

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This 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 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 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1 paragraph (32)(e) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulation have been found to not have a significant effect on the environment. A writer “categorical Exclusion Determination” is not required for this temporary final rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 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 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U. S. C. 499; 49 CFR 1.46; 33 CFR 1.05–19g; section 117.255 also issued under the authority of Pub. L. 102–587, 106, Stat 5039

1. From November 5, 2001, until June 9, 2002, § 117.1051(e) is amended by adding a new paragraph (e)(4) to read as follows:

§ 117.1051 Lake Washington Ship Canal.

* * * * *

(e) * * *

(4) The Montlake bridge need not open during the following dates and times:

12–Nov–01—9 p.m.–10 p.m.
 17–Nov–01—10 a.m.–12:45 p.m.; 3 p.m.–6 p.m.
 23–Nov–01—8 p.m.–9 p.m.; 10 p.m.–11 p.m.
 24–Nov–01—3 p.m.–4 p.m.; 8 p.m.–9 p.m.
 24–Nov–01—10 p.m.–11 p.m.
 27–Nov–01—9 p.m.–10 p.m.
 28–Nov–01—9 p.m.–10 p.m.
 7–Dec–01—10:30 a.m.–1:15 p.m.; 3:30 p.m.–6:30 p.m.
 7–Dec–01—10 p.m.–11 p.m.
 9–Dec–01—5 p.m.–6 p.m.
 11–Dec–01—9:30 p.m.–10:30 p.m.
 20–Dec–01—9:30 p.m.–10:30 p.m.
 21–Dec–01—9 p.m.–10 p.m.
 26–Dec–01—10:45 a.m.–1:30 p.m.; 3:45 p.m.–6:45 p.m.
 27–Dec–01—9:30 p.m.–10:30 p.m.
 4–Jan–02—9 p.m.–10 p.m.
 6–Jan–02—3 p.m.–4 p.m.
 10–Jan–02—9 p.m.–10 p.m.
 12–Jan–02—4 p.m.–5 p.m.
 17–Jan–02—9 p.m.–10 p.m.
 24–Jan–02—9 p.m.–10 p.m.
 26–Jan–02—4 p.m.–5 p.m.
 7–Feb–02—9 p.m.–10 p.m.
 9–Feb–02—3 p.m.–4 p.m.
 14–Feb–02—9 p.m.–10 p.m.
 16–Feb–02—7 p.m.–8 p.m.
 21–Feb–02—9 p.m.–10 p.m.
 23–Feb–02—3 p.m.–4 p.m.
 28–Feb–02—9 p.m.–10 p.m.
 9–Jun–02—11 a.m.–2 p.m.; 4:30 p.m.–6 p.m.

Dated: November 5, 2001.

Erroll Brown,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard, District.

[FR Doc. 01–29644 Filed 11–28–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[VT–021–1224a; A–1–FRL–7110–2]

Clean Air Act Final Approval of Operating Permits Program; State of Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting full approval to the Clean Air Act (Act), Operating Permits Program of the State of Vermont (program). Vermont submitted its program for the purpose of complying with the Act's directive that states develop programs to issue operating permits to all major stationary sources and certain other stationary sources. EPA granted interim approval to Vermont's initial operating permit program on October 2, 1996. On September 28, 2001, EPA proposed full approval of Vermont's pending revised program, provided the state finalized the sections of its proposed rules that address EPA's interim approval conditions. On November 15, 2001, EPA received Vermont's adopted revisions to its program. The Agency has determined that Vermont has adequately addressed all interim approval conditions as described in EPA's proposed approval.

DATES: This rule is effective on November 30, 2001 without further notice.

ADDRESSES: Copies of the documents 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 Regional Office, One Congress Street, 11th floor, Boston, MA. **FOR FURTHER INFORMATION CONTACT:** Donald Dahl, (617) 918-1657.

