179(b)(1) of the Clean Air Act as a result of incompleteness, in ozone nonattainment areas where EPA notifies the State, MPO, and DOT that the following control strategy implementation plan revisions are incomplete:

(i) The implementation plan revision due November 15, 1994, as required by Clean Air Act sections 182(c)(2)(A), and/or 182(c)(2)(B);

(ii) The attainment demonstration required for moderate intrastate ozone nonattainment areas which chose to use the Urban Airshed Model for such demonstration and for multistate moderate ozone nonattainment areas; or

(iii) The VOC reasonable further progress demonstration due November 15, 1993, as required by Clean Air Act section 182(b)(1), if EPA notes in its incompleteness finding as described in paragraph (c)(1)(iii) of this section that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act section 110(a)(2)(A).

(iv) The consequences described in paragraph (c)(1) of this section shall be nullified if such provisions have been applied as a result of a failure described in paragraph (c)(2) of this section, and paragraph (c)(2) of this section shall henceforth apply with respect to any such failure.

* * * * *

(d) * * *

(3) Notwithstanding paragraph (d)(2) of this section, if EPA disapproves the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act section 110(a)(2)(A), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the Clean Air Act, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

* * * * *

[FR Doc. 95–19400 Filed 8–4–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[FRL–5274–3]

Determination of Attainment of Ozone Standard by Ashland, Kentucky, Northern Kentucky (Cincinnati area), Charlotte, North Carolina, and Nashville, Tennessee, and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements: Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of final rule.

SUMMARY: On June 22, 1995, the EPA published a proposed rule (60 FR 32477) and a direct final rule (60 FR 32466) determining that the Ashland, Kentucky, Northern Kentucky (Cincinnati Area), Charlotte, North Carolina, and Nashville, Tennessee, ozone nonattainment areas were attaining the National Ambient Air Quality Standard (NAAQS) for ozone. Based on that determination, the EPA also determined that requirements of section 182(b)(1) of the Clean Air Act (Act) concerning the submission of the 15 percent plan and ozone attainment demonstration and the requirements of section 172(c)(9) of the Act concerning contingency measures are not applicable to the areas so long as the areas do not violate the ozone standard. The EPA is removing the final rule due to adverse comments regarding the Northern Kentucky (Cincinnati) area and will summarize and address all public comments received in a subsequent final rule (based upon the proposed rule cited above). Additionally, since publication of the original determination on June 22, 1995, the Ashland, Kentucky, and Charlotte, North Carolina, areas were redesignated to attainment on June 29, 1995 (60 FR 33748), and July 5, 1995 (60 FR 34859), respectively, making this finding for those areas no longer necessary. A final rule will be published regarding the Nashville area for which no adverse comments were received.

EFFECTIVE DATE: The direct final rule published at 60 FR 32466, June 22, 1995, is withdrawn effective August 7, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Kay Prince, Regulatory Planning & Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is (404) 347–3555, extension 4221.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 31, 1995.

R.F. McGhee,

Acting Regional Administrator.

[FR Doc. 95–19487 Filed 8–4–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD–FRL–5274–2]

Title V Clean Air Act Final Interim Approval of Operating Permits Program; District of Columbia

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

ACTION: Final interim approval.

SUMMARY: EPA is promulgating interim approval of the operating permits program submitted by the District of Columbia for the purpose of complying with federal requirements for an approvable program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: September 6, 1995.

ADDRESSES: Copies of the District's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Jennifer M. Abramson, (3AT23), Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–2923.

SUPPLEMENTARY INFORMATION:

I. Background

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the CAA'')), and

implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states seeking to administer a Title V operating permits program develop and submit a program 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 of an operating permits program submittal. 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 November 15, 1995, or by the expiration of the interim approval period, it must establish and implement a federal program.

On March 21, 1995, EPA proposed interim approval of the operating permits program for the District of Columbia. (See 60 FR 14921). EPA compiled a Technical Support Document (TSD) which describes the operating permits program in greater detail. In this notice EPA is taking final action to promulgate interim approval of the operating permits program for the District of Columbia.

II. Analysis of State Submission

On January 13, 1994, the District of Columbia submitted an operating permits program to satisfy the requirements of the CAA and 40 CFR part 70. The submittal was supplemented by additional materials on March 11, 1994 and was found to be administratively complete pursuant to 40 CFR 70.4(e)(1). EPA reviewed the program against the criteria for approval in section 502 of the CAA and the part 70 regulations. EPA determined, as fully described in the notice of proposed interim approval of the District's operating permits program (see 60 FR 14921 (March 21, 1995)) and the TSD for this action, that the District's operating permits program substantially meets the requirements of the CAA and part 70.

III. Response to Public Comments

EPA received comments from one organization. EPA's response to these comments are summarized in this section. Comments supporting EPA's proposal are not addressed in this notice. All comments are contained in the docket at the address noted in the **ADDRESSES** section above.

