

Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3AT23), Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-8239.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

As required under Title V of the Clean Air Act (CAA) as amended (1990), EPA has promulgated rules which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) Part 70 and require states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources. Due to pending litigation over several aspects of the Part 70 rule which was promulgated on July 21, 1992, Part 70 is in the process of being revised. When the final revisions to Part 70 are promulgated, the requirements of the revised Part 70 will define EPA's criteria for the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permits program submittals. Until the date which the revisions to Part 70 are promulgated, the currently effective July 21, 1992 version of Part 70 shall be used as the basis for EPA review.

B. Federal Oversight and Sanctions

The CAA requires that states develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. EPA's program review occurs pursuant to section 502 of the CAA and the July 21, 1992 version of Part 70, which together outline the currently applicable criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, EPA

must establish and implement a federal operating permits program.

Following final interim approval, if the State of Maryland fails to submit a complete corrective program for full approval by 6 months before the interim approval expires, EPA would start an 18-month clock for mandatory sanctions. If Maryland then failed to submit a complete corrective program that EPA found complete before the expiration of that 18-month period, EPA would be required to apply one of the sanctions in section 179(b) of the CAA. Such sanction would remain in effect until EPA determined that Maryland had corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator found a lack of good faith on the part of Maryland, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that Maryland had come into compliance. In any case, if, six months after application of the first sanction, Maryland still had not submitted a corrective program that EPA found complete, a second sanction would be required.

If, following final interim approval, EPA disapproved Maryland's complete corrective program, EPA would be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date Maryland had submitted a revised program and EPA had determined that this program corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator found a lack of good faith on the part of Maryland, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that Maryland had come into compliance. In all cases, if, six months after EPA applied the first sanction, Maryland had not submitted a revised program that EPA had determined corrected the deficiencies that prompted the disapproval, a second sanction would be required.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if Maryland has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a Maryland program by the expiration of an interim approval period, EPA must promulgate, administer and enforce a federal operating permits program for Maryland

upon the date the interim approval period expires.

C. State of Maryland's Submittal

On May 9, 1995, Maryland submitted an operating permits program for review by EPA. The submittal was supplemented by additional materials on June 9, 1995, and was found to be administratively complete pursuant to 40 CFR 70.4(e)(1). The submittal includes the following components: transmittal letter; description of Maryland's Title V operating permits program; state regulations; Attorney General's legal opinion; workload analysis, permit fee demonstration; permitting program documentation, and additional information (i.e., transition plan, data management, compliance tracking and enforcement description).

II. Summary and Analysis of Maryland's Submittal

The analysis contained in this notice focuses on the major portions of Maryland's operating permits program submittal: regulations and program implementation, fees, support materials, and provisions implementing the requirements of Titles III and IV of the CAA. Specifically, this notice addresses the deficiencies in Maryland's submittal which will need to be corrected to fully meet the requirements of the July 21, 1992 version of Part 70. These deficiencies as well as other issues related to Maryland's operating permits program are discussed in detail in the Technical Support Document (TSD). The full program submittal and the TSD are available for review as part of the public docket. The docket may be viewed during regular business hours at the EPA Region III office listed in the **ADDRESSES** section of this notice.

A. Regulations and Program Implementation

Maryland's operating permits program is primarily defined by regulations adopted as Code of Maryland Regulations (COMAR), Title 26, Subtitle 11. The specific regulations being adopted to implement the Part 70 requirements will appear at COMAR § 26.11.02 (Permits, Approvals, and Registration) and COMAR § 26.11.03 (Permits, Approvals, and Registration—Part 70 Permits). Provisions for enforcement authority are located in COMAR § 26.11.02.05. Maryland submitted a list identifying "Title V" and "Non-Title V" provisions of its regulations. This list is provided in the TSD. In today's proposal, EPA is taking action only on the Title V portions of Maryland's submittal.