

that Michigan has satisfactorily addressed the program deficiencies identified in EPA's January 10, 1997 interim approval rulemaking.

B. Citizen Comment Letters on Michigan 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 Sierra Club and the New York Public Interest Research Group challenged this action. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs. In turn, EPA would respond to the public's allegations within specified time periods, if the comments were made within 90 days of publication of the **Federal Register** document.

The EPA received two timely comment letters pertaining to the Michigan Title V program. The EPA takes no action on those comments in today's action. As stated in the **Federal Register** document 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. The EPA will publish a notice of deficiency (NOD) if the Agency determines that a deficiency exists, or will notify the commenter in writing to explain the 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 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 state operating permit programs pursuant to Title V of the Act, 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 an operating permit program 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 an operating permit program 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.

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 19, 2001.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 01-27259 Filed 10-29-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[MN; FRL-7094-5]

Clean Air Act Proposed Full Approval of the Air Operation Permits Program; MN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to fully approve the Minnesota Title V Federal Operating Permits Program, submitted

by Minnesota on June 9, 2000, July 21, 2000, and June 12, 2001 pursuant to subchapter V of the Clean Air Act, which requires States to develop, and submit to EPA for approval, programs for issuing operation permits to all major stationary sources, and to certain other sources.

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

ADDRESSES: Comments should be addressed to: Robert Miller, Chief, Permits and Grants Section, EPA (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois, 60604. 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 Robert Miller at (312) 353-0396 to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Rachel Rineheart, Telephone Number: (312) 886-7017, e-mail address: rineheart.rachel@epa.gov; or Robert Miller, EPA (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Number (312) 353-0396, e-mail address: miller.robert@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 Title V of the Clean Air Act ("the Act"), EPA 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 Title V of the Act and the implementing regulations, states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. Where a program substantially, but not fully, meets the requirements of part 70, EPA grants the program interim approval. If EPA has not fully approved a program by the expiration of the 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 Minnesota Title V program on June 16, 1995 (60 FR 31637), and the program became effective on July 16, 1995. In the final interim approval, EPA identified certain program deficiencies that Minnesota would be required to address in order for EPA to fully approve the Minnesota Title V program. The interim approval for Minnesota's program expires on December 1, 2001.

Minnesota submitted to EPA revisions to its Title V program on June 9, 2000, July 21, 2000, and June 12, 2001. These submittals included corrections to the interim approval issues identified in the June 16, 1995 interim approval, and additional program revisions and updates.

What Are The Program Changes That EPA Proposes To Approve?

A. Title V Interim Approval Corrections

In the June 16, 1995 interim approval, EPA identified five deficiencies to be corrected for the program to receive full approval. The following is a description of the issues and their subsequent resolution.

1. Monitoring Reports

In the June 16, 1995 action, EPA found that pursuant to part 70 Minnesota must require, at a minimum, semi-annual monitoring reports from all sources required to monitor at least every 6 months and annual monitoring reports from sources required to monitor less frequently than every 6 months. Minnesota has added language requiring all sources subject to part 70 permitting requirements to submit a deviation report every 6 months, using the State's deviation reporting form. EPA has reviewed this form and compared the content to the requirements for semi-annual monitoring reports in 40 CFR part 70.

Minnesota Rule 7007.0800 requires that the deviation report be certified by a responsible official. For each monitoring parameter, the form requires: a brief summary of the monitoring performed; a statement describing compliance; and a summary of any deviation that occurred which includes the number of deviations, the date and time of each deviation, the actual recorded value, a statement of why the deviation occurred, and a description of corrective actions taken. EPA believes that the rule and the required reporting forms meet the semi-annual monitoring report requirement of part 70.

2. Administrative Permit Amendment Procedures

The program originally submitted to EPA for approval allowed the use of administrative amendment procedures to "clarify" a permit term. EPA felt that the term "clarify" was ambiguous and that the State's rule could be interpreted to include changes outside the scope of the administrative amendment procedures outlined in part 70. The following change to Minnesota Rule 7007.1400 was effective on January 19, 1998 (added text has been underlined), "An amendment to clarify *the meaning of* a permit term." By adding the phrase "the meaning of," MPCA has limited the scope of changes that could qualify for the administrative amendment process. It prevents changes in the limitation itself and better reflects the types of permit revisions that the State had envisioned for this process. As an example, a permit might contain a requirement for daily monitoring of temperature for a unit stating that the temperature must be between 100 and 150 degrees Fahrenheit. The State could add language through the administrative amendment process clarifying that "daily" means "any day the unit is in operation." In contrast, if an error had been made in the permit such as the wrong temperature range or the limit should have been degrees Celsius rather than Fahrenheit, the administrative amendment process could not be used because the correction of that error would result in a change in the meaning of the limitation.

