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 significantly 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.

Authority: 42 U.S.C. 7401–7671q.

Dated November 29, 2001.

Lawrence E. Starfield,

Acting Deputy Regional Administrator, Region 6.

For the reasons set out in the preamble, Appendix A of part 70 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 under the entry for Oklahoma by adding paragraph (b) to read as follows:

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

* * * * *

Oklahoma

* * * * *

(b) The Oklahoma Department of Environmental Quality submitted program revisions on July 27, 1998. The rule revisions adequately addressed the conditions of the interim approval effective on March 6, 1996, and which will expire on December 1, 2001. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30149 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ062–OPP; FRL–7113–4]

Clean Air Act Full Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits programs submitted by the State of Arizona (collectively ''the Arizona programs'') on behalf of the Arizona Department of Environmental Quality (''ADEQ'' or ''State''), Maricopa County Environmental Services Department (''MCESD'' or ''Maricopa''), and Pima County Department of Environmental Quality, Arizona (''PDEQ'' or ''Pima''). The Arizona programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) 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 authorities' jurisdiction. On October 30, 1996, EPA granted interim approval to the ADEQ, MCESD and PDEQ operating permits programs. These agencies revised their programs to satisfy the conditions of the interim approval, and EPA proposed full approval of the ADEQ, MCESD, and PDEQ programs in the **Federal Register** on October 2, 2001, October 18, 2001, and September 10, 2001, respectively. EPA received three comments on our proposed full approval of the ADEQ program and one comment on the Maricopa program. EPA's responses are included in Section II of this action.

This action promulgates final full approval of the ADEQ, MCESD and PDEQ operating permits programs.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the ADEQ, MCESD, and PDEQ submittals 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 9, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the submitted title V programs for each of the respective agencies at the following locations:

(1) ADEQ—Arizona Department of Environmental Quality, 3033 North central Avenue, Phoenix, Arizona 85012–2809.
(2) MCESD—Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, Arizona 85004.
(3) PDEQ—Pima County Department of Environmental Quality, 130 West Congress Street, Tucson, Arizona 85701

FOR FURTHER INFORMATION CONTACT: Emmanuelle Rapicavoli, EPA Region 9, at 415–972–3969 or rapicavoli.emmanuelle@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

I. Background on the ADEQ, MCESD, and PDEQ Operating permits programS
II. Comments received by EPA on our proposed rulemaking and EPA's responses
III. EPA's final action.

I. Background on the ADEQ, MCESD, and PDEQ Operating Permits Programs

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. The ADEQ, MCESD, and PDEQ operating permits programs were submitted in response to this directive. Because the Arizona programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the programs in a rulemaking published on October 30, 1996. See 61 FR 55910. The interim approval notice described the conditions that had to be met in order for the Arizona programs to receive full approval.

The State, Maricopa and Pima revised their title V programs to address the conditions of the interim approval. EPA promulgated proposals to approve the ADEQ, MCESD, and PDEQ programs on October 2, 2001 (66 FR 50136), October 18, 2001 (66 FR 52882), and September 10, 2001 (66 FR 46972), respectively.

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received three comment letters on our proposed full approval of the ADEQ program and one comment letter on the Maricopa program. With one exception, all of the comment letters focused exclusively on the need to revise the major source definition in Part 70. EPA published a final rule addressing this issue on November 27, 2001 and therefore EPA is not responding to those comments. EPA's response to the remaining comments on the ADEQ program, submitted by The Arizona Center for Law in the Public Interest (ACLPI), is set out below.

1. Excess Emissions Provision

ACLPI objects to language in R18–2–310 that establishes an affirmative defense for violations occurring during startup and shutdown. EPA has proposed to approve the removal of R18–2–310 from the title V program:

In addition to proposing to approve the rules listed in Table 1, EPA is also proposing to approve the removal of R18–2–310, Excess Emissions, from the State's title V program.

See 66 FR 50138, October 2, 2001. Therefore, EPA construes ACLPI's comment as supporting its proposed action.

2. Reference Test Methods and Credible Evidence

ACLPI contends that ADEQ's title V permits routinely require only specific test methods and do not allow for additional credible evidence to be presented to prove, or disprove, an alleged violation. They state that the State's operating permit program does not appear to include EPA's credible evidence rule. ACLPI concludes that, before Arizona's title V program is fully approved, ADEQ must make the necessary changes to include the Credible Evidence Rule.

EPA agrees with the commenter's point that state implementation plans and permits should not bar the use of credible evidence for determining whether a source is in compliance. We disagree, however, with the commenter's suggestion that a permit condition that requires a source to monitor in accordance with a specific method bars the use of additional credible evidence in determining compliance.

