

electronically filing their respective disciplinary actions into the NFA Clearinghouse in an accurate and timely manner, including disciplinary actions taken against an FCM or any of its associated persons by the Commission or by another SRO, thus satisfying the purpose of Regulation 33.4(b)(6). Typically, exchanges enter directly or with the assistance of NFA, disciplinary action data into the NFA Clearinghouse in an accurate and timely manner.⁵

The disciplinary action data that the exchanges have agreed to enter into the NFA Clearinghouse by the NFA and that are being entered include: (1) The respondent's name; (2) the rule number violated and a description of the rule; (3) which of the ten uniform categories of rule violations adopted by the Joint Compliance Committee ("JCC"),⁶ applies to the disciplinary action; ⁷ (4) the date of the violation; (5) the effective date of the disciplinary action; (6) the sanction or penalty imposed on the named respondent; (7) the name of the exchange committee that imposed the sanction; and (8) whether the offense cited is one that renders the named respondent ineligible from serving on an exchange disciplinary committee, oversight panel, arbitration panel or governing board under the requirements of Commission Regulation 1.63.⁸

⁵The Commission's deletion of the reporting requirement is based, in part, on the existence of the NFA Clearinghouse which provides an adequate substitute mechanism by which SROs may obtain disciplinary information. Should there be any material changes in the operation of the NFA Clearinghouse, the Commission would necessarily evaluate the need for any supplementary reporting requirements.

⁶The JCC was formed in May 1989 and consists of senior compliance officials from each exchange and the NFA. Commission staff is present at each meeting as observers. The JCC was established to aid the development of improved compliance systems through joint exchange efforts and information sharing among the self-regulators. In addition, the JCC has undertaken efforts to enhance exchange compliance with Commission regulations by developing uniform standards and definitions where appropriate.

⁷The ten uniform categories of rule violations adopted by the JCC include: trade practice, sales practice, speculative position limits, financial, financial and position reporting, floor recordkeeping, office recordkeeping, registration, decorum and attire, and general conduct.

⁸Commission Regulation 1.63 prohibits an individual from serving on exchange disciplinary committees, oversight panels, arbitration panels or governing boards who, among other things, was found within the prior three years by a final decision of a SRO, an administrative law judge, a court of competent jurisdiction or the Commission to have committed a disciplinary offense or who currently is subject to an agreement with the Commission or any SRO not to apply for registration with the Commission or membership in any SRO. For a complete listing of the conditions under Commission Regulation 1.63 that prohibit an individual from serving on such exchange committees, panels, or boards, see 55 FR 7884 (March 6, 1990).

In addition, on March 15, 1995, the Commission advised the JCC that the Clearinghouse must include exchange membership denial actions and requested that the exchange enter into the Clearinghouse all membership denial actions from January 1990 to the present to bring the Clearinghouse up-to-date. Currently, the exchanges are entering such data into the Clearinghouse.

V. Conclusion

The Commission believes that, consistent with the other deletions made of Regulation 33.4(b)(4)(iii) and Regulation 33.4(b)(8), the requirements set forth in Regulation 33.4(b)(6) also should be deleted. The Commission also believes that the NFA Clearinghouse satisfies the objective of Regulation 33.4(b)(6) by providing an adequate repository for, among other things, exchange disciplinary actions. The Commission no longer believes that it is necessary for FCMs that engage in the offer or sale of Part 33 option contracts to give notice to the FCM's DSRO of any disciplinary action taken against the FCM or any of its associated persons by the Commission or by another SRO. Accordingly, the Commission amends 17 CFR Part 33 by deleting Regulation 33.4(b)(6).

VI. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission previously has established that contract markets and FCMs are not "small entities" for purposes of the RFA. 47 FR 18618-18621 (April 30, 1982). This deletion to Part 33 will permit contract markets to delete rules affecting FCMs and thereby relieve them of that requirement.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA") 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget ("OMB"). The OMB approved the collection of information associated with this rule on October 2, 1991 and assigned OMB control number 3038-0007 to the rule. While this rule has no

burden, the group of rules of which this is a part has the following burden:

Average burden hours per response.....50.32.
 Number of respondents190,19.7.
 Frequency of responseon occasion.