SUPPLEMENTARY INFORMATION:

I. What Is EPA Approving?

EPA is taking final action to approve the changes Vermont made to its regulations (Environmental Protection Regulations, Air Pollution Control Chapter V, Definitions and Subchapter X) regarding the state's title V permitting program. The Agency is granting full approval to Vermont's title V permitting program because Vermont has made all the necessary changes to its program required by EPA's interim approval. Details of the state changes can be found in EPA's proposed rulemaking, 66 FR 49577 (September 28, 2001). EPA did not receive any comments on the proposed rulemaking. In the final adoption, the state legislative council made three minor changes to the proposed rule. These changes that do not effect the substance of the provisions EPA relied on when it proposed to grant full approval to Vermont's program. The exact changes the state made can be found as part of EPA's public record.

It should be noted that the state regulation, although fully adopted on November 14, 2001, and submitted to EPA on November 15, 2001, is not

effective under state law until November 29, 2001. Vermont state law provides that state regulations "take effect fifteen days after adoption is complete." V.S.A. t. section 845(d). This waiting period has no effect on the substance of the fully adopted state regulation that EPA is approving, nor on EPA's authority to sign this action approving the adopted program.

Unlike the prior interim approval, this full approval has no expiration date. However, the state may revise its program as appropriate in the future by following the procedures of 40 CFR 70.4(i). EPA may also exercise its oversight authority under section 502(i) of the Act to require changes to a state's program consistent with the procedures of 40 CFR 70.10.

II. What Is the Effective Date of EPA's Full Approval of the Vermont Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the state's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of Vermont's prior program expires on December 1, 2001. In the absence of this full approval of Vermont's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Vermont and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the state to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Vermont has been administering the title V permit program for 5 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational

program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

III. Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval 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 final approval 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 (Pub. L. 104-4) because it approves 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). This rule merely approves 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 final approval 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

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 28, 2002. 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 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 21, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

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 revising the entry for Vermont to read as follows:

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

* * * * *

Vermont

(a) Department of Environmental Conservation: submitted on April 28, 1995; interim approval effective on November 1, 1996; revised program submitted on November 15, 2001; full approval effective November 30, 2001.

(b) [Reserved]

* * * * *

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-A118

Endangered and Threatened Wildlife and Plants; Emergency Rule To List the Carson Wandering Skipper as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), exercise our emergency authority to list the Carson wandering skipper (*Pseudocopaeodes eunus obscurus*) in California and Nevada as endangered under the

Endangered Species Act of 1973, as amended (Act). The Carson wandering skipper is currently known from only two populations, one in Washoe County, Nevada, and one in Lassen County, California. The subspecies is found in grassland habitats on alkaline substrates.

Extinction could occur from naturally occurring events or other threats due to the small, isolated nature of the remaining populations of the Carson wandering skipper. These threats include habitat destruction, degradation, and fragmentation due to agricultural practices (such as excessive livestock grazing and wetland habitat modification), urban development, and non-native plant invasion. Other threats include collecting, livestock trampling, water exportation projects, road construction, recreation, pesticide drift, and inadequate regulatory mechanisms. We find these threats constitute immediate and significant risk to the Carson wandering skipper.

This emergency rule provides Federal protection pursuant to the Act for the Carson wandering skipper for a period of 240 days. A proposed rule to list the Carson wandering skipper as endangered is published concurrently with this emergency rule in this issue of the **Federal Register** in the proposed rule section.

DATES: This emergency rule becomes immediately effective November 29, 2001 and expires July 29, 2002.

ADDRESSES: The complete file for this emergency rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Field Supervisor, Nevada Fish and Wildlife Office (see **ADDRESSES** section; telephone 775/861-6300; facsimile 775/861-6301), or Wayne White, Field Supervisor, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, California 95825-1846 (telephone 916/414-6000; facsimile 916/414-6712).

SUPPLEMENTARY INFORMATION:

Background

The genus *Pseudocopaeodes* in the family Hesperidae and subfamily Hesperinae (grass skippers) contains only one species, *Pseudocopaeodes eunus*. Members of Hesperidae are called skippers because of their powerful flight. While their flight may be faster than other butterflies, they