

rule which is located in the rules section of the **Federal Register**.

Dated: October 1, 2001.

**William Rice,**

*Acting Regional Administrator, Region 7.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[HI045-OPP; FRL-7083-5]

#### Clean Air Act Proposed Full Approval of Operating Permit Program; State of Hawaii

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the State of Hawaii's ("Hawaii" or "State") operating permit program. The State operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdictions. EPA granted interim approval to the Hawaii operating permit program on December 1, 1994 but listed certain deficiencies in the program preventing full approval. Hawaii has revised its program to correct the deficiencies of the interim approval and this action proposes full approval of those revisions.

**DATES:** Written comments must be received by November 14, 2001.

**ADDRESSES:** Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR-3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the State's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted Title V program at the following locations between the hours of 7:45 a.m. and 4:15 p.m.:

**Oahu:** Clean Air Branch, Department of Health, 919 Ala Moana Blvd., Room 203, Honolulu.

**Hilo:** Office of the Chief Sanitarian, Department of Health, 1582 Kamehameha Ave., Hilo.

**Kona:** Keakealani Building, Old Kona Hospital, Department of Health, Sanitation Branch, Kealahou.

**Mau:** Office of the Chief Sanitarian, Department of Health, 54 High Street, Wailuku.

**Kauai:** Office of the Chief Sanitarian, Department of Health, 3040 Umi Street, Lihue.

**Molokai:** Department of Health, 65 Makaena Place, Kaunakakai.

You may also review the State's rule amendments by accessing the Department of Health's Web site at [www.hawaii.gov/doh/proposed\\_rules/cab/index.html](http://www.hawaii.gov/doh/proposed_rules/cab/index.html).

#### FOR FURTHER INFORMATION CONTACT:

Robert Baker, EPA Region IX, at (415) 744-1258 (Baker.Robert@epa.gov).

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

- What is the operating permit program?
- What is being addressed in this document?
- What are the program changes that EPA is proposing to approve?
- What is involved in this proposed action?

#### What Is the Operating Permit Program?

The Clean Air Act Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, 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 EPA's 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 have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO<sub>x</sub>), or particulate matter (PM<sub>10</sub>); those that emit 10 tons per year or more of any single hazardous air pollutant (HAP)

listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs.

#### What Is Being Addressed in This Document?

Where an operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the State's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the State's program on December 1, 1994. This **Federal Register** document describes the changes that the State has made to its operating permit program (Chapter 60.1 of the Hawaii Administrative Rules) since interim approval was granted.

#### What Are the Program Changes That EPA Is Proposing To Approve?

As discussed above, EPA granted final interim approval on December 1, 1994 (59 FR 61549) to the State's title V program. As explained in that rulemaking, full approval of the State's operating permit program was made contingent upon satisfaction of certain conditions. In response to EPA's interim approval action, the State revised its operating permit program (Chapter 60.1 of the Hawaii Administrative Rules) to remove or correct the deficiencies identified by EPA. The State made its revised rule available to public review and comments. On September 5, 2001, the State adopted the revisions. The revised program was submitted to EPA on September 21, 2001. We have included below a discussion of each of the interim approval deficiencies, the conditions for correction, and a summary of how the State has corrected the deficiency. The Technical Support Document (TSD) for this action includes more information about the State's submittal and more details of the revisions made. In the discussion here, we have listed each of the EPA cited deficiencies identified in the July 26, 1994 **Federal Register** notice (see 59 FR 37957) that proposed the interim approval, followed by a brief description of the State's revisions to its operating permit program to remove these deficiencies.

#### Issue a

**Insignificant activities:** The State's rules allowed the director to determine what activities are insignificant without EPA approval of these activities or the criteria that delineate such activities.

For this reason, rule section 11–60.1–82(f)(7) had to be deleted or revised to include criteria, such as emission levels, for determining which activities are insignificant. EPA recommended that an emissions cap of two tons per year would constitute an approvable criterion for ensuring that any activities designated under this clause would not hinder the State's ability to make applicability determinations and impose all applicable requirements and fees. For toxic or hazardous air pollutants, the threshold would be twenty-five percent of any Title I modification threshold or 1000 pounds per year. EPA also proposed that restrictions on the following insignificant activities are necessary to qualify for full approval: Paint spray booths, water pump motors, and portable fuel burning equipment.

