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 revising paragraphs (a) and (b), and adding paragraph (c)(3) under Arizona to read as follows:

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

* * * * *

Arizona

(a) Arizona Department of Environmental Quality:

(1) Submitted on November 15, 1993 and amended on March 14, 1994; May 17, 1994; March 20, 1995; May 4, 1995; July 22, 1996; and August 12, 1996; interim approval effective on November 29, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on August 11, 1998, May 9, 2001 and September 7, 2001. Full approval is effective on November 30, 2001.

(b) Maricopa County Environmental Services Department:

(1) Submitted on November 15, 1993 and amended on December 15, 1993; January 13, 1994; March 9, 1994; and March 21, 1995; July 22, 1996; and August 12, 1996; interim approval effective on November 29, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on September 7, 2001. Full approval is effective on November 30, 2001.

(c) * * *

(3) Revisions submitted on May 30, 1998 and November 9, 2001. Full approval is effective on November 30, 2001.

* * * * *

[FR Doc. 01–30148 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NY002; FRL–7113–3]

Clean Air Act Final Full Approval of Operating Permit Program; State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating final full approval of the operating permit program submitted by the State of New York in accordance with Title V of the Clean Air Act (the Act) and its implementing regulations codified. This approved program allows New York to issue federally enforceable operating permits to all major stationary sources and to certain other sources within the State's jurisdiction. However, because certain of the regulations are emergency rules that will expire on December 21, 2001, unless extended, EPA is approving this program only until the expiration date of the emergency rules. EPA has proposed approval of permanent rules that are substantively the same as the emergency rules and the State expects to submit those rules in final adopted form shortly. Once these rules become effective, EPA will promulgate another final program approval to replace this action. In the interim, the emergency rules will still be in effect and, therefore, New York will still have a fully approved program. If EPA has not approved the State's revised permanent rules before the emergency rules expire, New York's title V permit program will expire and the federal program will automatically apply. If New York's emergency rules expire as discussed above and a federal program under part 71 takes effect in the state, EPA will provide notice to the public within two weeks of the effective date of the federal program in a subsequent **Federal Register** document. Because EPA received adverse comments on the proposed action published in the October 25, 2001 **Federal Register** (66 FR 53966), this action responds to those comments.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Steven C. Riva, Chief, Permitting Section, Air Programs Branch, at the above EPA office in New York or at telephone number (212) 637–4074.

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

1. What is the operating permit program?
2. What is being addressed in this document?
3. What were the concerns raised by the commenters?
4. What is the public's role in identifying program deficiencies?
5. What are the program changes that EPA is approving?
6. What is involved in this final action?
7. What is the scope of EPA's full approval?
8. What is the effective date of EPA's final full approval of the State of New York title V program?

1. What Is the Operating Permit Program?

Title V of the Clean Air Act (the Act) and its implementing regulations at 40 CFR part 70 (part 70) direct all states to develop and implement operating permit programs that meet certain criteria. Operating permit programs are intended to consolidate into single federally enforceable documents all requirements of the Act that apply to individual sources. This consolidation of all of the applicable requirements for a source enables the source, the public, and permitting authorities to more easily determine what requirements of the Act apply and whether the source is complying with them. Sources required to obtain operating permits include ''major'' sources of air pollution and certain other sources specified in section 501 of the Act and in EPA's regulations at 40 CFR 70.3.

The EPA reviews state programs pursuant to title V of the Act and part 70, which outline the 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 which would be effective for two years. If a state does not have in place a fully approved program by the time the interim approval expires, the federal operating permit program under 40 CFR part 71 (part 71) will automatically take effect. Due to unexpected circumstances that affected states' timeliness in developing fully approvable programs, EPA extended the effective date of all interim approvals until December 1, 2001. For any state that has not received full approval from EPA by December 1, 2001, its interim approval will then expire and be immediately replaced by the federal part 71 program. All sources subject to the federal program that do not have final part 70 permits already issued to them by the state will be required to submit a part 71 permit application and the appropriate fees within one year to their respective EPA Regional offices under part 71.

