

stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "\$" and a numbered heading.)

#### *Administrative Procedure Act*

Because this revision of the Regulations and Standard Contract is necessary to assure that the Regulations and Standard Contract are in legal conformance with section 575 of the Administrative Disputes Resolution Act, 5 U.S.C. 575, NPS is publishing this revision as a final rule. In accordance with the requirements of the Administrative Procedure Act, 5 U.S.C. 553, we have determined that publishing a proposed rule would be unnecessary and contrary to the public interest. Publishing a proposed rule is unnecessary because it is clear, as a matter of law, that the Regulations and Standard Contract should be amended to ensure that they are not in conflict with the Administrative Disputes Resolution Act. Publishing a proposed rule is also contrary to the public interest because the public is best served by the swift amendment of the Regulations and Standard Contract to assure compliance with the Administrative Disputes Resolution Act. We believe that publishing this rule 30 days before the rule becoming effective would be unnecessary and contrary to the public interest. Therefore, under the Administrative Procedure Act, 5 U.S.C. 553, we have determined that this final rulemaking is excepted from the 30-day delay in the effective date and will therefore become effective on the date published in the **Federal Register**.

#### **List of Subjects in 36 CFR Part 51**

Concessions, Government contracts, National parks, Reporting and recordkeeping requirements.

Accordingly, 36 CFR Part 51 is amended as set forth below:

#### **PART 51—CONCESSION CONTRACTS**

1. The authority for part 51 continues to read as follows:

**Authority:** The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 1 *et seq.*, particularly 16 U.S.C. 3 and Title IV of the National Parks Omnibus Management Act of 1998 (Pub. L. 105–391).

2. Revise § 51.56 to read as follows:

#### **§ 51.56 How will the construction cost for purposes of leasehold surrender interest value be determined?**

After receiving the detailed construction report (and certification, if requested), from the concessioner, the Director will review the report, certification and other information as appropriate to determine that the reported construction cost is consistent with the construction cost approved by the Director in advance of the construction and that all costs included in the construction cost are eligible direct or indirect costs as defined in this part. The construction cost determined by the Director will be the final determination of construction cost for purposes of the leasehold surrender interest value in the related capital improvement unless the concessioner requests arbitration of the construction cost under § 51.57. The Director may at any time review a construction cost determination (subject to arbitration under § 51.57) if the Director has reason to believe that it was based on false, misleading or incomplete information.

3. Revise § 51.57 to read as follows:

#### **§ 51.57 How does a concessioner request arbitration of the construction cost of a capital improvement?**

If a concessioner requests arbitration of the construction cost of a capital improvement determined by the Director, the request must be made in writing to the Director within 3 months of the date of the Director's determination of construction cost under § 51.56. The arbitration procedures are described in § 51.51. The decision of the arbitration panel as to the construction cost of the capital improvement will be binding on the concessioner and the Director.

4. Revise § 51.62 to read as follows:

#### **§ 51.62 What is the process to determine the leasehold surrender interest value when the concessioner does not seek or is not awarded a new concession contract?**

Leasehold surrender interest concession contracts must contain provisions under which the Director and the concessioner will seek to agree in advance of the expiration or other termination of the concession contract as to what the concessioner's leasehold surrender interest value will be on a unit-by-unit basis as of the date of expiration or termination of the concession contract. In the event that agreement cannot be reached, the provisions of the leasehold surrender interest concession contract must provide for the Director to make a final determination of leasehold surrender interest value unless binding arbitration

as to the value is requested by the concessioner. The arbitration procedures are described in § 51.51. A prior decision as to the construction cost of capital improvements made by the Director or by an arbitration panel in accordance with this part are final and not subject to further arbitration.

Dated: June 11, 2001.