The preamble to EPA's Credible Evidence Revisions states that the ''regulation merely removes [from 40 CFR parts 51, 52, 60 and 61] what some have construed to be a regulatory bar to the admission of non-reference test data to prove a violation of an emission standard.'' See 62 FR 8315, February 24, 1997. One aspect of EPA's review of title V programs and permits includes a determination that no bars to enforcement are included. For example, EPA would consider language such as ''compliance shall be determined by test method X'' as problematic. Contrary to ACLPI's position, neither the CAA nor EPA's regulations require part 70 programs or permits to include specific references to credible evidence. The presumption is that, absent language precluding its use, credible evidence can be used. ACLPI argues, for example, that the North Star Steel draft permit requires that the permittee shall perform initial and annual performance tests to determine opacity using EPA Method 9. ACLPI suggests that this condition bars the use of credible evidence to prove or disprove an alleged violation. EPA disagrees. Permits must impose monitoring requirements on sources and, in order to be effective, must specify the type of monitoring a source must undertake. See 40 CFR 70.6(a)(3). The language in the draft North Star Steel permit does not bar the use of other credible evidence. It merely sets out the source's monitoring obligations.EPA understands that ADEQ shares our interpretation.

3. Arizona's Confidentiality Provision

ACLPI commented that Arizona's operating permits program is not approvable because it does not adequately satisfy federal standards and that A.R.S. 49–432 must be amended to accommodate the public's right to have access to information. The opportunity for public comment on EPA's proposed action to grant full approval of the ADEQ program was limited to the issue of whether ADEQ corrected the items EPA had identified as program deficiencies during the interim approval process. Thus, EPA's proposal to grant full approval did not include ADEQ's confidentiality provisions, which EPA had previously approved as part of ADEQ's program. See 61 FR 55915, October 30, 1996. The comment is therefore beyond the scope of this rulemaking. However, EPA will be responding to this same comment, which was also raised by ACLPI during the 90-day public comment period, under separate cover by December 14, 2001.

4. Definition of Major Source

ACLPI comments that EPA cannot lawfully approve Arizona's major source definition unless EPA completes the rulemaking process that will change the definition in part 70. EPA agrees with ACLPI and in fact took that position in the notice proposing full approval of ADEQ's program. We stated that our full approval of the ADEQ program was contingent on EPA finalizing changes to the major source definition that would result in ADEQ's major source definition being consistent with part 70. See 66 FR 50138, October 2, 2001. EPA finalized these changes in a rule signed by the Administrator on November 19, 2001, and published in the **Federal**

Register on November 27, 2001 (See 66 FR 59161).

5. Fugitive Emissions From Agricultural Equipment

ACLPI states that there is no legitimate reason to exclude agricultural equipment from regulation under title V and therefore, EPA cannot fully approve Arizona's title V program until A.R.S. § 49–426(B) is amended to require that agricultural sources count fugitive emissions.

Arizona's program does not exclude agricultural equipment from regulation under title V. As noted in EPA's notice granting interim approval of ADEQ's title V program, the Arizona Attorney General submitted an opinion that the legislature in no way sought to exempt any major sources when it granted an exemption to agricultural equipment used in normal farm operations. The opinion went on to state that this was clarified by AAC R18–2–302(c)(3), which provides that agricultural equipment used in normal farm operations does not include equipment that requires a permit under title V or is subject to a standard under 40 CFR parts 60 or 61. EPA deferred to that opinion, but noted that if there is a successful legal challenge to the ADEQ's regulation, we would revisit this portion of the program approval. See 61 FR 55915, October 30, 1996.

Part 70 currently requires that fugitive emissions generated by sources that are subject to a standard promulgated under section 111 or 112 of the Clean Air Act must be included when determining whether a source is major. Sources are also required to count all fugitive emissions of hazardous air pollutants. Under part 70, fugitive emissions from any agricultural equipment regulated by such standards or that emits hazardous air pollutants must count towards the major source threshold. ADEQ's rules are consistent with this approach.

After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Arizona operating permits program.

III. EPA's Final Action

A. Full Approval of Operating Permit Programs

EPA is granting full approval to the operating permits programs submitted by ADEQ, MCESD, and, Pima based on the revisions submitted for ADEQ on August 11, 1998, May 9, 2001, and September 7, 2001, for MCESD on September 7, 2001, and for PDEQ on May 28, 1998 and November 9, 2001, which satisfactorily address the program deficiencies identified in EPA's October 30, 1996 interim approval (61 FR 55910). EPA is also approving, as title V operating permits program revisions, additional changes made to the Arizona programs. These deficiency corrections and additional program revisions are described in detail in the **Federal Register** notices proposing full approval of the Arizona programs and their accompanying technical support documents.

In our proposed approvals of the Arizona programs, we noted that ADEQ, MCESD, and PDEQ had revised their major source definition in anticipation of EPA finalizing a previously proposed change (59 FR 44460; August 29, 1994) to the major source definition in part 70. Paragraph (c) of Arizona programs' definition of major source lists source categories that must count fugitives. Subparagraph (xxvii) has been modified to read: ''All other stationary source categories regulated by a standard promulgated as of August 7, 1980 under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.'' Emphasis added. The addition of this 1980 cutoff date restricts the types of sources that are required to count fugitives towards the major source threshold. At the time of our proposed full approvals this change was inconsistent with part 70. Because EPA's proposed revision to the major source definition would incorporate the 1980 cutoff date we proposed to approve the ADEQ, MCESD, and PDEQ definition of major source contingent on EPA finalizing our proposed change to part 70.