#### *State's Response to Issue a*

The State revised rule section 11–60.1–82(f)(7) to include the following criteria for determining when an activity is insignificant: 500 pounds per year of a hazardous air pollutant; twenty-five percent of significant amounts of emissions as defined in section 11–60.1–1, paragraph (1) in the definition of “significant”; five tons per year of carbon monoxide; and two tons per year of each regulated air pollutant other than carbon monoxide. The State also added a two ton per year of a regulated pollutant criteria to paint spray booths, limited water pump engines which are operated only during fire-fighting and periodically for engine maintenance as insignificant activities, moved diesel fired portable ground support equipment used exclusively to start aircraft or provide temporary power or support to aircraft prior to start-up, internal combustion engines propelling mobile sources as well as ocean going vessels, and air conditioning or ventilating systems that do not contain more than 50 pounds of any Class I or Class II ozone depleting substance from being an insignificant activity to being exempt from covered source permitting requirements.

#### *Issue b*

Permit application shield: The program's permit application shield did not include existing sources that become subject to the program due to rulemaking changes.

#### *State's Response to Issue b*

The State added rules section 11–60.1–62(f) and section 11–60.1–82(j) which provide that: “An owner or operator of a stationary source that becomes subject to the requirements of subchapter 5 pursuant to the

promulgation or revision of a regulation under sections 111 and 112 of the Act or this chapter, shall submit a complete and timely covered source permit application to address the new requirements. For purposes of this subsection, “timely” means: (1) By the date required under subchapter 8 or 9 of this chapter, or the applicable federal regulation, whichever submittal deadline is earlier; or (2) within twelve months after the effective date of the promulgated regulation or revision to the regulation if not specified in the applicable regulation. The owner or operator of the source may continue to construct or operate and shall not be in violation for failing to have a covered source permit addressing the new requirements only if the owner or operator has submitted to the director a complete and timely covered source permit application.”

#### **What Is Involved in This Proposed Action?**

Today, we are proposing to fully approve the State's revised operating permit program (Chapter 60.1 of the Hawaii Administrative Rules). We have determined that the revisions made by the State remove or correct all of the deficiencies identified by us in 1994. In addition, the State has made other changes to its operating permit program that are unrelated to the changes made to correct interim approval deficiencies. EPA is not proposing any action on these additional program changes in this notice. EPA will evaluate the additional program changes and will take appropriate action at a later date.

#### **Request for Public Comment**

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Hawaii submittal 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 14, 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 on May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866.

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 5, 2001.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 100201D]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Public and Scoping Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public and scoping meetings.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of its Snapper Grouper Committee, a joint meeting of its Executive and Finance Committees, and a public scoping meeting in Charleston, SC.

**DATES:** The Snapper Grouper Committee will meet October 29, 2001 from 1:30 p.m. until 5 p.m. and October 30, 2001, from 8:30 a.m. until 5 p.m. The joint meeting of the Executive and Finance Committees will take place October 31, 2001, from 8:30 a.m. until 1 p.m. The public scoping meeting will take place October 29, 2001, at 6 p.m.

**ADDRESSES:** Copies of the scoping documents are available by contacting Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-469; telephone: 843-571-4366; fax: 843-769-4520.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer; telephone: (843) 571-4366; fax: (843) 769-4520; e-mail: [kim.iverson@noaa.gov](mailto:kim.iverson@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Snapper Grouper Committee will meet October 29-30, 2001, to address a list of items for Amendment 13 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region, including permit transfers, Sustainable Fisheries Act provisions, snowy grouper and golden tilefish management, and Endangered Species Act Section 7 consultation regarding impacts on endangered species. In addition, the Snapper Grouper Committee will review recommendations from the Marine Protected Areas (MPA) Committee regarding site locations and other items for consideration in establishing MPAs. The Snapper Grouper Committee will then develop recommendations for the full Council to consider.

The Executive and Finance Committees will meet on October 31,

2001, to address several items including: an update on the Calendar Year (CY) 2001 budget; approval of the proposed CY2002 Fishery Management Plan (FMP)/Amendment/Framework timelines; the status of the CY2002 budget and funding for compliance with the National Environmental Policy Act (NEPA); a briefing on the CY2002 Operations Plan meeting, and a review of the status of the reauthorization of the Magnuson Stevens Fishery Conservation Management Act.

On October 29, 2001, a public scoping meeting will take place to address two separate issues. The first is to explore potential options for establishing additional Habitat Areas of Particular Concern under the FMP for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region. The second issue will be the possible development of a Comprehensive FMP Amendment to all of the FMPs under the Council's authority to standardize permit renewal timeframes, operator permits, a consolidated controlled access system, and the Atlantic Coast Cooperative Statistics Program's permits and reporting.

All of these meetings will be held at the Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407. Phone 843-571-1000; FAX 843-766-9444.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by October 25, 2001.

Dated: October 9, 2001.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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