**Joseph E. Doddridge,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 01–16612 Filed 7–2–01; 8:45 am]

BILLING CODE 4310–70–P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 63**

[FRL–6996–7]

#### **Approval of Section 112(l) Authority for Hazardous Air Pollutants; Chemical Accident Prevention Provisions; Risk Management Plans; New Jersey Department of Environmental Protection**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This action grants the New Jersey Department of Environmental Protection (NJDEP) the authority to implement and enforce portions of the State of New Jersey's Toxic Catastrophe Prevention Act Program (TCPA), codified at New Jersey Administrative Code (NJAC) 7:31, in place of the Federal Chemical Accident Prevention regulations, promulgated by EPA under section 112(r) of the Clean Air Act (CAA), for all stationary sources with covered processes ("subject sources") under New Jersey's jurisdiction. New Jersey's regulations will be incorporated by reference as "New Jersey's Toxic Catastrophe Prevention Act Program" in the Code of Federal Regulations. Pursuant to section 112(l) of the CAA, NJDEP requested approval to implement and enforce its TCPA rule in place of the Federal Chemical Accident Prevention regulations. NJDEP requested this authority for all subject sources under its jurisdiction except those that are covered only because they contain regulated quantities of LPG gases regulated under the New Jersey Liquified Petroleum Gas Act of 1950 (NJSA 21:1B). The EPA has reviewed this request and has concluded that it satisfies all of the requirements necessary to qualify for approval under section 112(l). With the exceptions noted in section III of the

**SUPPLEMENTARY INFORMATION,** EPA substitutes the provisions of NJAC 7:31–1.1 through 1.10 and NJAC 7:31–2.1 through 8.2, effective July 20, 1998, for EPA regulations.

**DATES:** This rule is effective on September 4, 2001 without further notice, unless EPA receives relevant adverse comments by August 2, 2001. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 4, 2001.

**ADDRESSES:** Written comments should be addressed to: Steven C. Riva, Chief, Permitting Section, Air Programs Branch, U. S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007–1866, with a copy to Ms. Shirlee Schiffman, Chief, Bureau of Release Prevention, New Jersey Department of Environmental Protection, P.O. Box 422, 401 East State Street, Trenton, New Jersey 08625–0422. Copies of the submitted requests are available for public review at EPA Region 2's office during normal business hours (docket # A–2000–23). Any State responses to comments must be submitted to the Administrator within 30 days of the close of the public comment period.

**FOR FURTHER INFORMATION CONTACT:** Umesh Dholakia at (212) 637–4023.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The 1990 CAA Amendments added section 112(r) to provide for the prevention and mitigation of accidental chemical releases. Sections 112(r) (3)–(5) mandate that EPA promulgate a list of “regulated substances” with threshold quantities. Processes at stationary sources that contain a threshold quantity of a regulated substance are subject to accidental release prevention regulations promulgated under CAA section 112(r)(7). Pursuant to section 112(r)(7), EPA published the list of regulated substances on January 31, 1994 (59 FR 4478), published the risk management program regulations on June 20, 1996 (61 FR 31668), and subsequently amended both sets of regulations several times. These regulations are set forth at 40 CFR part 68.

40 CFR part 68 requires, among other things, that owners and operators of stationary sources with more than a threshold quantity of a regulated substance in a process submit a risk management plan (RMP) by June 21,

1999, to a central location specified by EPA. A RMP must include an Off-site Consequence Analysis (OCA), a prevention program, and an emergency response program.

It should be noted that the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, Public Law No. 106–40, which was enacted on August 5, 1999, excludes from coverage by the Federal Chemical Accident Prevention regulations any flammable fuel when used as fuel or held for sale as fuel by a retail facility. 40 CFR part 68 was modified to conform with this provision on March 13, 2000 (65 FR 13243). A rule concerning access to OCA information became effective on August 4, 2000 (65 FR 48108).

