V. What Is Involved in This Proposed Action?

All twenty-four districts have fulfilled the conditions of the interim approval granted on May 3, 1995, July 13, 1995, or December 7, 1995, and EPA proposes full approval of their title V operating permit programs.

As discussed above, many of the twenty-four districts that are the subject of today's proposed action also made additional changes to their operating permits programs. These changes were not required by EPA to address conditions of the interim approval granted to the twenty-four districts on May 3, 1995, July 13, 1995, or December 7, 1995. However, EPA has reviewed all changes and proposes to approve all of them except the change to the effective date many districts made.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of these submittals and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 21, 2001.

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 significantly 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: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26529 Filed 10–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[IL; FRL–7088–6]

Clean Air Act Proposed Full Approval of Operating Permits Program; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes fully approving the Illinois Clean Air Act Permit Program (CAAPP), 415 ILCS 5/39.5, submitted by Illinois pursuant to subchapter V of the Clean Air Act, which requires states to develop and submit to EPA for approval, programs for issuing operating permits to all major stationary sources and to certain other sources.

DATES: EPA must receive comments on this proposed action on or before November 21, 2001.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the proposed approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Steve Marquardt at (312) 353–3214 to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Steve Marquardt, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Number: (312) 353–3214, E-Mail Address: marquardt.steve@epa.gov.

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

What is being addressed in this document?
What are the program changes that EPA proposes to approve?
What is involved in this proposed action?

What Is Being Addressed in This Document?

As required under Subchapter V of the Clean Air Act (''the Act'') as amended (1990), EPA has promulgated regulations which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, or withdraw approval of the state 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 of the Act, generally known as Title V, and the implementing regulations, states developed and submitted to EPA programs for issuing operating permits to all major stationary sources and to certain other sources. Where a program substantially, but not fully, met the requirements of part 70, EPA granted the program interim approval. If EPA has not fully approved a state's operating permit program by the expiration of its interim approval period, EPA must establish and implement a federal program under 40 CFR part 71 in that state.

EPA promulgated final interim approval of the Illinois Title V program on March 7, 1995 (60 FR 12478), and the program became effective on that date.

Illinois submitted amendments to its Title V program for approval on May 31, 2001. Illinois intended the amendments to correct interim approval issues identified in the March 7, 1995 interim approval action.

What Are the Program Changes That EPA Proposes To Approve?

A. Title V Interim Approval Corrections

In the March 7, 1995 action, EPA identified four interim approval issues. The following is a description of the issues and their subsequent resolution.

1. Insignificant Activities

In the interim approval, the EPA discussed Illinois' regulations relating to insignificant emissions units (IEUs). 40 CFR 70.5(c) prohibits, in an application, omission of information needed to determine the applicability of, or to impose, any applicable requirements, or to evaluate the fee amount required under the schedule approved pursuant to 40 CFR 70.9. The EPA found that section 201.208 of the State's administrative code, 35 IAC 201.208, did not require information on IEUs necessary to meet the requirements of 40 CFR 70.5(c). In addition, the EPA stated that Illinois must amend 35 IAC 201.210(b) to clarify that a source must specifically list in its permit application the insignificant activities present at its facility rather than rely solely on a general statement that denotes the presence of IEUs.

EPA outlined in the final interim approval that, to obtain full approval, the State must (1) require in section 201.208 that applications include all necessary information on IEUs to determine the applicability of or to impose any applicable requirements or fees and (2) require in section 201.210(b) that sources specifically list the insignificant activities present at their facilities.

With regard to the first issue, Illinois clarified in its May 31, 2001 submittal that 415 ILCS 5/39.5(5)(c) requires applicants to submit ''all information, as requested in Agency application forms, sufficient to evaluate the subject source and its application and to determine all applicable requirements, pursuant to the Clean Air Act, and regulations thereunder, this Act and regulations thereunder.'' Section 39.5(5)(g) further provides that applicants must furnish additional information on the request of the permitting authority. Finally, section 39.5(5)(i) provides that applicants must submit supplementary information if the initial submittal was incomplete or incorrect.

