

system at its most vulnerable time, and hinder timely issuance of permits to both major and nonmajor emitters.

Additionally, the great majority of nonmajor sources are small businesses, and many are not currently subject to State air permit programs. Many small businesses will require greater assistance from the permitting authorities because of a relative lack of technical and legal expertise, resources, and experience in dealing with environmental regulation. If permitting authorities are overburdened from a backlog of permits to be processed, nonmajor sources will be unable to obtain technical and procedural assistance necessary to help them file timely and complete applications. This likely scenario constitutes an unnecessary burden on nonmajor sources, especially considering that by definition they emit less than major sources and that deferring permitting requirements does not defer a source's obligation to comply with the applicable requirements of the Act. [The preamble to the final part 70 regulations (57 FR 32261) provides a more exhaustive discussion of EPA's decision to allow States to temporarily exempt nonmajor sources from title V permitting.]

The part 70 regulations specify that this temporary exemption will expire at such time as EPA completes a rulemaking to determine how the part 70 program should be structured for nonmajor sources. In addition, the rulemaking will consider whether to grant permanent exemptions to any source categories for which there is a sufficient record to support such an exemption.

The part 70 regulations also address applicability for nonmajor sources subject to section 111 or 112 standards promulgated after July 21, 1992. Section 70.3(b)(2) specifies that for nonmajor sources that are subject to a standard or other requirement promulgated under either section 111 or 112 of the Act after July 21, 1992, the Administrator will determine whether to exempt any or all such sources from the requirement to obtain a part 70 permit at the time that the new standard is promulgated. Thus, decisions regarding permitting exemptions were to be made as each new standard covering nonmajor sources was published. With regard to section 112, EPA has published since July 21, 1992 (in 40 CFR part 63) hazardous air pollutant standards that apply to nonmajor sources in the following five source categories: perchloroethylene dry cleaning facilities (September 22, 1993; 58 FR 49353), halogenated solvent cleaning (December 2, 1994; 59 FR 61801—amended June 5,

1995; 60 FR 29484), ethylene oxide commercial sterilization and fumigation operations (December 6, 1994; 59 FR 62585), hard and decorative chromium electroplating and chromium anodizing tanks (January 25, 1995; 60 FR 4948), and secondary lead smelters (May 31, 1995; 60 FR 32587). Of these five, only the standard for halogenated solvent cleaning contained a temporary permitting exemption. In this standard, States were given the option of permanently exempting small cold cleaners and temporarily exempting all other nonmajor solvent cleaners from title V permit requirements.

The remaining standards did not offer any exemptions from permitting, although the preamble to the dry cleaning standard did state an intention to allow States to defer permitting of nonmajor sources subject to that standard. Nonetheless, in the absence of specific language in that regulation granting States the option to exempt or temporarily exempt nonmajor sources from permit requirements, the General Provisions (subpart A) of part 63 apply, which by default extend the permitting requirement to nonmajor sources subject to post-July 21, 1992, MACT standards.

## II. Proposed Changes to Subpart N, Subpart O, and Subpart M

### A. State Option to Defer Nonmajor Sources

The final rules, that is subparts N, O, and M, required all affected nonmajor sources to obtain a title V permit from the appropriate permitting authority. All affected nonmajor sources in the above source categories are required to apply for a title V permit within 12 months of the later of the following dates: the effective date of the respective MACT standard or the effective date of a title V program to which an affected source in the above source categories is subject. Major sources in the above source categories are required to apply for and obtain permits according to the transition plans outlined in the title V programs submitted by the State and local permitting authorities for EPA approval.

Several comments were received regarding the title V permit requirements for area sources in the Chromium Electroplating rule (subpart N) before promulgation. The commenters believed that the costs for nonmajor sources to obtain title V permits would be overly burdensome, and the emissions from such sources may be insignificant. However, in responding to these comments in the final rule, EPA believed that requiring area sources to obtain title V permits

was important because of the toxicity of chromium compounds and the close proximity of many of these sources to residential areas. Following promulgation of these final rules, discussions were held with States and EPA Regions regarding their permitting strategies for nonmajor sources. As a result, EPA concluded that the Chromium Final Rule imposes an undue burden on the States in requiring the permitting of nonmajor Chromium sources without deferral. In particular, EPA found that permitting such sources during the early stages of the title V program would be particularly burdensome to permitting authorities. In addition to ensuring compliance with the requirements of the standard, permitting authorities would also need to contact and educate owners or operators of nonmajor sources regarding title V requirements. Following the submittal of applications, permitting authorities would then begin processing such applications in conjunction with major source applications. Given that the vast number of Chromium sources (about 5,000 nationwide) are nonmajor sources, requiring a permitting authority to permit nonmajor sources during the early years of implementing a title V program imposes an undue burden.

The EPA believes that the Final Rule as promulgated will also impose an undue hardship on a majority of owners or operators of nonmajor sources because this burden on permitting authorities translates into a burden on sources subject to the program. To require that owners or operators of nonmajor sources meet the requirement of filing a timely and complete application prior to or within the initial implementation period of the Chromium Electroplating MACT Standard would place an undue burden on these sources. As a result, the EPA has concluded that the burden associated with permitting outweighs the enhancement to the enforceability of this standard that would result from inclusion in a title V permit. Therefore, the Final Rule is being amended to allow States to defer for five (5) years all nonmajor Chromium sources from being subject to the requirements of a title V permit program.

The 5-year deferral is determined with respect to the effective date of the first State or local program to defer nonmajor sources from title V permitting. Washington State and local programs within the State of Washington were the first programs approved by EPA which deferred nonmajor sources. Final action on these programs was published on November 9, 1994, and the programs became