The regulations at 40 CFR part 68 encourage sources to reduce the probability of accidentally releasing substances that have the potential to cause harm to public health and the environment. Further, the regulations are intended to stimulate dialog between industry and the public on ways to improve accident prevention and emergency response practices. Notwithstanding the emphasis of this program as delegated on risk management planning, owners and operators of stationary sources producing, processing, handling or storing a chemical listed in 40 CFR part 68 or any other extremely hazardous substance are still subject to a general duty to identify hazards and to design and maintain safe facilities as required by section 112(r)(1) of the Act and are subject to such requirements as the Administrator may determine are necessary in the case of an imminent and substantial endangerment pursuant to section 112(r)(9) of the Act. Under section 112(l)(2) of the Act, EPA is required to publish guidance that governs how state, local, and territorial agencies, and Indian tribes as defined in 40 CFR 71.2 (S/L's), may develop and submit, and how we may approve, S/L air toxics rules or programs that meet the goals of the Act and the Federal air toxics program. On November 26, 1993, we finalized regulations that carried out this mandate. (58 FR 62262, Approval of State Programs and Delegation of Federal Authorities, Final Rule). The November 26, 1993 regulations, which can be found in 40 CFR part 63, subpart E, provide regulatory guidance regarding approval of S/L rules or programs that can be implemented and enforced in place of Federal section 112 rules as well as the delegation of our authorities and responsibilities associated with those rules. Final amendments to the November 26, 1993 federal regulations were published on

September 14, 2000 (65 FR 55810). Under subpart E, agencies may obtain approval from EPA to implement and enforce provisions of their own air pollution control programs in lieu of federally promulgated NESHAP and other section 112 requirements for stationary sources. Once a state program is approved pursuant to the rule substitution provisions of subpart E, S/ L rules and applicable requirements resulting from those rules are considered federally enforceable and substitute for the Federal requirements that would otherwise apply to those stationary sources.

On May 13, 1999, EPA Region 2 received NJDEP's request for delegation of the Federal Chemical Accident Prevention Provisions promulgated under section 112(r) of the CAA and codified at 40 CFR part 68, for all stationary sources with covered processes except those having certain specified flammable liquified petroleum gases (LPG), regulated under the New Jersey Liquified Petroleum Gas Act of 1950 (NJSA 21:1B).

Section 112(l) of the CAA and 40 CFR 63.91, 63.93, and 63.95, authorize EPA, in part, to delegate the authority to implement 112(r)(7) to any state or local agency which submits an approvable program to implement and enforce the section 112(r)(7) requirements, including the Chemical Accident Prevention regulations set forth at 40 CFR part 68. An appropriate plan must contain, among other criteria, the following elements: a demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as section 112(r) regulations; procedures that assure EPA's ability to receive, review, and make publicly available RMPs; and procedures for providing technical assistance to subject sources, including small businesses.

**II. NJDEP TCPA Rule**

New Jersey's TCPA, N.J.S.A. 13:1K–19 *et seq.*, was enacted in 1985 and became effective on January 8, 1986. In 1988, at N.J.A.C. 7:31, the Department adopted rules implementing the TCPA that became effective on June 20, 1988. These rules were readopted with amendments on June 18, 1993, and became effective on July 9, 1993. Following the promulgation of the Federal rules in 40 CFR part 68, NJDEP readopted its TCPA rules on June 18, 1998, to be consistent with the Federal requirements. The structure of the TCPA rules was also revised to conform with the structure of the Federal regulations. The proposal and adoption of these new rules was published in the New Jersey

Register in accordance with New Jersey's Administrative Procedures Act. The amendments, new rules, repeals and modifications became effective July 20, 1998.

New Jersey's TPCA program has the authority and resources to provide technical assistance, review and make publicly available risk management plans, and adequately implement and enforce its TPCA program. During the readoption process, NJDEP supplemented many of the Federal rules with stricter and/or additional requirements to fulfill the mandates of the TPCA or to maintain coverage under the TPCA program at its previous level. Although Federal regulations and the NJDEP's readopted TPCA regulations are similar, there are some differences. Most notably, (1) the Federal rule contains requirements for three program levels, Program 1 having the least stringent requirements, while the readopted TPCA rule eliminates Program 1 and requires all subject sources to meet stricter Program 2 or Program 3 requirements, (2) the TPCA rules will regulate more chemicals and in some cases at a lower threshold than the Federal rules require and, (3) the TPCA requires the subject sources to perform risk assessment to determine any additional risk reduction measures the sources should take.

