

such equipment would be required to install new source technology and offsets would not be available.

Similarly, the April 1, 1994 proposal contained two alternative definitions of major source "reconstruction." The alternative definitions are similar in that, for each, the replacement of components, where the cost of the replacement components is greater than 50 percent of the capital cost of "constructing a major source," would trigger reconstruction requirements. The alternatives differ in that one alternative treats the entire plant site as the basis for comparison, while the other alternative treats a major-emitting "emission unit" as the basis for comparison.

The ambiguities surrounding the term "construction" have potentially significant impacts on the nature and scope of the Federal program, particularly in a transition period during which the modification provisions of section 112(g) are delayed. While there are likely to be few constructions of "greenfield" facilities emitting major amounts of HAPs prior to promulgation of the section 112(g) rule, there will be a far greater number of additions of major-emitting units at existing major source plant sites. Until the issue of whether these additions constitute a "construction" is clarified through rulemaking, there will be uncertainty as to how these additions must be treated as a matter of Federal law. For similar reasons, the scope of the section 112(g) requirements for "reconstructions" will continue to be in doubt until the section 112(g) rule is promulgated.

These implementation difficulties demonstrate that, as is the case for the section 112(g) modification provisions, rulemaking is needed to provide the degree of certainty EPA believes was intended by Congress regarding the applicability of the provisions for major source construction and reconstruction. For this reason, EPA believes it would be unreasonable to require the implementation of the section 112(g) provisions relating to construction and reconstruction prior to completion of the rulemaking.

F. Additional Clarifications

The EPA's interpretation, announced today, regarding the timing for implementation of section 112(g), applies to every title V program that has been or will be approved prior to promulgation of a Federal rule implementing section 112(g). The interpretation concerns the effective date of a Federal requirement set forth in the Act. In this sense, this

interpretation need not be addressed in individual title V approvals. The EPA has indicated in a number of title V approval actions that the State would use its existing SIP-approved preconstruction review program to implement section 112(g) during the transition period. However, there have been no approvals of State programs designed specifically to implement section 112(g). Therefore, there is no need to revisit any EPA rulemaking action in order to implement today's notice.

This interpretation should not require significant changes to any title V program submittal. Each State program reviewed by EPA to date has included a general commitment to implement section 112(g), in accordance with the EPA regulations and/or guidance, upon approval of their title V program. However, those commitments were fashioned broadly enough to accommodate today's announced interpretation, and so no program revisions should be necessary for those States.

The EPA is aware of concerns that States may need additional time following the promulgation of the section 112(g) rule before they can begin implementing section 112(g). The EPA believes the statute may be read to allow for an additional period of delay so that States may adopt conforming rules if it would otherwise be impossible for States to implement the program. However, the EPA has not determined whether additional time will in fact be needed. If it is decided that additional time should be provided before the provisions of section 112(g) become effective, the EPA will so provide in the final section 112(g) rulemaking.

Finally, certain States have already promulgated regulations designed to implement section 112(g). The EPA wishes to emphasize that nothing in this notice is intended to preclude or discourage States from implementing a program similar to section 112(g) as a matter of State law prior to promulgation by the EPA of the section 112(g) guidance.

Dated: February 8, 1995.

Carol M. Browner,
Administrator.

[FR Doc. 95-3661 Filed 2-13-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[MT-001; FRL-5155-3]

Clean Air Act Proposed Interim Approval, or in the Alternative Proposed Disapproval, of Operating Permits Program; State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the Operating Permits Program submitted by the State of Montana for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In the alternative, EPA proposes disapproval of the Montana Operating Permits Program if the corrective actions necessary for final interim PROGRAM approval are not completed and submitted to EPA prior to the statutory deadline.

DATES: Comments on this proposed action must be received in writing by March 16, 1995.

ADDRESSES: Comments should be addressed to Laura Farris at the Region 8 address. Copies of the State's submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Laura Farris, 8ART-AP, U.S. Environmental Protection Agency, Region 8, Air Programs Branch, 999 18th Street, suite 500, Denver, Colorado 80202, (303) 294-7539.

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 (part 70). Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all