

EPA-APPROVED IOWA REGULATIONS—Continued

Iowa citation	Title	State effective date	EPA approval date	Comments
567–22.5 ..	Special Requirements for Nonattainment Areas	7/21/99	March 4, 2002 and FR cite.	
567–22.8 ..	Permit by Rule	7/21/99	March 4, 2002 and FR cite.	
*	*	*	*	*
567–22.201.	Eligibility for Voluntary Operating Permits	7/21/99	March 4, 2002 and FR cite.	
*	*	*	*	*
567–22.203.	Voluntary Operating Permit Applications	10/14/98	March 4, 2002 and FR cite.	
*	*	*	*	*
567–22.300.	Operating Permit by Rule for Small Sources	7/21/99	March 4, 2002 and FR cite.	Subrule 22.300(7)“c” has a state effective date of 10/14/98.
Chapter 23—Emission Standards for Contaminants				
567–23.3 ..	Specific Contaminants	7/21/99	March 4, 2002 and FR cite.	Subrule 23.3(2) has a state effective date of 5/13/98. Subrule 23.3(3)“d” is not SIP approved.
567–23.4 ..	Specific processes	7/21/99	March 4, 2002 and FR cite.	Subrule 23.4(10) is not SIP approved.
*	*	*	*	*
Chapter 25—Measurement of Emissions				
567–25.1 ..	Testing and Sampling of New and Existing Equipment..	3/14/01	March 4, 2002 and FR cite.	
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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 10**

[IA 0126–1126a; FRL–7151–9]

Approval and Promulgation of Operating Permits Program; State of Iowa**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.**SUMMARY:** EPA is approving revisions to the Iowa Operating Permits Program for air pollution control. This revision

approves numerous rule revisions adopted by the state since the initial approval of its program in 1995. Rule revisions approved in this action include rules pertaining to issuing permits, Title V operating permits, voluntary operating permits, and operating permits by rule for small sources.

These revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revisions.

DATES: This rule is effective May 3, 2002, without further notice, unless EPA receives adverse comment by April 3, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Written comments should be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the state submittals are available for public inspection during normal business hours at the above-listed Region 7 location. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION:

This section provides additional information by addressing the following questions:

What is the part 70 operating permits program?

What is the Federal approval process for an operating permits program?

What does Federal approval of a state operating permits program mean to me?

What is being addressed in this document?

Have the requirements for approval of a revision to the operating permits program been met?

What action is EPA taking?

What Is the Part 70 Operating Permits Program?

The Clean Air Act Amendments (CAA) of 1990 require all states to develop an operating permits program that meets certain Federal criteria listed in 40 Code of Federal Regulations (CFR) part 70. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM¹⁰; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

What Is the Federal Approval Process for an Operating Permits Program?

In order for state regulations to be incorporated into the Federally-enforceable Title V operating permits program, states must formally adopt regulations consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state

submits it to us for inclusion into the approved operating permits program. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 502 of the CAA are incorporated into the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled "Approval Status of State and Local Operating Permits Programs."

What Does Federal Approval of a State Operating Permits Program Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved operating permits program is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

We have requested that each permitting authority periodically submit any revised part 70 rules to us for approval as a revision to their approved part 70 program. The purpose for this is to ensure that the state program and Federally-approved program are consistent, current and Federally enforceable.

Consequently, the state of Iowa has requested that we approve a number of revisions to its part 70 rules. In letters dated August 7, 2000, January 29, 2001, and July 18, 2001, the state requested that we approve various revisions to rules 567–22.100 through 567–22.116, 567–22.201, 567–22.203, and 567–22.300.

The rules were amended to accomplish a number of changes. Some amendments were primarily minor changes in wording to rules which were already in the approved program. In some instances clarifications and corrections were made. In other instances the rules were updated to align them with changes made in the Federal rules. Finally, updates to a number of references to Federal citations were made. A complete listing of each rule change is contained in the technical support document which is a part of the docket for this action and which is available from the EPA contact

above. A few of the rule revisions which may be of interest, however, are discussed here.

Rule 22.100, definition of "major source," paragraph "2": Language added so that fugitive emissions of HAPs are considered in determining whether a stationary source is a major source.

Rule 22.103(2): Language added ozone to the list of insignificant activities that must be included in the Title V operating permit application, and provides clarification by striking reference to the Title V fee, which is not being required for insignificant activities.

Rule 22.106(1): Deleted prior language and added clarifying language as to when the fee is to be paid, what the fee is based on, and the schedule for establishing the fee and the process for establishing the fee.

Rule 22.106(6): Adds a new subrule which exempts sources from the requirement to pay the Title V permit fee until such time as the sources are required to apply for the Title V permits.

Rule 22.106(7): Rule was amended by adopting a new subrule 22.106(7) which added language to clarify that no Title V fee will be calculated for insignificant activities.

Rule 22.300(3)(b) and (c): Rule was amended by removing the eligibility deadline of December 9, 1999, for operating permit by rule for small sources for those sources subject to sections 111 and 112 of the CAA. Previously, these sources had five years from December 9, 1999, to obtain the operating permit by rule.

Rule 22.300(4)(b): Added clarification to the definition of *de minimis* emissions and to the recordkeeping requirements for stationary sources with *de minimis* emissions.

Rule 22.300(7): Rule was amended to provide clarification to the recordkeeping requirement for *non-de minimis* sources.

Have the Requirements for Approval of a Revision to the Operating Permits Program Been Met?

Our review of the material submitted indicates that the state has amended rules for the Title V program in accordance with the requirements of section 502 of the CAA and the Federal rule, 40 CFR part 70, and met the requirement for a program revision as established in 40 CFR 70.4(i).

What Action Is EPA Taking?

We are approving revisions to the Iowa part 70 operating permits program. We are processing this action as a final action because the revisions make

routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the Federal government established in the CAA. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety

Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing state operating permits programs submitted pursuant to Title V of the CAA, EPA will approve state programs provided that they meet the requirements of the CAA 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 permits 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 3, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the

finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

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

Dated: February 15, 2002.

William W. Rice,

Acting Regional Administrator, Region 7.

Chapter I, 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 under "Iowa" paragraph (c) to read as follows:

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

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Iowa

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(c) The Iowa Department of Natural Resources submitted for program approval rules 567-22.100 through 567-22.116 and 567-22.300 on August 7, 2000, rules 567-22.201, 567-22.203, and 567-22.300 (except 22.300(7)(“c”)) on January 29, 2001, and 567-22.100 and 567-22.106 on July 18, 2001. These revisions to the Iowa program are approved effective May 3, 2002.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[FCC 01-387]

Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: In this *Report and Order*, the Commission resolves certain issues