To further clarify that applicants must include in their applications all information on IEUs necessary to determine applicability of and compliance with specific applicable requirements, Illinois will revise form 297–CAAPP to require information regarding specific applicable requirements which apply to IEUs, and compliance of the IEUs with those specific applicable requirements prior to receiving full approval.

EPA addressed IEU issues in a July 10, 1995 document, ''White Paper for the Streamlined Development of Part 70 Permit Applications'' (White Paper), a guidance document clarifying Part 70 permit application requirements. The White Paper provides that ''requirements can normally be adequately addressed in the permit application with minimal or no reference to any specific emissions unit or activity, provided that the scope of the requirement and the manner of its enforcement are clear.'' White Paper, Section II.B.4. However, when an IEU is subject to a specific applicable requirement, the applicant must list that IEU individually, along with the specific applicable requirements and associated monitoring requirements.

In light of these clarifications and Illinois' proper implementation of this requirement, we have determined that the Illinois rules and administrative code provide a sufficient basis to require that permit applicants submit all necessary information required by 40 CFR 70.5(c).

We also have determined that Illinois need not require sources to include in their applications specific information on IEUs for purposes of fee calculation. Illinois Administrative Code section 270.603(b) states that, ''the amount of the fee shall be based on the allowable emissions information submitted by the applicant in the fee calculation portion of its CAAPP application, not including emissions of insignificant levels or from insignificant activities, pursuant to 35 Ill. Adm. Code 201.''

In the second IEU issue identified in the final interim approval notice, EPA stated that Illinois must require applicants to list specifically in their permit applications insignificant units present at their facilities. However, as noted above, since granting interim approval EPA has issued guidance which clarifies that 40 CFR 70.5(c) provides permitting authorities with the flexibility to tailor the level of information on IEU's required in an application, as long as the applications include sufficient information to meet the goals of 40 CFR 70.5(c). In particular, EPA stated that permitting authorities could allow sources ''merely to list in the application the kinds of insignificant activities that are present at the source or check them off from a list of insignificant activities approved in the program.'' White Paper, section II.B.3. EPA also stated in ''White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program,'' issued March 5, 1996 (White Paper #2), that permitting authorities may allow applicants to group generically information on IEU's and to list IEU groups without emissions estimates, unless emission estimates are needed for another purpose such as determining the amount of permit fees that are calculated using total source emissions. White Paper #2, section II.C.2. This approach allows applicants to incorporate into their applications standard permit conditions with minimal or no reference to any specific emission unit or activity, provided that the scope of the requirement and associated monitoring requirements are

clear. However, applicants must continue to include in their applications information on IEUs which are exempt due to size or production rate, in accordance with 40 CFR 70.5(c).

EPA believes that the clarifications made by Illinois and the White Paper and White Paper #2 are sufficient to address this IEU interim approval issue.

2. Administrative Amendments

In the final interim approval, EPA stated that the State must amend 415 ILCS 5/39.5(13)(c)(vi) to require the use of the significant modification procedure to incorporate emission trades into a CAAPP permit.

Illinois deleted this provision from its operating permit program in House Bill 3373 that became effective on July 1, 2001. Illinois' action corrects this interim approval issue because the permitting authority is now required to determine the appropriate modification mechanism consistent with Illinois' permit modification procedures and 40 CFR 70.7.

3. Enhanced NSR

In the March 7, 1995 interim approval notice, EPA noted that 415 ILCS 5/39.5(13)(c)(v) allowed incorporation of requirements from preconstruction permits authorized under a federally approved preconstruction permit program into a Title V permit through the administrative amendment process provided for under the enhanced New Source Review provision of 40 CFR 70.7(d)(1)(v). EPA commented that, to use this provision, the State must develop and have approved into its CAAPP program regulations which are substantially equivalent to the procedural and compliance requirements of 40 CFR 70.7 and 70.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in 40 CFR 70.6. EPA expressed concern that, without these regulations, the public and EPA cannot track the issuance and amendments of part 70 permits to ensure that the permits contain all requirements. The public also needs assurance that a source will not be able to avoid the requirements of the part 70 process through a different permitting program such as preconstruction review.