2. What Is Being Addressed in This Document?

New York State's first version of its operating permit program substantially, but not fully, met the requirements of part 70; therefore, EPA granted interim program approval on November 7, 1996, which became effective on December 9, 1996 (61 FR 57589). In the interim approval rulemaking EPA identified eight issues that needed correction before New York would be eligible for final full approval. New York State submitted a corrected program to EPA

on June 8, 1998, which addressed three of the deficiencies. The State submitted a second corrected program to EPA on October 5, 2001, which addressed three additional deficiencies. The latter three corrections were submitted in final form as emergency rules, which will expire on December 21, 2001, unless extended. At the same time, New York submitted proposed permanent rules (which were identical to the emergency rules) which will replace the emergency rules, and which the State is currently in the process of adopting. The State will submit the permanent rules shortly after the completion of the State's public comment process, and before the expiration of the emergency rules.

As discussed in the proposed approval notice (66 FR 53966), EPA no longer considers the remaining two issues to be deficiencies. First, because New York State affords more time than part 70 requires for citizens to file a petition for judicial review, this issue is not considered to be a program deficiency. The second issue related to the definition of ''major source.'' EPA recently promulgated regulations revising the definition of major source, which is now consistent with the definition included in the New York State operating permit program. As such, there is no longer a program deficiency with respect to this definition.

On October 25, 2001, EPA proposed full approval of New York State's title V operating permit program and provided the public a period of 30 days to submit comments on EPA's proposed action (66 FR 53966). The proposed approval concerned the three permanent rules submitted on June 8, 1998 (effective on June 26, 1998) as well as the emergency and draft permanent rules submitted on October 5, 2001. During the 30-day comment period, EPA received one comment letter dated November 23, 2001, from the New York Public Interest Research Group (NYPIRG). The comments contained in that letter are addressed below.

3. What Were the Concerns Raised by the Commenters?

On November 23, 2001, we received a comment letter from NYPIRG on the proposed full approval of the New York program. In this notice, we are only addressing the comments which relate to our determination that New York has corrected the interim approval deficiencies in its title V program. Most of the comments submitted by NYPIRG are outside the scope of this action because they do not address the interim approval deficiencies and the subsequent correction of these deficiencies. Some of these issues have been raised previously by NYPIRG, either in its April 13, 1999 petition on the New York State Title V program, in subsequent facility specific petitions, or in its March 11, 2001 letter submitted in response to EPA's December 2000 notice.

Of the remaining comments, four are new allegations of deficiencies in the New York State Title V program. That is, these allegations were not submitted in response to EPA's December 2000 notice that alerted the public to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in state operating permit programs. These four comments are also outside of the scope of the eight issues identified by EPA in the November 7, 1996 **Federal Register** notice granting interim program approval to New York State. Nonetheless, EPA will investigate these allegations to ascertain whether they constitute a deficiency in the New York State's Title V program, and EPA will respond appropriately.

In its comment letter, NYPIRG challenged our ability to proceed with full approval of New York's program when, according to the comment, the program does not clearly conform to the requirements of part 70.

EPA is aware that issues other than those listed in the November 7, 1996, interim approval may exist in the New York program. EPA agrees that these issues must be addressed. For the reasons discussed below, however, we disagree that newly identified deficiencies that may exist prohibit us from granting New York full program approval at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 to 7671q (''CAA'' or ''Act''), by adding title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including ''major source[s]'' and ''affected source[s],'' to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. §§ 7661a(i) and 7661d(b). Accordingly, Title V of the CAA provides a framework for the development, submission and approval of state operating permit programs. Following the development and submission of a state program, the Act provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA ''may approve a program to the extent that the program meets the requirements of the Act * * *'' EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternate option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: ''If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval.'' This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of Title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to ''specify the changes that must be made before the program can receive full approval.'' 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a state corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permit program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternately, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether New York by virtue of correcting the deficiencies identified in the final interim approval is eligible at this time for full approval, or whether New York must also correct any new or recently identified deficiencies that may exist as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another.