### III. Approval and Delegation

Under CAA section 112(l), EPA may approve S/L rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of S/L rules or programs under section 112(l) are located at 40 CFR part 63, subpart E. Under these regulations a S/L has the option to request EPA's approval to substitute a local rule for the applicable Federal rule. Upon approval, the S/L rule will be implemented in place of the counterpart EPA rule and EPA will enforce the state rule in place of the otherwise applicable Federal rule. To receive EPA approval using this option, the requirements of 40 CFR 63.91, 63.93, and 63.95 must be met. In summary, the criteria require that a S/L rule or program: (1) Is "no less stringent" than the corresponding Federal rule or program, (2) has adequate legislative authority and resources, (3) has scheduled a timely implementation of the rule, and (4) is otherwise in compliance with Federal guidance.

Based on the review of New Jersey's delegation application, its pertinent laws, rules and regulations, EPA

concludes that New Jersey's request satisfies the criteria for approval and substitution in 40 CFR 63.91, 63.93 and 63.95. EPA therefore approves as a direct final rule NJDEP's TPCA rule, effective July 20, 1998, at NJAC 7:31-1.1 through 1.10 and NJAC 7:31-2.1 through 8.2 as equivalent to Federal regulations in 40 CFR part 68 and grants the substitution of the authority to implement and enforce these requirements. The following summarizes the important intents of this delegation.

(1). New Jersey does not intend to regulate and has not sought authority to regulate processes that are covered only because they contain regulated quantities of LPG gases regulated under the New Jersey Liquified Petroleum Gas Act of 1950 (NJSA 21:1B). As previously noted, 40 CFR part 68 was modified on March 13, 2000 to comply with the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, Public Law No. 106-40, which was enacted on August 5, 1999, and which excludes from coverage by the Federal Chemical Accident Prevention regulations any flammable fuel when used as fuel or held for sale as fuel by a retail facility.

(2). Pursuant to CAA section 112(r)(3), EPA retains the authority to add or delete substances from the list of substances established under section 112(r) and set forth in 40 CFR part 68, subpart F. The additions or deletions are automatically incorporated into the approved state program (see item 5 below).

(3). NJAC 7:31-1.11 and -1.11A refer exclusively to NJDEP authorities and concern matters beyond the scope of 40 CFR part 68. EPA does not approve the fee structure set forth in NJSA 7:31-1.11 and -1.11A for federal enforceability purposes. Rather, the fee structure constitutes part of the demonstration of adequate resources required by 40 CFR sections 63.95(b)(1) and 63.91(d)(3)(iii).

(4). NJAC 7:31-1.12 and subchapters 9, 10, and 11 refer exclusively to NJDEP authorities and, as such, concern matters beyond the scope of 40 CFR part 68.

(5). NJAC 7:31-1.7, insofar as it asserts the Department's authority to rescind, amend or expand these rules, must be read in a manner that is not inconsistent with NJAC 7:31-1.4 (e) or (g). NJAC 7:31-1.4 (e) provides that in the event there are inconsistencies or duplications in requirements incorporated by reference from 40 CFR part 68 and NJAC 7:31, the provisions incorporated by reference from 40 CFR part 68 shall prevail, except where the rules set forth in NJAC 7:31 are more

stringent. NJAC 7:31-1.4(g) provides that any future additional subparts of 40 CFR part 68 are incorporated by reference. In addition, NJAC 7:31, subchapters 1-8, which incorporate by reference 40 CFR part 68, subparts A-H, each state that they are incorporating by reference all future amendments and supplements to 40 CFR part 68, except as specifically provided.

