

rules are discussed in order to provide a fuller description of the state's regulations that comprise the voluntary operating permit program.

A. *Eligibility.* In order to qualify for a voluntary permit, a source must successfully demonstrate that:

1. Potential and actual emissions will be less than 100 tons per year of regulated pollutants per 12-month rolling period;

2. Potential and actual emissions of each HAP will be less than 10 tons per 12-month rolling period;

3. Potential and actual emissions of all HAPs will be less than 25 tons per 12-month rolling period.

In other matters concerning eligibility, subrule 22.201(2) lists exceptions for sources seeking a voluntary operating permit. Although a source may meet the criteria cited in a-c above, any affected source subject to Title IV, those required to obtain a Title V permit as a source category pursuant to 70.3, or a solid waste incinerator unit is not eligible for a voluntary permit.

Additionally, sources subject to a New Source Performance Standard, National Emissions Standards for Hazardous Air Pollutants, or section 112 of the Act are only eligible for a voluntary permit until April 20, 1999. Once the deferment period for these sources has expired, these sources will be required to obtain a Title V permit.

B. No source may operate without a properly issued Title V or voluntary operating permit.

C. Although the rules state that sources must apply by March 1, 1995, the state provided public notice and exercised a subsequent rulemaking to rescind this date. The state now intends to establish a new date once this SIP revision approving the voluntary permit program becomes effective.

D. Standard application information is required of all sources seeking a voluntary permit. The rule specifies that the information must be sufficient to evaluate the source and its predicted and actual emissions.

The permit must also contain identifying information about the owner and a description of source processes and products by two digit Standard Industrial Classification Code. Required information includes listing equipment, monitoring devices, limitations on source operations, and the calculations used by the source in providing this information.

E. Sources with a voluntary operating permit shall be exempt from Title V operating permit fees.

F. A voluntary operating permit may be denied if the director determines any of the following conditions: a source is

not in compliance with any applicable requirement; an applicant submits false information; or an applicant is unable to certify compliance with applicable requirements.

If a voluntary permit is denied, the source shall apply for a Title V operating permit and shall be subject to enforcement action for operating without a Title V permit. This fulfills part 70 requirements which require all major sources subject to Title V to receive a corresponding permit. If an otherwise major source in Iowa does not have a valid voluntary permit, it is subject to Title V.

G. If a source's application for and receipt of a construction permit renders the source ineligible for a voluntary permit (e.g., increased emissions above the eligibility threshold), the source must then apply for a Title V permit. Once again, the source is subject to enforcement action for operating without a Title V permit.

The terms and conditions of an issued construction permit shall be incorporated into a voluntary permit at the time of renewal for the voluntary permit, assuming that the construction permit did not render the source ineligible as discussed in the paragraph above. Sources are required to provide copies of all construction permits issued during the term of the voluntary operating permit.

V. Approvability Issues

EPA's analysis of the state's rules has revealed four deficiencies which must be corrected before EPA can give final approval to this SIP revision. The state has agreed to these amendments and has developed revised rules that are expected to be adopted by June 1995. These amendments are as follows.

A. The EPA has previously informed the state of the need to revise the definition of "12-month rolling period" in 22.201(1). As currently written, the term in this rule is ambiguous and may not be enforceable as a practical matter. The state has therefore drafted a revised rule that provides the following definition: "* * * a period of 12 consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month."

B. The second item concerns 22.201(1)a-d. As currently written, the rule is not consistent with the requirements for Prevention of Significant Deterioration or for construction permitting. In response to EPA comments, the state has developed an amendment that declares fugitive emissions of each regulated air pollutant from a stationary source shall not be

considered in determining the potential-to-emit unless the source belongs to a source category listed in IAC 567-22. Fugitives must be counted for purposes of 112(l).

C. The EPA has requested that 22.201(2)a be revised to read that sources required to obtain a Title V permit under 22.101(1)e (source categories) are not eligible for a voluntary operating permit. This revision is necessary because the EPA is requiring some non-major section 112 sources to obtain a Title V permit with no deferral provisions.

D. The EPA has advised the state that the provisions of 22.206(2)(c) must be revised to provide that permit limitations, controls, and requirements must be enforceable as a practical matter.

VI. EPA Action

The EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The reader may also request the Technical Support Document (TSD) which examines this revision in more extensive detail. The TSD may be requested in accordance with the information provided in the "Addresses" section.

As addressed in section II of this notice, the EPA has determined that this proposed revision meets the five criteria of the June 28, 1989, **Federal Register** notice for Federal enforceability.

In order for the EPA to take final action on this SIP revision, the state must submit revised rules addressing the approvability issues outlined in section V of this notice.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities