

Register on December 11, 2001 (66 FR 64038). This final action also removes any resulting consequences, including sanctions, with respect to the December 11, 2001 NOD.

EFFECTIVE DATE: December 10, 2003.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final approval are available for inspection during normal business hours at the following location.

EPA Region 5, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604. Please contact the person listed below to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604, (312) 886-2703, valenziano.beth@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following:

- I. What is the History of Michigan's Title V Operating Permit Program?
- II. What is the Program Change That EPA is Approving?
- III. What is Involved in This Final Action?
- IV. Statutory and Executive Order Reviews

I. What Is the History of Michigan's Title V Operating Permit Program?

As required under Subchapter V of the Clean Air Act (Act), EPA has promulgated regulations that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, or withdraw approval of state operating permit programs. These regulations are codified at 40 Code of Federal Regulations (CFR) part 70. Pursuant to Subchapter V, generally known as title V, states and local permitting authorities developed, and submitted to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Michigan Department of Environmental Quality submitted Michigan's title V operating permit program for EPA approval on May 16, 1995, with supplements submitted on July 20, 1995, October 6, 1995, November 7, 1995, and January 8, 1996. The EPA granted interim approval of the Michigan title V program on January 10, 1997 (62 FR 1387), and the program became effective on February 10, 1997. Subsequently, based on the interim approval corrections that the State submitted on June 1, 2001 and September 20, 2001, EPA granted final full approval of the Michigan title V program, effective November 30, 2001. The EPA published the final full

program approval in the **Federal Register** on December 4, 2001 (66 FR 62949).

Pursuant to its authority at 40 CFR 70.10(b), EPA published an NOD for Michigan's title V operating permit program on December 11, 2001 (66 FR 64038). The NOD was based upon EPA's finding that Michigan's regulation granting a permit shield for certain administrative permit amendments did not meet federal requirements for program approval. On May 7, 2003 and May 21, 2003, Michigan submitted to EPA a revision to its title V program correcting this program deficiency. Because Michigan's May 2003 submittals included revisions to R 336.1216 that the State had not yet finalized, EPA proposed approval of the draft State rule with final approval contingent upon Michigan promulgating and submitting a final rule identical in substance to the draft rule. The EPA's proposed approval of Michigan's title V operating permit program revisions was published on June 23, 2003 (68 FR 37110-37112). The EPA received no comments on the proposal. On August 18, 2003, Michigan submitted for EPA approval its final R 336.1216 and supporting documentation as a revision to Michigan's title V program. Michigan's final R 336.1216 is identical to the draft rule Michigan submitted to EPA on May 7, 2003.

II. What Is the Program Change That EPA Is Approving?

Michigan has revised its permit modification regulation, R 336.1216, to remove the permit shield provision for certain types of administrative permit amendments. Michigan's rule is now consistent with 40 CFR 70.7(d)(4), which does not allow a permit shield for the types of changes described below. The permit shield provisions at 40 CFR 70.6(f) offer enforcement protection in certain prescribed situations. Michigan's revised R 336.1216(1)(b)(iv) states: "The permit shield provided under R 336.1213(6) does not extend to administrative amendments made pursuant to subdivision (a)(i) to (iv) of this subrule." R 336.1216(1)(a) (i) through (iv) allows administrative amendments for the following types of changes: a change that corrects typographical errors; a change in the name, address or phone number of the responsible official or other contact person; a change that provides for more frequent monitoring and reporting; and a change in the ownership or operational control of a source where no other changes to the permit are necessary. These types of administrative permit amendments are the same as

those specified in the federal rules at 40 CFR 70.7(d)(1) (i)-(iv). This rule revision resolves the deficiency identified in EPA's NOD, published in the **Federal Register** on December 11, 2001 (66 FR 64038).

In addition, R 336.1216 includes other minor changes to Michigan's permit modification rule, including changes to the citation method for Michigan laws, and a clarification to R 336.1216(1)(b)(iii) regarding the implementation of administrative permit amendment changes made pursuant to R 336.1216(1)(a) (i) through (iv). This clarification is consistent with 40 CFR 70.7(d)(3)(iii) and 70.7(e)(2)(v).

III. What Is Involved in This Final Action?

The EPA is approving revisions to the title V operating permit program submitted by the State of Michigan on May 7, 2003, May 21, 2003, and August 18, 2003. The program submittals include revisions to Michigan's operating permit modification rule, R 336.1216. These revisions meet the requirements of title V and 40 CFR part 70. R 336.1216(1)(b)(iv) is now consistent with 40 CFR 70.7(d)(4). Michigan's program revision satisfactorily addresses the program deficiency identified in EPA's NOD, published on December 11, 2001 (66 FR 64038). Pursuant to 40 CFR 70.10(b), EPA finds that Michigan is not subject to sanctions for the deficiency identified in the December 11, 2001 notice. Further, EPA is not obligated to promulgate a federal permit program for the December 11, 2001 NOD.

Consistent with EPA's final full approval of Michigan's title V program (66 FR 62951), this approval does not extend to Indian Country, as defined in 18 United States Code 1151.

IV. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211; Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).