Copies of the OMB approved information collection package associated with this rule may be obtained from the Office of Management and Budget, Room 3220, NEOB Washington, DC, (202) 395-7340.

List of Subjects in 17 CFR Part 33

Regulation of domestic exchange-traded commodity option transactions.

In consideration of the foregoing and pursuant to the authority contained in the Act and, in particular, section 4(b) of the Act, the Commission proposes to amend Part 33 of Title 17 of the Code of Federal Regulations as follows:

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

1. The authority citation for Part 33 continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6e, 6f, 6g, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 11, 12a, 13a-1, 13b, 19, and 21, unless otherwise noted.

§ 33.4 [Amended]

2. Section 33.4(b)(6) is removed.

Issued in Washington, DC, January 23, 1996 by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96-1509 Filed 1-26-96; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[SD-001; FRL-5406-1]

Clean Air Act Final Full Approval of Operating Permits Program; State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating final full approval of the Operating Permits Program submitted by the State of South Dakota 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.

EFFECTIVE DATE: February 28, 1996.

ADDRESSES: Copies of the State's submittal and other supporting

information used in developing the final full approval 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: Patricia Reisbeck, 8ART-AP, U.S. Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202, (303) 312-6441.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 (part 70) require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The 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 two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On September 21, 1995, EPA published a Federal Register notice proposing full approval of the Operating Permits Program (PROGRAM) for the State of South Dakota. See 60 FR 48942. EPA received one public comment on the proposal, which is addressed below, and is taking final action to promulgate full approval of the South Dakota PROGRAM.

II. Final Action and Implications

A. Analysis of State Submission

The Governor of South Dakota's designee, Robert E. Roberts, Secretary of the Department of Environment and Natural Resources, submitted the State of South Dakota Title V Operating Permit Program (PROGRAM) to EPA on November 12, 1993. On March 22, 1995, EPA published a Federal Register document promulgating final interim approval of the South Dakota PROGRAM. See 60 FR 15066. Full approval of the South Dakota PROGRAM was not possible at that time

due to the following issue identified during EPA's PROGRAM review: The State's criminal enforcement statute only allowed for a maximum penalty of \$1,000 for failure to obtain a permit and \$500 for violation of a permit condition. The State was required to adopt legislation consistent with § 70.11, prior to receiving full PROGRAM approval, to allow for a maximum criminal fine of not less than \$10,000 per day per violation for knowing violation of operating permit requirements, including making a false statement and tampering with a monitoring device. In a letter dated April 21, 1995, the State submitted evidence that this corrective action had been completed, which EPA has reviewed and has determined to be adequate to allow for full PROGRAM approval. This corrective action included the adoption of Senate Bill 36 by the South Dakota Legislature which contains the necessary language to allow for criminal penalties consistent with § 70.11.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of the provisions of 40 CFR part 63, Subpart A, and section 112 standards promulgated by EPA. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. EPA granted approval of the State's PROGRAM, under section 112(l)(5) and 40 CFR 63.91, for receiving delegation of section 112 standards that are unchanged from the Federal standards as promulgated for part 70 sources in the Federal Register document promulgating final interim approval of the South Dakota PROGRAM. See 60 FR 15066. Based on a State request, EPA is granting the expansion of this approval to include non-part 70 sources. EPA believes this is warranted because State law does not differentiate between part 70 and non-part 70 sources for purposes of implementation and enforcement of section 112 standards that the State adopts. This approval does not delegate authority to the State to enforce specific section 112 standards, but instead establishes a basis for the State to request and receive future delegation of authority to implement and enforce, for non-part 70 sources, section 112 standards that the State adopts without change.

The scope of the PROGRAM and all of the clarifications made in the Federal Register document proposing interim approval of the South Dakota PROGRAM still apply. See 60 FR 2917.

B. Response to Comments

The comment received on the September 21, 1995 Federal Register notice proposing full approval of the South Dakota PROGRAM, and EPA's response to that comment, is as follows:

Comment: The commenter noted that EPA had indicated in its proposal that approval of South Dakota's PROGRAM would not extend to any lands within Indian Country. The commenter, apparently referring to South Dakota's submission to EPA asserting jurisdiction to enforce a part 70 PROGRAM within Indian reservations, expressed "opposition to South Dakota's proposal, insofar as it claims authority over lands within the boundaries of the Standing Rock Sioux Reservation." The commenter asserted that South Dakota's jurisdictional arguments ignore the express language of the Act and the territorial component of Tribal sovereignty. The commenter cited various Supreme Court cases and provisions of the Act. The commenter urged EPA to reject South Dakota's effort to assert jurisdiction on Indian reservation lands.

EPA Response: The commenter correctly noted that EPA's proposal to fully approve the State's part 70 PROGRAM does not extend to "Indian Country," as defined in 18 U.S.C. 1151. EPA does not believe the commenter was making an adverse comment on this aspect of EPA's proposed action, and this final action makes no changes to this aspect of the proposal. As noted in the proposal and in this action, the State has asserted it has jurisdiction to enforce a PROGRAM within Indian reservations and has provided an analysis of such jurisdiction. However, EPA is not acting on the State's analysis in this action. Thus, EPA does not believe the commenter's objections to the State's jurisdictional assertions are directly pertinent to this action and will not respond to them here. The commenter may wish to re-submit such comments at the time EPA proposes action on the State's jurisdictional analysis.

C. Final Action

The EPA is promulgating full approval of the Operating Permits Program submitted by the State of South Dakota on November 12, 1993. Among other things, South Dakota has demonstrated that the PROGRAM will be adequate to meet the minimum elements of a State operating permits program as specified in 40 CFR part 70. EPA is also approving the expansion of South Dakota's PROGRAM for receiving

delegation of section 112 standards to include non-part 70 sources.

The scope of South Dakota's PROGRAM that EPA is approving in this notice does not extend to "Indian Country," as defined in 18 U.S.C. 1151, including the following "existing or former" Indian reservations in the State: 1. Cheyenne River; 2. Crow Creek; 3. Flandreau; 4. Lower Brule; 5. Pine Ridge; 6. Rosebud; 7. Sisseton; 8. Standing Rock; and 9. Yankton.

The State has asserted it has jurisdiction to enforce a PROGRAM within some or all of these "existing or former" Indian reservations and has provided an analysis of such jurisdiction. EPA is in the process of evaluating the State's analysis and will issue a supplemental notice regarding this issue in the future. Before EPA would approve the State's PROGRAM for any portion of "Indian Country," EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval and that such approval would constitute sound administrative practice. This is a complex and controversial issue and EPA does not wish to delay full approval of the State's PROGRAM with respect to undisputed sources while EPA resolves this question.

In deferring final action on PROGRAM approval for sources located in "Indian Country," EPA is not making a determination that the State either has adequate jurisdiction or lacks such jurisdiction. Instead, EPA is deferring judgment regarding this issue pending EPA's evaluation of the State's analysis.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including public comments received and reviewed by EPA on the proposal, are maintained in a docket at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this proposed approval does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: December 14, 1995.

Jack W. McGraw,
Acting Regional Administrator.

Part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding the entry for South Dakota in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

South Dakota

(a) South Dakota Department of Environment and Natural Resources—Division of Environmental Regulations: submitted on November 12, 1993; effective on February 28, 1996.

(b) (reserved)

[FR Doc. 96-1545 Filed 1-26-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 372

[OPPTS-400100; FRL-4995-4]

Toxic Chemical Release Reporting; Community Right-To-Know; Additional Time to Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Time extensions for submission of reports.

SUMMARY: EPA is announcing that it will allow facilities required to submit Toxic Release Inventory (TRI) reports for calendar year 1995 until August 1, 1996, to file those reports. These TRI reports under section 313 of the Emergency Planning and Community Right-to-Know Act and section 6607 of the Pollution Prevention Act would otherwise be due on or before July 1, 1996. Because of unforeseen circumstances beyond the control of EPA, EPA has been delayed in developing and distributing the reporting package, which includes extensive materials and guidance for preparing TRI reports, for the 1995 reporting year. To allow facilities adequate time to prepare and submit complete and accurate TRI reports, EPA is allowing facilities an extra month in which to report.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, 202-260-9592, e-mail: doa.maria@epamail.epa.gov, for specific information on this notice, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877 or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Background

Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11023 (EPCRA, which is also referred to as