EPA has determined that the existence of this provision in the Illinois CAAPP program without regulations defining procedures substantially equivalent to 40 CFR 70.6, 70.7 and 70.8 does not make the program deficient. Illinois has not developed any regulations to address this issue. Without the required procedures, the provision is not usable. If the State ever intends to use this enhanced NSR provision, it must (1) develop regulations outlining the exact substantive, procedural and compliance requirements for incorporation of preconstruction permits into part 70 permits, and (2) submit these regulations to EPA for review and approval into the CAAPP program. Until Illinois adopts the necessary ''substantially equivalent'' requirements, the State cannot use the enhanced NSR provision. To assure that this provision is unused, the Illinois EPA will amend the State's administrative amendment application form, 273–CAAPP, to delete the category that enables a source to take advantage of incorporation of a construction permit through administrative amendment procedures. Also, the Illinois EPA will submit a letter to the EPA describing that the Illinois EPA will not use this option until the proper procedures are in place. Illinois must make the form changes and submit the letter prior to receiving full approval.

4. Acid Rain

The final interim approval notice stated that for an eventual full approval of the State's CAAPP, the State must incorporate by reference the federal acid rain program into the State's its existing CAAPP program. Illinois developed Senate Bill 0819, which became effective on August 10, 1997, in part to provide that Subchapter IV–A of the Federal Clean Air Act and regulations promulgated under the Act, concerning sources of acid rain deposition, are enforceable under the Illinois Environmental Protection Act. 415 ILCS 5/39.5(17)(a) now states that, ''Title IV of the Clean Air Act and regulations promulgated thereunder, including but not limited to 40 CFR Part 72, as now or hereafter amended, are applicable to and enforceable under this Act.'' This legislative change corrects this issue.

B. Other Title V Program Revisions

As discussed in detail below, EPA will address any uncorrected deficiencies in a notice of deficiency which EPA will publish by December 1, 2001.

What Is Involved in This Proposed Action?

A. Proposed Action

The EPA proposes full approval of the operating permits program submitted by Illinois based on the revisions submitted on May 31, 2001. EPA finds that Illinois has satisfactorily addressed the program deficiencies identified in EPA's March 7, 1995 interim approval rulemaking.

B. Citizen Comment Letter on Illinois Title V Program

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

Citizens commented on what they believe to be deficiencies with respect to the Illinois Title V program. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** notice published on December 11, 2000, (65 FR 77376), EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

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 significantly 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.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, 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 SIP 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 SIP submission for failure to such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed 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. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. 7401–7671q.

Dated: October 16, 2001.

David A. Ullrich,

Deputy Regional Administrator, Region V.

[FR Doc. 01–26677 Filed 10–19–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 390, 391, 392, 393, 395, and 396

[FMCSA Docket No. FMCSA–2000–7174]

RIN 2126–AA53

Interstate School Bus Safety

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: The FMCSA requests comments on whether to extend the applicability of the Federal Motor Carrier Safety Regulations (FMCSRs) to all interstate school transportation operations (thus excluding home-to-school or school-to-home transportation) by local governmentally-operated educational agencies. This action responds to section 4024 of the Transportation Equity Act for the 21st Century (TEA–21) which directs the FMCSA to determine whether the FMSCRs should apply to these operations. The FMCSA requests comments, data, and information to assist the agency in making the determination.

DATES: Comments must be received on or before January 22, 2002.

ADDRESSES: You can mail, fax, hand deliver, or electronically submit written comments to the Docket Management Facility, U.S. Department of Transportation, Document Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The fax number is (202) 493–2251. You can comment to the Web site (*http://dmses.dot.gov/submit*). You must include the docket number that appears in the heading of this document in your comment. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., et., Monday through Friday, except Federal holidays. You may also review the docket on the Internet at *http://dms.dot.gov.* If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or after submitting comments electronically, print the acknowledgment page.

FOR FURTHER INFORMATION CONTACT: Mr. Philip J. Hanley, Jr., Office of Bus and Truck Standards and Operations, (202) 366–6811, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The ANPRM responds to section 4024 of the TEA–21 (Pub. L. 105–128, 112 Stat. 107, at 416), which directs FMCSA to initiate a rulemaking proceeding on whether or not the FMSCRs should apply to all interstate school transportation operations by local