Authority: 42 U.S.C. 7401 et seq.

2. Section 63.420 is amended by adding paragraph (j) to read as follows:

## § 63.420 Applicability.

(i) Rules Staved for Reconsideration. Notwithstanding any other provision of this subpart, the December 14, 1995 compliance date for existing facilities in § 63.424(e) and § 63.428(a), (i)(1), and (j)(1) of this subpart is stayed from December 8, 1995, to March 7, 1996.

[FR Doc. 95-29992 Filed 12-7-95; 8:45 am] BILLING CODE 6560-50-M

### 40 CFR Part 70

[AD-FRL-5343-3]

# Clean Air Act Final Interim Approval of Operating Permits Program; Washington

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

**ACTION:** Final interim approval and notice of correction.

**SUMMARY:** EPA is repromulgating final interim approval of one element of the State of Washington's title V air operating permits program. On November 9, 1994, EPA granted interim approval to Washington's operating permits program. 59 FR 55813 (November 9, 1994). One of the bases for granting Washington's program interim rather than full approval was that EPA determined that Washington's exemption for "insignificant emission units" exceeded the exemption authorized for such units under the Clean Air Act. A coalition of industries filed a petition for review of EPA's decision to condition full approval on changes to Washington's treatment of insignificant emission units. Upon EPA's request for a voluntary remand, the Court remanded this interim approval issue to EPA for reconsideration. EPA continues to believe that Washington has impermissibly expanded the exemption for insignificant emission units and therefore again conditions full approval of the Washington operating permits program on changes to Washington's treatment of insignificant emission units.

EPA is also approving a change to the jurisdiction of the Benton County Clean Air Authority.

Finally, EPA is correcting the date for expiration of the interim approval and the due date of the required submission addressing the interim approval issues. **EFFECTIVE DATE:** January 8, 1996.

**ADDRESSES:** Copies of Washington's submittal and other supporting information used in developing this action are available for inspection during normal business hours at the address indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Waddell, 1200 Sixth Avenue, Seattle, Washington 98101.

#### SUPPLEMENTARY INFORMATION:

I. Background and Purpose

#### A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act ("the Act'')), EPA has promulgated rules 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, 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. Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act 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 Act and the part 70 regulations, which together outline 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, it must establish and implement a Federal program.

## B. Previous Action on Washington's Program

Washington submitted its operating permits program to EPA in November 1993. In November 1994, EPA granted interim approval to Washington's program and conditioned full approval on, among other things, revisions to Washington's regulations pertaining to the treatment of insignificant emission units (IEUs).1 See 59 FR 55813

(November 9, 1994). On January 9, 1995, the Western States Petroleum Association, Northwest Pulp & Paper Association, Aluminum Company of America, Columbia Aluminum Corporation, Intalco Aluminum Corporation, Kaiser Aluminum & Chemical Corporation and Vanalco Inc. (collectively, "Petitioners") filed a petition with the United States Court of Appeals for the Ninth Circuit seeking review of the conditions in EPA's final interim approval of Washington's operating permits program. Western States Petroleum Association, et al. v. EPA, et al., No. 95-70034 (9th Cir., Jan. 6, 1995). In their petition and subsequent brief, Petitioners claimed that EPA had exceeded its authority in requiring Washington to revise its IEU rules as a condition of full approval and that this condition was arbitrary, capricious, an abuse of discretion, and not otherwise in accordance with the law. Petitioners' brief clarified that Petitioners were challenging only EPA's requirement that Washington revise its IEU rules to obtain full approval and did not challenge any of the four other conditions for full approval. The State of Washington filed a brief as intervenor in the matter.

In reviewing the issue, EPA determined that the Petitioners and the State of Washington had raised a substantial question concerning EPA's interpretation of the IEU provisions of part 70 and the specific regulatory revisions EPA had ordered the State to make to its IEU rules as a condition of full approval. EPA therefore moved the Court on May 23, 1995, to vacate and remand to EPA those portions of EPA's final interim approval of Washington's operating permits program concerning IEUs. The Court granted EPA's motion

on July 7, 1995.

Following the Court's order, EPA again reviewed the part 70 regulations and Washington's IEU provisions and, on September 28, 1995, again proposed interim approval of the State's program (60 FR 50166). EPA explained in the proposal that EPA continued to believe that Washington's IEU provisions did not comport with the requirements of part 70 with respect to permit content because the State's regulations expressly excluded IEUs subject to generally applicable requirements of the Washington State Implementation Plan (SIP) from all the requirements of 40 CFR 70.6, except for the requirement to include in the permit all applicable requirements. EPA also expressed its concern that the State's definition of

<sup>&</sup>lt;sup>1</sup> For the purpose of this action, "IEU" refers to activities and emission units that are defined as insignificant under WAC 173-401-200(16) and 173-401-530, when used in discussing Washington's program, and refers to the generic

concept under part 70, when used in discussing the requirements of part 70.