

from the Institute of Makers of Explosives (IME), a trade association of the commercial explosives industry representing all U.S. manufacturers of high explosives and other companies that distribute explosives or provide other related services. Among other reasons provided, IME stated that the scope of the NPRM and the importance of the proposed rule to the commercial explosives industry require it to conduct a comprehensive review and evaluation of the proposed regulations. IME determined that it cannot conclude such a review in the time currently allotted for comment submission and requested a 90-day extension of the comment period.

The International Society of Explosives Engineers (ISEE) provided similar reasons for requesting an extension of the comment period. ISEE stated that it is a technical society and the largest association of commercial explosives users in the United States, representing more than 4500 members engaged in the manufacture, transportation, storage, handling, use, and disposal of commercial explosives and related activities. ISEE requested an extension of the comment period of at least 90 days. A third commenter, citing the magnitude of the proposed amendments in Notice No. 968, also requested an extension of the comment period.

In consideration of the above, the Department of Justice believes that a reopening of the comment period is warranted. However, the comment period is being reopened until July 7, 2003. The Department believes that this is a sufficient amount of time for all interested parties to respond.

Public Participation

You may also submit written comments by facsimile transmission to (202) 927-8525. Facsimile comments must:

- Be legible;
- Reference this document number;
- Be 8½" x 11" in size;
- Contain a legible written signature; and
- Be not more than five pages long.

ATF will not acknowledge receipt of facsimile transmissions. ATF will treat facsimile transmissions as originals.

Disclosure

Copies of this notice, Notice No. 968, and the comments received will be available for public inspection by appointment during normal business hours at: ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone (202) 927-7890.

Drafting Information

The author of this document is James P. Ficareta; Firearms, Explosives and Arson; Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects in 27 CFR Part 555

Administrative practice and procedure, Authority delegations, Customs duties and inspection, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, and Warehouses.

Authority and Issuance

This notice is issued under the authority in 18 U.S.C. 847.

Dated: June 17, 2003.

John Ashcroft,

Attorney General.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[MI 82-01-7291; FRL-7517-4]

Clean Air Act Proposed Approval of Operating Permit Program Revisions; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to Rule (R) 336.1216 of Michigan's title V air operating permit program. Michigan has not yet promulgated the rule revision which the State has submitted in draft for EPA action; however, if Michigan finalizes the revision as drafted, the permit shield provisions will no longer apply to certain administrative permit amendments. This rule revision would resolve the deficiency identified in EPA's Notice of Deficiency (NOD), published in the **Federal Register** on December 11, 2001.

The EPA is proposing to approve Michigan's operating permit program rule revision at the same time that Michigan is processing the rule revision. The EPA will finalize its approval of Michigan's program revision if Michigan promulgates and submits a final rule identical in substance to the draft rule it is processing.

DATES: Written comments on this proposed rule must be received on or before July 23, 2003.

ADDRESSES: Send comments to: Robert Miller, Chief, Permits and Grants Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal are available for inspection at the following location: EPA Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact the person listed below to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano, Permits and Grants Section, Air Programs Branch, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604, (312) 886-2703, valenziano.beth@epa.gov.

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

- I. What is the history of Michigan's title V operating permit program?
- II. What is the program revision that EPA is proposing to approve?
- III. What is involved in this proposed action?
- IV. Statutory and Executive Order reviews

I. What Is the History of Michigan's Title V Operating Permit Program?

As required under Subchapter V of the Clean Air Act (Act), EPA has promulgated regulations that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, or withdraw approval of state operating permit programs (*see* 57 FR 32250 (July 21, 1992)). These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Pursuant to Subchapter V, generally known as title V, states and local permitting authorities developed, and submitted to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Michigan Department of Environmental Quality submitted the State's title V operating permit program for EPA approval on May 16, 1995, with supplements submitted on July 20, 1995, October 6, 1995, November 7, 1995, and January 8, 1996. The EPA granted interim approval of the Michigan title V program on January 10, 1997 (62 FR 1387), and the program became effective on February 10, 1997. Subsequently, based on the interim approval corrections that the State submitted on June 1, 2001 and September 20, 2001, EPA granted full approval of the Michigan title V program, effective November 30, 2001. The EPA published the full program approval in the **Federal Register** on December 4, 2001 (66 FR 62949).

Pursuant to its authority at 40 CFR 70.10(b), EPA published an NOD for Michigan's title V operating permit program on December 11, 2001 (66 FR 64038). The NOD was based upon EPA's finding that Michigan's regulation granting a permit shield for certain administrative permit amendments did not meet federal requirements for program approval. On May 7, 2003 and May 21, 2003, Michigan submitted to EPA a revision to its title V program correcting this program deficiency. As discussed in detail below, EPA is proposing to approve Michigan's title V program revision. Final approval of this program revision will resolve the NOD.

II. What Is the Program Revision That EPA Is Proposing To Approve?

Michigan is in the final stages of revising its title V permit modification rule, R 336.1216, to remove the permit shield provision for certain types of administrative permit amendments. Although Michigan's rule revision is not yet final, the State's May 7, 2003 submittal included the draft rule that is awaiting review by Michigan's Joint Legislative Committee on Administrative Rules. The public comment period on the draft rule ended on November 6, 2002, and Michigan did not receive any adverse comment on the administrative amendment rule revision. Michigan expects that the rule will be finalized in the summer of 2003, at which time the State will submit the final rule to EPA.