Title I Modifications

Comment: EPA has no authority to deny approval of the District's operating permits program based on its definition of ''Title I modification or modification under any provision of Title I of the Act''. The District's definition of the term ''Title I Modification'' which does not expressly include changes reviewed under a minor source preconstruction review program is consistent with the relatively narrow definition of ''Title I Modifications'' in the current part 70 rules.

EPA Response: As stated in the proposed rule, EPA does not believe that the District's definition of ''Title I modification or modification under any provision of Title I of the Act'' is necessary grounds for either interim approval or disapproval. Accordingly, EPA has not identified the District's definition of this term to be a program deficiency.

EPA is currently in the process of determining the proper definition of the term ''Title I modification or modification under any provision of Title I of the Act''. (See 59 FR 44572). If EPA establishes in its rulemaking that the definition of ''Title I modifications'' can be interpreted to exclude changes reviewed under a minor source preconstruction review (NSR) program, the District's definition of ''Title I modification or modification under any provision of Title I of the Act'' would be fully consistent with part 70. Conversely, if EPA establishes through the rulemaking that the definition must include changes reviewed under minor NSR, the District's definition of ''Title I modification or modification under any provision of Title I of the Act'' would not fully meet the 40 CFR 70.2 requirements for definitions.

The primary purpose of EPA's discussion of this issue in the proposed rule was to notify the District and regulated community about how the definition of ''Title I modification or modification under any provision of Title I of the Act'' may impact the approval status of the District's Title V operating permits program. Until the definition of ''Title I modification or modification under any provision of Title I of the Act'' is established through rulemaking to include changes reviewed under minor NSR, EPA does not consider the District's definition of this term to be either an interim or disapproval issue.

Implementation of Section 112(g) Upon Program Approval

Comment: EPA's proposed approval of the District's Chapter 3 operating permits program for the purpose of implementing 112(g) during the transition period between federal promulgation of a section 112(g) rule and District adoption of section 112(g) regulations is objectionable for the following reasons: (1) the District's program may not conform to the section 112(g) requirements once they have been issued by EPA, and (2) EPA is proposing to approve the program without clarifying whether the District's program addresses the critical threshold questions of how a source is to determine if an emissions increase is or is not greater than *de minimis,* and whether or not it has been offset satisfactorily. EPA has no legal basis for allowing the District to implement section 112(g) until the agency completes its rulemaking under 112(g).

EPA Response: Title V of the CAA and the part 70 regulations require states seeking to obtain and retain approval of Title V operating permit programs to have authority to issue permits and assure compliance with all applicable requirements. (Section 502(b)(5)(A) and 40 CFR 70.4(b)(3)(i)). Section 112(g)(2) of the CAA, an applicable requirement, provides that no person may modify, construct or reconstruct a major source of HAP, unless the Administrator (or the state) determines that maximum achievable control technology (MACT) limitations have been met or that sufficient offsets have been provided. Accordingly, as discussed in the preamble to the proposed section 112(g) rule, EPA interprets the statute to require states to implement section 112(g) including the development of case-by-case MACT determinations, in order to obtain and retain approval of Title V operating permits programs (See 59 FR 15565).

In the proposed interim approval of the District's operating permits program, EPA proposed to approve the District's Chapter 3 operating permits program for the purpose of implementing section 112(g) during the transition period between federal promulgation of a section 112(g) rule and District adoption of 112(g) implementing regulations. (See 60 FR 14925–6). This proposal was based in part on EPA's revised interpretation of the CAA discussed in a **Federal Register** notice published on February 14, 1995 which postponed the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. (See 60 FR 8333).

The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the federal rule

so as to allow states time to adopt rules implementing the federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), the District must be able to implement section 112(g) during the transition period between promulgation of the federal section 112(g) rule and adoption by the District of implementing regulations.

As described in the proposed rule, EPA believes that, although the District currently lacks a program designed specifically to implement section 112(g), the District's Chapter 3 operating permits program will serve as an adequate implementation vehicle during a transition period because it will allow the District to select control measures that would meet MACT, as defined in section 112, and incorporate these measures into federally enforceable source-specific permits for major sources of hazardous air pollutants (HAP).

A consequence of the fact that the District lacks a program designed specifically to implement section 112(g) is that the timing requirements for submitting permit applications to establish case-by-case MACT determinations will differ from those in the section 112(g) rule. However, EPA expects the District to be able to require sources to submit applications to obtain operating permits or permit revisions to establish case-by-case MACT determinations prior to construction where necessary for purposes of section 112(g) even if its own operating permits program does not require such permit applications to be submitted until twelve (12) months after commencing operations.

Although the Chapter 3 operating permits program does not at this time address critical 112(g) threshold questions with respect to *de minimis* levels and offsets, EPA believes that the District can adequately implement 112(g) prior to adoption of EPA's final promulgated 112(g) rule by relying on the authority established in the Chapter 3 operating permits program and using EPA's final 112(g) rule as guidance. Pursuant to the District's commitment ''to adopt and implement expeditiously any additional regulations that might be needed to incorporate such [future section 112] requirements into operating permits'', the District will be expected to establish additional authorities with respect to 112(g) *de minimis* levels and/or offsets, if necessary, consistent with the 112(g) rule once EPA promulgates a rule addressing those provisions.