3. Incorporation by Reference

In the June 16, 1995 interim approval, EPA stated that as a condition for full approval Minnesota Rule 7007.0800, subpart 16, must be revised to require that all conditions required by 40 CFR 70.6(a) contained in Minnesota Rule 7007.0800, subpart 16, be expressly stated in part 70 permits. The conditions contained in this subpart are general conditions applicable to all part 70 sources such as the severability clause. Since that time, EPA has clarified its position on permit content requirements. The March 5, 1996 document "White Paper Number 2 for Improved Implementation of the part 70 Operating Permits Program," addresses the issue of incorporation by reference on pages 36-41. Because the requirements contained in Minnesota Rule 7007.0800, subpart 16, are not source specific and are clearly identifiable in the state rules, EPA finds that incorporation by reference of these terms is consistent with EPA's

interpretation of the permit content requirements of part 70.

4. Fees

In reviewing Minnesota's initial program submittal, EPA found that Minnesota had not demonstrated it was collecting adequate fees and required Minnesota to submit a detailed fee demonstration or to increase the types of pollutant for which fees are charged in order to collect an amount equivalent to the presumptive minimum. This problem arose because Minnesota had not included all the pollutants in the definition of "any regulated pollutant for presumptive fee calculation." In an October 16, 1995, memorandum, "Definition of Regulated Pollutant for Particulate Matter for Purposes of Title V," EPA stated that only PM₁₀ is considered a regulated pollutant under Title V; therefore, Minnesota no longer needs to include particulate matter greater than 10 microns in diameter in fee calculations. A November 10, 1994, letter from MPCA addresses the remaining pollutants. The November 10, 1994, letter provides a summary of total reduced sulfur, hydrogen chloride, and sulfuric acid mist emissions from the Minnesota Emission Inventory. The State shows that fees for these pollutants would increase fees collected in the State by less than 0.18 percent. The State takes the position that the costs associated with monitoring, reporting, and tracking these emissions outweigh the benefit of any additional revenue that would be collected. EPA believes that the additional revenue from including these pollutants in the fee calculation would have no more than a trivial benefit. Therefore, EPA has decided to accept Minnesota's rule as meeting the presumptive minimum.

5. Timelines for Permit Issuance

The initial program submittal required Minnesota to take final action on minor modifications to permits within 180 days from the receipt of the application. Part 70 requires final action within 90 days of receiving a complete application for this type of permit modification. Minnesota has revised Minnesota Rule Chapter 7007 to address this issue. Minn. R. 7007.0750 Subpart 2.C now requires MPCA to take final action on a minor permit amendment within 90 days of receiving a complete application. This is now consistent with the requirements of 40 CFR 70.5(e)(2)(iv). The rule change was adopted on June 1, 1999.

B. Other Title V Program Revisions

The MPCA has made changes to its Title V program in addition to the

interim approval corrections. The EPA will address the additional program revisions in a separate rulemaking action.

What Is Involved in This Proposed Action?

A. Proposed Action

The EPA proposes full approval of the Minnesota operating permits program based on the corrective program revisions the State submitted on June 9, 2000, July 21, 2000, and June 12, 2001. This proposed full approval of Minnesota's corrective operating permit program submittal is solely for the purpose of meeting the requirements of Title V and part 70, and makes no judgement concerning any other Federal program requirements, such as State Implementation Plans pursuant to section 110 of the Clean Air Act. The EPA finds that Minnesota has satisfactorily addressed the program deficiencies that EPA identified in the June 16, 1995 interim approval.

B. Citizen Comment Letter on Minnesota 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.

The EPA received one comment letter pertaining to the Minnesota Title V program. The EPA takes no action on those comments in today's action. As stated in the **Federal Register** document 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. The EPA will publish a notice of deficiency (NOD) if the Agency determines that a deficiency exists, or will notify the commenter in writing to explain the 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 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.

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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.

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 19, 2001.

David A. Ullrich,

Acting Regional Administrator, Region V.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS-50644; FRL-6798-7]

RIN 2070-AB27

Proposed Modification of Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 5(a)(2) of the Toxic Substances Control Act (TSCA) and 40 CFR 721.185, EPA is proposing to amend three significant new use rules (SNURs) to allow certain uses without requiring a significant new use notice (SNUN). EPA is proposing these amendments based on review of new toxicity test data on one chemical and review of SNUNs for the other two chemicals. The proposed amended SNURs would continue to require a SNUN for new uses that may involve significant changes in human or environmental exposure.

DATES: Comments, identified by docket control number OPPTS-50644 must be received on or before November 29, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS-50644 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: For general information contact: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: James Alwood, Chemical Control Division, Office of Pollution Prevention and Toxics (7405), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460;

telephone number: (202) 260-1857; e-mail address: alwood.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this proposed rule. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Chemical manufacturers	325	Manufacturers, importers, processors, and users of chemicals
Petroleum and coal product industries	324	Manufacturers, importers, processors, and users of chemicals

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at <http://www.epa.gov/>. You may also obtain copies of the notice of availability documents for the 835 (63 FR 4259, January 28, 1998) (FRL-5761-7), 850 (61 FR 16486, April 15, 1996) (FRL-5363-1), and 870 (63 FR 41845, August 5, 1998) (FRL-5740-1) series OPPTS Harmonized Test Guidelines at this same site. To access this document, on the homepage select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the