Michigan's draft administrative permit amendment rule is consistent with 40 CFR 70.7(d)(4), which does not allow a permit shield for the types of changes described below. The permit shield provisions at 40 CFR 70.6(f) offer enforcement protection in certain prescribed situations. Michigan's draft revised R 336.1216(1)(b)(iv) states: "The permit shield provided under R 336.1213(6) does not extend to administrative amendments made pursuant to subdivision (a)(i) to (iv) of this subrule." R 336.1216(1)(a)(i) through (iv) allow administrative amendments for the following types of changes: a change that corrects typographical errors; a change in the name, address or phone number of the responsible official or other contact person; a change that provides for more frequent monitoring and reporting; and a change in the ownership or operational control of a source where no other changes to the permit are necessary. These types of administrative permit amendments are the same as those specified in the federal rules at 40 CFR 70.7(d)(1)(i)-(iv).

In addition, draft R 336.1216 includes other minor changes to the State permit modification rule, including changes to the citation method for Michigan laws, and a clarification to R 336.1216(1)(b)(iii) regarding the implementation of administrative permit amendment changes made pursuant to R 336.1216(1)(a)(i) through (iv). This clarification is consistent with 40 CFR 70.7(d)(3)(iii) and 70.7(e)(2)(v).

III. What Is Involved in This Proposed Action?

The EPA is proposing to approve revisions to R 336.1216 of Michigan's title V operating permit program at the same time that Michigan is processing the State's rule revision. Michigan's draft regulation R 336.1216(1)(b)(iv) is now consistent with 40 CFR 70.7(d)(4). The EPA will finalize its approval of Michigan's program revision if Michigan promulgates and submits a final rule that is identical in substance to the draft rule it is processing. Upon final EPA approval, Michigan's program revision will resolve the program deficiency identified in EPA's NOD, published on December 11, 2001 (66 FR 64038).

Section 502(i)(2) of the Act and 40 CFR 70.10(b)(3) provide that, if a state has not corrected a deficiency within 18 months after the effective date of an NOD, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. The sanctions set forth in section 179(b) include a prohibition on highway funding and an increase in the emission offset requirements under part D of title I of the Act. Michigan's 18 month sanctions clock expired on May 30, 2003. However, EPA interprets section 179(a) to mean that section 179(b) sanctions shall not apply until EPA selects the order in which sanctions shall apply through notice-and-comment rulemaking. This interpretation follows the interpretation of section 179(a) set forth in the title I sanctions rule, which selects the order of sanctions following certain State Implementation Plan findings under section 179(a). See EPA's proposed title I sanctions rule, 58 FR 51270, 51272 (October 1, 1993); see also EPA's final title I sanctions rule, 59 FR 39832, 39857 (August 4, 1994). The EPA has not yet promulgated the title V order of sanctions rulemaking, and thus no sanctions go into effect at this time.¹

Consistent with EPA's final full approval of Michigan's title V program (66 FR 62951), this proposed approval

¹ As noted in the NOD, EPA is in the process of developing the title V order of sanctions rule.

does not extend to sources in Indian Country, as defined in 18 United States Code 1151.

IV. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211; Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this action approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

Executive Order 13175 Consultation and Coordination with Indian Tribal Governments

This proposed 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).

Executive Order 13132 Federalism

This action also does not have federalism implications because it does

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 action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act.

Executive Order 13045 Protection of Children from Environmental Health and Safety Risks

This proposed 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), because it is not a significant regulatory action under executive order 12866.

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

Governmental Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings

implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order, and has determined that the rule's requirements do not constitute a taking.

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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).

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 *et seq.*

Dated: June 9, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 03-15762 Filed 6-20-03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 18

[ET Docket No. 98-42; FCC 03-123]

RF Lighting Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; termination.

SUMMARY: This document terminates this proceeding. We find that with the passage of time, the record in this proceeding has become outdated. There does not appear to be a need for further

Commission action at this time, we are terminating this proceeding without prejudice to its substantive merits.

FOR FURTHER INFORMATION CONTACT: Hugh Van Tuyl, Office of Engineering and Technology, (202) 418-7506.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket No. 98-42, FCC 03-123, adopted May 27, 2003 and released May 30, 2003. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 863-2893; fax (202) 863-2898; e-mail qualexint@aol.com.

Summary of the Order

1. On April 1, 1998, the Commission adopted a *Notice of Proposed Rule Making* ("NPRM") in this proceeding, 63 FR 20362, April 24, 1998. The *NPRM* proposed changes to part 18 of the Commission's rules to update the regulations for radio frequency (RF) lighting devices operating in the 2.2-2.8 MHz and 2400-2500 MHz ("2450 MHz") bands. On June 9, 1999, the Commission adopted a *First Report and Order*, 64 FR 37417, July 12, 1999, that relaxed the emission limits for RF lighting devices operating in the 2.51-3.0 MHz band, but deferred action on changes to the rules for RF lighting devices operating in the 2450 MHz band to a future date.

2. We find that with the passage of time, the *NPRM* and record in this proceeding have become outdated. The proposal for changes to the rules for 2450 MHz RF lighting devices was made in 1998. The only party that expressed interest in producing such RF lighting devices has informed the Commission that it will no longer pursue development of RF lighting devices in the 2450 MHz band. There does not appear to be a need for further Commission action at this time, we are terminating this proceeding without prejudice to its substantive merits. If any party wishes to pursue the issues in this proceeding in the future, nothing precludes us from evaluating them in the context of a new proceeding.

Ordering Clauses

3. Pursuant to sections 4(i) and 4(j) of the Communications Act, 47 U.S.C.