(6). NJAC 7:31, subchapter 7, incorporates the federal requirement of 40 CFR Part 68, subpart G, that subject sources must submit Risk Management Plans to EPA in accordance with 40 CFR section 68.150. In taking delegation a state can add state only requirements to those imposed by subpart G but cannot delete or revise the requirements of subpart G.

(7). Among the revisions to 40 CFR part 68 is the addition of more detailed confidentiality provisions to subpart G. The confidentiality provisions of 40 CFR part 68 vary from the requirements of NJAC 7:31-10. The revised part 68 regulations require any source claiming CBI to substantiate that claim at the time the source makes the claim and to provide a public copy, with the confidential material deleted, at the time the source makes the claim. New Jersey's confidentiality provisions, NJAC 7:31-10, which are not substituted for 40 CFR part 68 (see item 5 above), only require the substantiation and the public copy if the Department receives a request for the material or if the Department decides to determine if the material is entitled to confidential treatment. All material submitted to EPA will be subject only to Federal freedom of information and confidentiality requirements.

(8). EPA does not substitute a State's enforcement authority for its own enforcement authority when delegating standards under Clean Air Act section 112(l). In the event it is necessary for EPA to take an enforcement action, EPA may seek the maximum statutorily allowed penalties available under the Clean Air Act (\$27,500/day/violation) and apply its own policies regarding settlement. Therefore, EPA does not approve the penalty structure set forth in NJSA 7:31-11 for federal enforceability purposes (see item 4 above). Rather, EPA approves the penalty structure in the rule as meeting the requirements set forth in 40 CFR 63.91(d)(3)(i), which direct that the state demonstrate enforcement authorities that meet the requirements of 40 CFR 70.11. New Jersey's request for approval of the authority to implement and enforce the TPCA rule includes a written statement by the State Attorney General that laws of the State of New

Jersey provide adequate authority for the State to carry out all aspects for the section 112(r) program for which it is seeking delegation, including enforcement action.

As part of its request for approval of the authority to implement and enforce the TCPA rule, NJDEP submitted the criteria for approval required by 40 CFR 63.91(d), 63.93(b) and 63.95. As of the effective date of this action, with the limitations noted above, NJAC 7:31 will substitute for 40 CFR part 68 and will be the federally enforceable standard for subject sources under New Jersey's jurisdiction. This rule will be enforceable by the EPA and citizens under the CAA. Although NJDEP now has the primary implementation and enforcement responsibility for 40 CFR part 68, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable standards or requirements under the CAA section 112(r) including the authority to seek civil and criminal penalties up to the maximum amounts specified in CAA section 113. While EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable standards or requirements under the CAA section 112(r), EPA finds that compliance with the NJDEP TCPA rule, NJAC 7:31, effective July 20, 1998, will assure compliance with 40 CFR part 68.

#### IV. Opportunity for Public Comment

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action 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 for this action should adverse comments be filed. This rule will become effective September 4, 2001 without further notice unless the Agency receives adverse comments by August 2, 2001.

If EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** 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. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, this rule will become effective on September 4, 2001 and no further action will be taken on the proposed rule.

#### V. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866, entitled Regulatory Planning and Review.

##### B. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

This direct final rule does not have federalism implications. 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. The State of New Jersey has voluntarily requested delegation of this program. The state will be relying on its own resources to implement and enforce 40 CFR part 68 as described in the summary section of this notice. Thus, Executive Order 13132 does not apply to this rule.

##### C. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This direct final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. The State of New Jersey has voluntarily requested delegation of this program. The state will be implementing and enforcing its own requirements, which have been reviewed and approved by EPA. Thus, Executive Order 13175 does not apply to this rule.

##### D. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, the EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements. EPA has already satisfied the requirements under the Paperwork Reduction Act to collect information needed to meet the federal requirements through OMB Control No. 2050-0144. 64 FR 69636.

##### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, Public Law 96-354, September 19, 1980) requires Federal agencies to give special consideration to the impact of regulation on small businesses. The RFA specifies that a regulatory flexibility analysis must be prepared if a screening analysis indicates a regulation will have significant impact on a substantial number of small entities. This rule will not have a significant economic impact on a substantial number of small entities.

##### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in estimated costs of \$100 million or more in one year to either State, local, or tribal governments in the aggregate, or to the private sector. Under section 205, EPA must select the most cost effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing, educating and advising any small governments that may be significantly impacted by the rule. EPA has estimated that this rule 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 requirements.

### *G. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

### *H. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

### *I. Submission to Congress and the Comptroller General*

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 this 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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

### **List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedure, Air pollution control, Chemical accident prevention, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 25, 2001.

**Kathleen C. Callahan,**

*Acting Regional Administrator, Region 2.*

Part 63, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### **PART 63—[AMENDED]**

1. The authority citation for part 63 continues to read as follows:

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

#### **Subpart A—General Provisions**

2. Section 63.14 is amended by revising paragraph (d)(2) to read as follows:

##### **§ 63.14 Incorporations by reference.**

\* \* \*

(d) \* \* \*

(2) New Jersey's *Toxic Catastrophe Prevention Act Program*, (July 20, 1998), Incorporation By Reference approved for § 63.99 (a)(30)(i) of subpart E of this part.

\* \* \*

#### **Subpart E—Approval of State Programs and Delegation of Federal Authorities**

3. Section 63.99 is amended by adding a new paragraph (a)(30) to read as follows:

##### **§ 63.99 Delegated Federal authorities.**

(a) \* \* \*

(30) New Jersey

(i) Affected sources must comply with the Toxic Catastrophe Prevention Act Program (TCPA), (July 20, 1998), (incorporated by reference as specified in § 63.14) as described in paragraph (a)(30)(i)(A) of this section:

(A) Except for authorities identified as not being delegated, the regulations incorporated in New Jersey's "Toxic Catastrophe Prevention Act Program," Title 7, Chapter 31, of the New Jersey Administrative Code: Subchapter 1, "General Provisions" (sections 1.1 to

1.10 except for the definition of "What if Checklist"), Subchapter 2, "Hazard Assessment," Subchapter 3, "Minimum Requirements for a Program 2 TCPA Risk Management Program," Subchapter 4, "Minimum Requirements for a Program 3 TCPA Risk Management Program," Subchapter 5, "Emergency Response," Subchapter 6, "Extraordinarily Hazardous Substances," Subchapter 7, "Risk Management Plan and TCPA Submission," and Subchapter 8, "Other Federal Requirements," (effective July 20, 1998), pertain to the sources affected by 40 CFR part 68 and have been approved under the procedures in §§ 63.91, 63.93 and 63.95 to be implemented and enforced in place of 40 CFR part 68, Subparts A through H, as may be amended.

(1) Authorities not delegated:

(i) The New Jersey Department of Environmental Protection is not delegated the Administrator's authority to implement and enforce New Jersey's Toxic Catastrophe Prevention Act Program, Title 7, Chapter 31, of the New Jersey Administrative Code, in lieu of the provisions of 40 CFR part 68 as they apply to the regulation of processes that are covered only because they contain regulated quantities of liquid petroleum gases (LPG) regulated under the New Jersey Liquified Petroleum Gas Act of 1950 (N.J.S.A. 21:1B),

(ii) Pursuant to § 63.90(c) the New Jersey Department of Environmental Protection is not delegated the Administrator's authority to add or delete substances from the list of substances established under section 112(r) and set forth in 40 CFR 68.130.

[FR Doc. 01-16561 Filed 7-2-01; 8:45 am]

BILLING CODE 6560-50-P

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 63 and 264**

[FRL-7001-8]

RIN 2050

#### **NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on targeted amendments to the regulations for hazardous waste burning cement kilns, lightweight aggregate kilns, and incinerators promulgated on September 30, 1999 (NESHAP: Final