On November 19, 2001, the Administrator signed a rulemaking package that finalized EPA's change to paragraph (2)(xvii) of the part 70 definition of major source. 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 Clean Air Act. As a consequence of this change to part 70, the definition of major source in the Arizona programs is no longer inconsistent with part 70 and 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 the Arizona agencies, 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.

For more details on these changes to the part 70 major source definition, please see the notice signed by the Administrator on November 19, 2001 and published in the **Federal Register** on November 27, 2001 (See 66 FR 59161). Interested parties can download the final rule from EPA's website on the Internet under recent actions at the following address: *http//www.epa.gov/ttn.oarpg/ramain.html.*

The rules for which we are granting full approval are listed in the tables below.

TABLE 1.—ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule No.	Rule title and specific sections being approved	Effective	Submitted
R18–2–101 (61)	Definitions—definition of ''Major source'' only	6/4/98	8/11/98
R18–2–304	Permit application processing procedures	12/20/99	5/9/01
R18–2–306	Permit contents	6/4/98	8/11/98
R18–2–320	Significant Permit Revisions	12/20/99	5/9/01
R18–2–331	Material Permit Conditions	6/4/98	8/11/98

In addition to proposing to approving the rules listed in Table 1, EPA is also removing R18–2–310, Excess Emissions, from the State's title V program.

TABLE 2.—MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT

Rule No.	Rule title and specific sections proposed for approval	Adopted	Submitted
Regulation I, Rule 100	General Provisions and Definitions • The following provisions from § 200, Definitions: § 200.26 ''Building, Structure, Facility, or Installation'' § 200.58 ''Insignificant Activity'' § 200.60 ''Major Source'' § 200.107 ''Trade Secret'' § 200.108 ''Trivial Activity'' • § 402, Confidentiality of Information • § 500 Monitoring of Records	8/22/01	9/7/01
Regulation I, Rule 130	Emergency Provisions	7/26/00	9/7/01
Regulation II, Rule 200	Permit Requirements • § 308—Standards for Applications • § 312—Transition from Installation and Operating Permit Program to Unitary Permit Program	8/22/01	9/7/01
Regulation II, Rule 210	Title V Permit Provisions • § 301.4(h) • § 302.1(j) • § 302.1(n) • § 404—Administrative Permit Amendments • § 405.1 • § 408—Public Participation	2/7/01	9/7/01
Appendix D	List of Insignificant Activities	8/22/01	9/7/01
Appendix E	List of Trivial Activities	8/22/01	9/7/01

TABLE 3.—PIMA DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule No.	Rule title and specific sections being approved	Adopted	Submitted
17.04.340.A. (122)	Words, phrases, and terms—definition of ''Major source'' only	9/11/01	11/9/01
17.04.340.A. (109)	Words, phrases, and terms—definition of ''Insignificant activity'' only	4/7/98	5/28/98
17.12.150	Transition from installation and operating permit program to unitary permit program.	9/11/01	11/9/01
17.12.160	Permit application processing procedures	4/7/98	5/28/98
17.12.180	Permit contents	4/7/98	5/28/98
17.12.345	Public notification	4/7/98	5/28/98

B. Effective Date of Full Approval

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the Arizona programs effective on November 30, 2001. In relevant part, the APA 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.'' 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that 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. 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 Arizona programs to take effect before December 1, 2001. EPA's interim approval of the Arizona programs expires on December 1, 2001. In the absence of this full approval of Arizona's amended programs taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Arizona 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, ADEQ, MCESD, and PCDEQ to avoid any gap in coverage of the Arizona program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because ADEQ, MCESD, and PCDEQ have been administering the title V permit program for 5 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

C. Scope of the Full Approval

In their program submissions, neither ADEQ, Maricopa County nor Pima Country asserted jurisdiction over Indian country. To date, no tribal government in Arizona has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how 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's part 71 regulations govern 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.

D. Public Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently

challenged by the Sierra Club and the New York Public Interest Research Group (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.

Two groups submitted comments on what they believe to be deficiencies with respect to the Arizona, Maricopa County and Pima County Title V programs. As stated in the **Federal Register** notice published on October 2, 2001 (66 FR 50136), October 18, 2001 (66 FR 52882), and September 10, 2001 (66 FR 46972) proposing to fully approve Arizona, Maricopa County and Pima County operating permit programs respectively, 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 have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

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. section 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. section 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 28, 2001.

Wayne Nastri,

Regional Administrator, Region 9.

40 CFR part 70, chapter I, 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 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?
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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