See Citizens to Save Spencer County v. *EPA,* 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A, Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. Citizens to Save Spencer County, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in Title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant New York full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional problems that were recently identified. To conclude otherwise would disrupt the current administration of the state program and cause further delay in the state's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of Title V.

Furthermore, requiring the State to fix all of the deficiencies that may exist and that have been recently identified prior to receiving full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provide EPA with the authority to issue notices of deficiency (''NOD'') whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, in its NOD EPA will specify a reasonable time frame for the permitting authority to correct the identified deficiency. The New York Title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues that may exist prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as March 2001 will cause disruption and further delay in the issuance of permits to major stationary sources in New York. As explained above, we do not believe that Title V requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. This process provides the State an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire state operating permit program. As a result, addressing newly identified problems separately from the full approval process will not cause these issues to go unaddressed. Moreover, proceeding in this manner allows for a more rational and orderly method for addressing new issues as they arise.

In addition, NYPIRG submitted one comment that directly relates to New York's full program approval process. This comment relates to the definition of ''major source.'' NYPIRG commented that EPA can only grant full approval if a program complies with part 70 as it exists on the date of full program approval. That is, approval cannot be based on a determination that a program complies with proposed regulations. EPA agrees. The decision to grant full approval is based on the fact that the definition of major source in New York State's program is now consistent with the definition in part 70. In EPA's proposed approval of the New York State program, it was noted that the agency had proposed revisions to part 70 relative to the major source definition that, when finalized, would be consistent with the definition in New York's rules. New York's definition of major source, which lists source categories that must include fugitive emissions in determining major source status reads, in part: ''All other source categories regulated by a standard under Sections 111, for which EPA has completed a rulemaking proceeding under 302(j) of the Act or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category as of the effective date of this Part.'' On November 27, 2001, the Agency published in the **Federal Register** a rule that finalized EPA's change to paragraph (2)(xvii) of the part 70 definition of major source. See 66 FR 59161, November 27, 2001. The revised paragraph now reads, ''(xvii) Any other stationary source category, which as of August 7, 1980 is being regulated by a standard promulgated under section 111 or 112 of the Act.'' This change means that part 70 no longer requires states to provide that sources in categories subject to standards under sections 111 or 112 promulgated after August 7, 1980 must include fugitive emissions in determining major source status under section 302 or part D of title I of the Act. The definition of major source in the New York program is now consistent with part 70. Although the New York definition is different than the EPA definition, the State's definition covers at least the same source categories as part 70 (as revised) and, therefore, it is now fully approvable.

In addition to the above described change, EPA has deleted the phrase ''but only with respect to those air pollutants that have been regulated for that category'' from paragraph (c)(xvii) of the part 70 definition of major source. EPA proposed to delete this phrase in its 1995 supplemental proposal to revise part 70. See 60 FR 45530, August 31, 1995. States, including New York, must revise their part 70 programs accordingly, and submit the revision to EPA within 12 months of the date of publication of the final rule. If a state can demonstrate that additional legal authority is needed, the deadline for submittal of a revised program can be extended to 24 months after EPA's rule is published.

4. What Is the Public's Role in Identifying Program Deficiencies?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permit programs until December 1, 2001. (65 FR 32035). The action was subsequently challenged by the Sierra Club and NYPIRG. In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice. EPA published that notice on December 11, 2000. (65 FR 77276).

Several citizens commented on what they believe to be deficiencies with respect to the New York State Title V

program. As stated in the **Federal Register** notice published on October 25, 2001 proposing to fully approve New York State's operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001, to timely public comments on programs that had obtained interim approval, and by April 1, 2002, to timely comments on fully approved programs. EPA will publish a notice of deficiency (NOD) when it is determined that a deficiency exists, or EPA will notify the commenter in writing to explain the agency's reasons for not making a finding of deficiency. In addition, EPA will publish a notice of availability in the **Federal Register** notifying the public that the agency has responded in writing to these comments and how the public may obtain a copy of such a response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that EPA has identified through its program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

5. What Are the Program Changes That EPA Is Approving?

The details on the program changes can be found in EPA's proposed action which was published in the October 25, 2001 issue of the **Federal Register** (see 66 FR 53966). In summary, EPA approves the three rule revisions that became effective on June 26, 1998, and the three other rule revisions that were promulgated pursuant to emergency rulemaking on September 21, 2001.

