Federal Register**.

Dated: October 1, 2001.

William Rice,

Acting Regional Administrator, Region 7.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[HI045-OPP; FRL-7083-5]

Clean Air Act Proposed Full Approval of Operating Permit Program; State of Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State of Hawaii's ("Hawaii" or "State") operating permit program. The State operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdictions. EPA granted interim approval to the Hawaii operating permit program on December 1, 1994 but listed certain deficiencies in the program preventing full approval. Hawaii has revised its program to correct the deficiencies of the interim approval and this action proposes full approval of those revisions.

DATES: Written comments must be received by November 14, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR-3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the State's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted Title V program at the following locations between the hours of 7:45 a.m. and 4:15 p.m.:

Oahu: Clean Air Branch, Department of Health, 919 Ala Moana Blvd., Room 203, Honolulu.

Hilo: Office of the Chief Sanitarian, Department of Health, 1582 Kamehameha Ave., Hilo.

Kona: Keakealani Building, Old Kona Hospital, Department of Health, Sanitation Branch, Kealakekua.

Mau: Office of the Chief Sanitarian, Department of Health, 54 High Street, Wailuku.

Kauai: Office of the Chief Sanitarian, Department of Health, 3040 Umi Street, Lihue.

Molokai: Department of Health, 65 Makaena Place, Kaunakakai.

You may also review the State's rule amendments by accessing the Department of Health's Web site at www.hawaii.gov/doh/proposed_rules/cab/index.html.

FOR FURTHER INFORMATION CONTACT:

Robert Baker, EPA Region IX, at (415) 744-1258 (Baker.Robert@epa.gov).

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

- What is the operating permit program?
- What is being addressed in this document?
- What are the program changes that EPA is proposing to approve?
- What is involved in this proposed action?

What Is the Operating Permit Program?

The Clean Air Act Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_x), or particulate matter (PM₁₀); those that emit 10 tons per year or more of any single hazardous air pollutant (HAP)

listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs.

What Is Being Addressed in This Document?

Where an operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the State's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the State's program on December 1, 1994. This **Federal Register** document describes the changes that the State has made to its operating permit program (Chapter 60.1 of the Hawaii Administrative Rules) since interim approval was granted.

What Are the Program Changes That EPA Is Proposing To Approve?

As discussed above, EPA granted final interim approval on December 1, 1994 (59 FR 61549) to the State's title V program. As explained in that rulemaking, full approval of the State's operating permit program was made contingent upon satisfaction of certain conditions. In response to EPA's interim approval action, the State revised its operating permit program (Chapter 60.1 of the Hawaii Administrative Rules) to remove or correct the deficiencies identified by EPA. The State made its revised rule available to public review and comments. On September 5, 2001, the State adopted the revisions. The revised program was submitted to EPA on September 21, 2001. We have included below a discussion of each of the interim approval deficiencies, the conditions for correction, and a summary of how the State has corrected the deficiency. The Technical Support Document (TSD) for this action includes more information about the State's submittal and more details of the revisions made. In the discussion here, we have listed each of the EPA cited deficiencies identified in the July 26, 1994 **Federal Register** notice (see 59 FR 37957) that proposed the interim approval, followed by a brief description of the State's revisions to its operating permit program to remove these deficiencies.

Issue a

Insignificant activities: The State's rules allowed the director to determine what activities are insignificant without EPA approval of these activities or the criteria that delineate such activities.