

under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 July 6, 1999. 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 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 21, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(189)(i)(A)(7), (c)(239)(i)(B), (c)(248)(i)(B)(3) and (c)(254)(i)(D)(2) to read as follows:

§ 52.220 Identification of plan.

- * * * * *
- (c) * * *
- (189) * * *
- (i) * * *
- (A) * * *
- (7) Rule 1141.1, adopted on November 4, 1983 and amended on March 6, 1992.
- * * * * *
- (239) * * *
- (i) * * *
- (B) South Coast Air Quality Management District.
- (1) Rule 1128, adopted on May 4, 1979 and amended on March 8, 1996, and Rule 1130, adopted on October 3, 1980 and amended on March 8, 1996.
- * * * * *
- (248) * * *
- (i) * * *
- (B) * * *
- (3) Rule 1145, adopted on July 8, 1983 and amended on February 14, 1997.
- * * * * *
- (254) * * *
- (i) * * *
- (D) * * *
- (2) Rule 1151, adopted on July 8, 1988 and amended on June 13, 1997, and Rule 1171, adopted on August 2, 1991 and amended on June 13, 1997.
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[FR Doc. 99-11039 Filed 5-3-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NJ002; FRL-6333-8]

Approval of State Operating Permit, Rule Revision; New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final approval.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action on revisions to the New Jersey operating permit rule (N.J.A.C. 7:27-22.4 and 22.5) as submitted by the State of New Jersey to fulfill the requirements of Title V of the Clean Air Act. The revisions extend the deadlines for the last two waves of permit applications until February 4, 1999 and May 4, 1999, if these applications are submitted in electronic format.

DATES: This rule is effective on July 6, 1999 without further notice, unless EPA

receives adverse comment by June 3, 1999. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

New Jersey Department of Environmental Protection, Air Quality Permitting Program, Bureau of Operating Permits, 401 E. State Street, Trenton, New Jersey 08625-0027.

FOR FURTHER INFORMATION CONTACT: Suilin Chan, Air Programs Branch, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-4019.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to title V of the Clean Air Act ("the Act") and its implementing regulations codified at 40 CFR part 70, EPA granted source category-limited interim approval to the New Jersey operating permit program. See, 61 FR 24715 (May 16, 1996). New Jersey's category-limited interim program became effective on June 17, 1996 and was scheduled to expire on June 17, 1998, two years after the approval. However, EPA has recently granted extensions to all interim programs, including that of NJ's, to June 1, 2000.

The Act states that:

"any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted." See, 40 CFR section 70.5.

New Jersey's operating permit rule contains application submittal deadlines established for different source categories. Under the rule, applications are submitted to the New Jersey Department of Environmental Protection ("NJDEP") at different times in seven waves as determined by the

source's Standard Industrial Classification (SIC) Code. The first five waves of sources are subject to the interim program and the last two waves will be subject to the full program. Consistent with the Act and 40 CFR part 70, all sources subject to the interim program must submit their applications by June 17, 1997 (12 months after the program's effective date) and those subject to the full program must submit by June 17, 1999 (12 months after the anticipated full program approval date). Despite two extensions granted to New Jersey for the interim program, extending the effectiveness of the interim program to June 1, 2000, the application submittal deadline for the remaining two waves of applications has not changed. See, 63 FR 40053 (July 27, 1998). It remains June 17, 1999. It should be noted that New Jersey's original application submittal schedule had required all applications to be submitted by May 18, 1998, 13 months before the deadline prescribed by the Act.

State Submittal

To encourage electronic submittal of permit applications, the State of New Jersey amended its operating permit rule (N.J.A.C. 7:27-22) to extend the application submittal due dates for sources required to submit their applications during the last two waves of submittals from November 15, 1997 to February 4, 1999 and from May 15, 1998 to May 4, 1999, respectively if the applications were submitted in electronic format. Amendments to N.J.A.C. 7:27-22.4 and 22.5 were proposed on June 2, 1997 and January 20, 1998 and subsequently adopted on October 20, 1997 and May 4, 1998, respectively. On June 11, 1998, New Jersey submitted a copy of the adopted rules and requested that EPA update New Jersey's operating permit program to reflect the newly adopted amendments. The New Jersey submittal included such information as responses to comments and copies of the adoption notices showing that the rule adoptions were procedurally correct as required by 40 CFR § 70.4(b)(2).

Review of State Submittal

The extension sought by the NJDEP affects only the last two waves of applications. According to New Jersey's operating permit rule, the original application submittal (paper or electronic) due dates for the last two waves were November 15, 1997 and May 15, 1998, respectively. These deadlines still hold for paper submission. However, for those sources submitting electronically, the

amendment allows additional time. The last two waves may submit electronic applications by February 4, 1999 and May 4, 1999, respectively. Based on New Jersey's interim program effective date of June 17, 1996, all applications subjected to the interim program and full program must be submitted by June 17, 1999. Since the amended electronic application submittal deadlines still fall within the June 17, 1999 due date as required under section 503(c) of the Act and part 70.5(a), EPA finds New Jersey's rule/program revision approvable.

Conclusion

EPA has evaluated New Jersey's amended operating permit rule and the request to incorporate the changes into the approved interim program. EPA has concluded that the amended operating permit rule as submitted by New Jersey bears no adverse effect on the implementation or enforcement of the source category-limited interim program which was originally approved. The New Jersey operating permit program, with the current amendment, continues to be in compliance with the requirements of the Act and the part 70 regulations as codified at 40 CFR part 70; therefore, EPA is approving the amended New Jersey Operating Permit Rule. Under this approval, New Jersey may extend the permit application submittal due dates for the sixth and seventh waves until February 4, 1999 and May 4, 1999, respectively.

The granting of final approval to the amended operating permit rule for the State of New Jersey only changes the application submittal due dates for certain affected sources. All other aspects of the New Jersey Operating Permit Program remain fully operational and enforceable. Any source that fails to comply with the amended application submittal schedule or any provisions of the approved program may be subject to N.J.A.C. 7:27-22.3(l) as well as section 502(a) of the Act. The federal oversight and sanctions provisions of the final interim approval as promulgated on May 16, 1996 for the State of New Jersey remain in full force irrespective of the granting of final approval to the amended operating permit rule.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the State rule revision if adverse comments are filed. This rule will be effective on July 6, 1999 without further notice unless the Agency

receives adverse comments by June 3, 1999. If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will then address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Administrative Requirements

Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the

environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This final approval is not subject to E.O. 13045 because it approves a state program implementing a Federal regulation, and it is not economically significant under E.O. 12866.

Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 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 the 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 final approval will not have a significant impact on a substantial number of small entities because it does not create any new requirements but simply allows additional time for the submittal of electronic applications from major stationary sources. I certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act

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 annual 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 approval action promulgated today does not include a federal mandate that may result in estimated annual 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 pre-existing 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.

Submission to Congress and the General Accounting Office

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 6, 1999. 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, and Reporting and recordkeeping requirements.

Dated: April 19, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

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 adding new paragraph (b) to the entry for New Jersey State in alphabetical order to read as follows:

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

* * * * *

New Jersey

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(b) The New Jersey State Department of Environmental Protection submitted an operating permits program revision request on June 11, 1998; interim program revision approval effective on July 6, 1999.

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[FR Doc. 99-10853 Filed 5-3-99; 8:45 am]

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