Final Action

EPA is promulgating interim approval of the operating permits program submitted by the District of Columbia on January 13, 1994, and supplemented on March 11, 1994. The District must make the changes identified in the proposed rule in order to fully meet the requirements of the July 21, 1992 version of part 70. (See 60 FR 14926). The District must also have acid rain regulations and adequate forms in place by November 15, 1995 consistent with the commitment made in a February 3, 1995 letter to EPA.

The scope of the District's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the District of Columbia, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until September 8, 1997. During this interim approval period, the District is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal operating permits program in the District. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If the District fails to submit a complete corrective program for full approval by March 7, 1997, EPA will start an 18-month clock for mandatory sanctions. If the District then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the District has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of the District, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determined that the District had come into compliance. In any case, if, six months after application of the first sanction, the District still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves the District's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the District has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the District, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the District has come into compliance. In all cases, if, six months after EPA applies the first sanction, the District has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the District has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the District's program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for the District of Columbia upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. 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. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the District's program for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated. This program for delegations only applies to sources covered by the Part 70 program.

Additionally, EPA is promulgating approval of Chapter 3 of Subtitle I of Title 20 of the District of Columbia Municipal Regulations (20 DCMR),

under the authority of Title V and Part 70 for the purpose of implementing section 112(g) to the extent necessary during the transition period between promulgation of the federal section 112(g) rule and adoption of any necessary District rules to implement EPA's section 112(g) regulations. However, since this approval is for the purpose of providing a mechanism to implement section 112(g) during the transition period, the approval of the Chapter 3 operating permits program for this purpose will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until state regulations are adopted. Although section 112(l) generally provides the authority for approval of state air toxics programs, Title V and section 112(g) provide authority for this limited approval because of the direct linkage between implementation of section 112(g) and Title V. The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide the District with adequate time to adopt regulations consistent with federal requirements.

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

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.

EPA has determined that this proposed interim approval action 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.

EPA has determined that this final interim approval action, promulgating interim approval of the District of Columbia's operating permits program, 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, and Reporting and recordkeeping requirements.

Dated: July 20, 1995.

W.T. Wisniewski,

Acting Regional Administrator.

Part 70, 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 the District of Columbia in alphabetical order to read as follows:

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

* * * * *

District of Columbia

(a) Environmental Regulation Administration: submitted on January 13, 1994 and March 11, 1994; interim approval effective on September 6, 1995; interim approval expires September 8, 1997.

(b) [Reserved]

* * * * *

[FR Doc. 95–19399 Filed 8–4–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 258

[EPA/OSW–FR–95; FRL–5271–8]

Financial Assurance Criteria for Owners and Operators of Municipal Solid Waste Landfill Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical corrections.

SUMMARY: This rule corrects typographical errors in the Financial Assurance Criteria (40 CFR part 258, subpart G) for owners and operators of municipal solid waste landfills (MSWLFs).

EFFECTIVE DATE: These technical corrections are effective August 7, 1995. The effective date for subpart G of 40 CFR part 258 was recently extended from April 9, 1995 until April 9, 1997 (see the April 7, 1995 **Federal Register**, 60 FR 17649).

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (800) 424–9346, TDD (800) 553–7672 (hearing impaired); in the Washington, DC metropolitan area the number is (703) 920–9810, TDD (703) 486–3323.

For more detailed information on specific aspects of this document, contact Allen J. Geswein (703–308–7261), Office of Solid Waste (5306W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: This rule corrects typographical errors included in the Financial Assurance Criteria issued on October 9, 1991 as part of the Criteria for Municipal Solid Waste Landfills (see 56 FR 50978). The cross-references in the provisions that relate to a trust fund (§ 258.74(a) (3) and (4)), a letter of credit (§ 258.74(c)(3)) and an insurance policy (§ 258.74(d)(3)) are being changed to reference the correct section that provides for the use of multiple financial mechanisms (''§ 258.74(k)'' or ''paragraph k'') instead of the current (incorrect) reference to the section that addresses a state's assumption of responsibility for compliance with financial assurance requirements (''§ 258.74(j)'' or ''paragraph j''); the surety bond provisions at § 258.74(b)(2) already correctly reference § 258.74(k). Another change eliminates an incorrect reference to § 270.74(a) in the trust fund provisions at § 258.74(a)(6) and substitutes the correct reference to § 258.74(a). A final change corrects a grammatical error in the trust fund provisions at § 258.74(a)(4) by substituting ''in the pay-in period'' for ''on the pay-in period'' in the last sentence of that subsection.

There is good cause pursuant to section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to issue today's technical corrections without prior notice and comment, because notice and comment is unnecessary when, as in this case, the changes only correct prior typographical errors and do not materially change the regulatory requirements.

List of Subjects in 40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: June 20, 1995.

Elliott Laws,

Assistant Administrator for Solid Waste and Emergency Response.

40 CFR part 258 is amended as follows: