2. Appendix A to part 70 is amended under the entry for Florida by adding paragraph (b) to read as follows:

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

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Florida

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(b) The Florida Department of Environmental Protection submitted program revisions on April 29, 1996, February 11, 1998, June 11, 1998, April 9, 1999 (two submittals), July 1, 1999, and October 1, 1999. The rule revisions contained in the April 29, 1996, February 11, 1998, June 11, 1998, April 9, 1999, July 1,1999, and October 1, 1999 submittals adequately addressed the conditions of the interim approval effective on October 25, 1995, and which would expire on December 1, 2001. The State's operating permits program is hereby granted final full approval effective on October 31, 2001.

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[FR Doc. 01–24488 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–7068–9]

Clean Air Act Final Approval of Operating Permits Program; State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking final action to fully approve the Operating Permits Program of the State of Rhode Island. Rhode Island submitted its program for the purpose of complying with requirements for a State to develop a program to issue operating permits to all major stationary and certain other sources. EPA granted source category-limited interim approval to Rhode Island's operating permit program on May 6, 1996.

DATES: This direct final rule is effective on November 30, 2001 without further notice, unless EPA receives relevant adverse comment by October 31, 2001. If relevant adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA Region I, JFK Federal Building, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, (617) 918–1653.

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

What is the operating permit program?
How has Rhode Island addressed EPA's interim approval issue?
What changes to Rhode Island's program is EPA approving?
How has Rhode Island addressed EPA's questions about its environmental audit statute?
What is involved in this final action?

What Is the Operating Permits Program?

The Clean Air Act Amendments (CAA) of 1990 required all state and local permitting authorities to develop operating permit programs that meet certain Federal criteria. 42 U.S.C. 7661–7661e. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance and enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how to determine compliance with those requirements.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. See 40 CFR 70.3. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include: those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM 10); those that emit 10 tons per year of any single hazardous air pollutant specifically listed under the CAA (HAP); or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' such as Rhode Island, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

How Has Rhode Island Addressed EPA's Interim Approval Issue?

Where an operating permit program substantially, but not fully, meets the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, and where a State requests source category-limited interim approval, EPA may grant the program interim approval. Because Rhode Island's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on May 6, 1996 (61 FR 20150). Normally, with interim approval, a state must submit a corrective program to receive full approval. But Rhode Island's program was fully approvable, with the exception that the State planned to issue permits within a five-year schedule, rather than the three year schedule provided for in section 503(c) of the Act. In its interim approval notice, EPA discussed the possibility that Rhode Island's program might automatically convert to a full approval. But EPA made that conversion contingent upon Rhode Island issuing permits in a timely fashion consistent with its five year transition plan. Since Rhode Island did not meet the five year schedule, we could not automatically convert their program to full approval.

We are granting full approval under our current Part 70 rules because the only issue that limited our 1996 approval of Rhode Island's program was the State's schedule for permit issuance. To date Rhode Island has made reasonable progress in issuing Title V permits to its sources. Although Rhode Island has only issued 28% of their permits, they have issued 80% of those in the last year. EPA believes that disapproving Rhode Island's program at this point would not result in permits being issued any more quickly. The State now has the organization in place to support its program, and having EPA take over permit issuance now would only disrupt a program that has gotten beyond the inertia of startup. It would

be counterproductive to disapprove a program that fully meets the requirements of part 70 only to force EPA to absorb the responsibility that Rhode Island is finally prepared to handle. However, failure to issue permits according to statutory and regulatory requirements is a deficiency in program implementation nationally. The Agency will be addressing this national permit issuance deficiency later this year.

What Changes to Rhode Island's Program Is EPA Approving?

Rhode Island made additional changes after the source category limited-interim approval was submitted to EPA on June 2, 1995. On October 1, 1996, Rhode Island submitted revisions to APC Regulation No. 29, Operating Permits, and APC Regulation No. 28, Operating Permit Fees that amended the definition of ''volatile organic compound'' (VOC). Acetone, paracholorobenzotrifluoride, and volatile methyl siloxanes are now included on the list of compounds that are exempted from the definition of VOC because of their negligible photochemical reactivity. Rhode Island's revisions to its VOC definition are consistent with revisions EPA has made to its definition of VOC.

On October 1, 1996 and October 26, 2000, Rhode Island submitted changes to APC Regulation No. 28, Operating Permit Fees, amending the due date for fees and the inventory year used in calculating the fees. This allows Rhode Island sufficient time to determine the prior year's carryover amounts to be included when billing a source for the upcoming year. The revisions also added an application fee for facilities receiving a general emissions cap designed to keep them out of Title V.

On January 1, 1999, Rhode Island submitted a revision that incorporated by reference the revised provisions of the Acid Rain Program in 40 CFR part 72. This allows the state to utilize the provisions of the revised federal regulation when drafting a facility's operating permit.

On October 26, 2000, the State submitted a revision to its list of insignificant activities that must be included in the operating permit application but are exempted from having to be fully described because of size, emission levels, or production rate. The application must contain enough information to show that the activity qualifies for the exemption. This change is consistent with the applicability thresholds in APC Regulation No. 9 for preconstruction permits, and includes changes with such minor emissions impacts that they are exempted even from Rhode Island's minor new source review program, for example a natural gas-burning device with a heat input capacity of less than ten million Btu per hour.

All these changes are consistent with EPA's operating permit program regulations.

How Has Rhode Island Addressed EPA's Questions About Its Environmental Audit Statute?

Following EPA's interim approval of Rhode Island's operating permit program, the State adopted the Rhode Island Environmental Compliance Incentive Act (ECIA), which provides certain incentives for facilities that conduct environmental compliance audits, voluntarily disclose violations found in an audit, and promptly bring themselves into compliance. R.I.G.L. section 42–17.8. The ECIA is not an interim approval issue, because it did not exist at the time EPA acted on Rhode Island's original program. But the Agency asked the State to clarify the operation of the statute to avoid any question whether Rhode Island retains adequate enforcement authority to support continued implementation of federal environmental programs. On July 25, 2001, the Rhode Island Attorney General provided EPA with a legal opinion concerning the State's criminal enforcement authority under the ECIA. EPA has determined that Rhode Island retains sufficient criminal enforcement authority under the ECIA to support implementation of federal environmental programs, including the Clean Air Act operating permit program.

What Is Involved in This Final Action?

EPA is taking final action to fully approve the State's operating permit program.[1] EPA is also taking action to approve program changes Rhode Island made on October 1, 1996, January 1, 1999 and October 26, 2000, since EPA granted the source category limited-interim approval. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval should we receive relevant adverse comments. This action will be effective November 30, 2001 unless the Agency receives relevant adverse comments by October 31, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 30, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action 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 proposed rule 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 proposes to approve 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

[1] EPA's action today granting full approval to this program may raise a question about the application deadline for existing facilities in Rhode Island. Section 29.4.2(a) of Rhode Island's program regulation requires all existing sources subject to the program to apply no later than 12 months after EPA's ''full approval'' of the program. Therefore, it might appear that EPA's full approval at this point triggers the 12-month deadline for applications. EPA relies on the Clean Air Act, not state program regulations, however, to enforce the application requirement for the title V program. Under section 503(c), all sources must apply for a title V permit no later than 12 months after becoming subject to the program. EPA has consistently interpreted section 503(c) to impose the 12-month deadline following an interim, as well as a full, approval. All sources existing when Rhode Island first submitted its program to EPA must have applied for a permit by the date 12 months following the effective date of EPA's interim approval of Rhode Island's program, or July 15, 1997.

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). The rule merely proposes to approve 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 proposed rule 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 current 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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).

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 November 30, 2001. Interested parties should comment in response to the rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the rule. 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: September 20, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

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 paragraph (b) in the entry for Rhode Island to read as follows:

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

* * * * *

Rhode Island

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(b) The Rhode Island Department of Environmental Management submitted program revisions on October 1, 1996, January 21, 1999 and October 26, 2000. EPA is hereby granting Rhode Island full approval effective on November 30, 2001.

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[FR Doc. 01–24254 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7068–1]

Missouri: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Missouri has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Missouri's changes to its hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on November 30, 2001 unless EPA receives adverse written comment by October 31, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Lisa V. Haugen, U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101. You can view and copy Missouri's application during normal business hours at the following addresses: Hazardous Waste Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102–0176, (573) 751–3176; and EPA Region 7