6. What Is Involved in This Final Action?

The State of New York has adequately fulfilled the conditions of the interim approval promulgated on November 7, 1996. EPA is therefore taking final action to fully approve New York State's operating permit program as revised by the three permanent rules submitted on June 8, 1998 and the three emergency rules submitted on October 5, 2000. However, as previously discussed, since the emergency rules expire on December 21, 2001, unless extended, this final full approval will expire if EPA has not approved the State's revised permanent rules before the emergency rules expire. New York State has commenced a separate rulemaking proposal (that is, the ''normal'' rulemaking process utilized in the State of New York, including the opportunity for public participation), containing the identical regulatory changes. The permanent rules will replace the ''emergency'' rules once the rulemaking proposal is finalized. Today's approval, however, is contingent upon the final permanent rules being substantively the same as the draft rules on which EPA proposed this action and which were the same as the emergency rules that are already in effect. Once these permanent rules become effective, EPA will promulgate another final program approval to replace this action. In the interim, the emergency rules will still be in effect and, therefore, New York will still have a fully approved program. If the State of New York fails to adopt rules that are effective before expiration of the emergency rules, then the New York State operating permit program will expire and the federal part 71 program will automatically take effect. As previously discussed, if necessary, EPA will publish a notice in the **Federal Register** within two weeks of the effective date of the federal program.

New York State may revise its operating permit program as appropriate in the future by following the procedures stipulated in 40 CFR 70.4(i). EPA may also exercise its oversight authorities under section 502(i) of the Act to require changes to the State's program consistent with the procedure stipulated in 40 CFR 70.10.

7. What Is the Scope of EPA's Full Approval?

In its program submittal, New York State did not assert jurisdiction over Indian country. To date, no tribal government in New York has applied to EPA for approval to administer a title V program in Indian country within the State. On February 12, 1998, EPA promulgated regulations (40 CFR part 49) under which eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA has promulgated regulations (40 CFR part 71) governing the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

8. What Is the Effective Date of EPA's Final Full Approval of the State of New York Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, section 553(d) provides that publication of ''a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule.'' Good cause may be supported by an agency determination that a delay in the effective date is ''impracticable, unnecessary, or contrary to the public interest.'' APA section 553(b)(3)(B). EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of New York State's program expires on December 1, 2001. In the absence of this full approval taking effect on November 30, the federal part 71 program would automatically take effect in New York State and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because New York has been administering the title V permit program for five years under an interim approval. Through this action, EPA is approving revisions to the existing and currently operational program. The change from the interim approved program which substantially but did not fully meet the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-approved program and the federal program. Finally, sources are already complying with many of the newly approved requirements as a matter of state law. Thus, there is little or no additional burden with complying with these requirements under the federally approved State program.

Administrative Requirements

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

Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

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: November 29, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, 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 paragraph (c) in the entry for New York to read as follows:

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

* * * * *

New York

* * * * *

(c) The New York State Department of Environmental Conservation submitted program revisions on June 8, 1998 and October 5, 2001. The rule revisions contained in the June 8, 1998 and October 5, 2001 submittals adequately addressed the conditions of the interim approval effective on December 9, 1996, and which would expire on December 1, 2001. The October 5, 2001 submission consists of rules adopted pursuant to New York's emergency rulemaking procedures. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30144 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7113–9]

Clean Air Act Full Approval of Operating Permits Program in Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program submitted by the State of Alaska. Alaska's operating permits program was submitted in response to the directive in the 1990 Clean Air Act Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

DATES: Effective November 30, 2001.

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