Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA does not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* versus *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated 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. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 July 14, 1997. 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 on the Delaware Regulation 24, Section 47—Offset Lithographic Printing, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 22, 1997.

Stanley Laskowski,

Acting Regional Administrator, Region III.

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart I—Delaware

2. Section 52.420 is amended by adding paragraph (c)(55) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(55) Revisions to the Delaware Regulations, Regulation 24, Section 47—Offset Lithographic Printing submitted on December 19, 1994 by the Delaware Department of Natural Resources & Environmental Control (DNREC):

(i) Incorporation by reference.

(A) Letter of December 19, 1994 from the Delaware DNREC transmitting Regulation 24, Section 47—Offset Lithographic Printing, effective November 29, 1994.

(B) Regulation 24, Section 47—Offset Lithographic Printing, effective November 29, 1994.

(ii) Additional Material from Delaware's December 19, 1994 submittal pertaining to Section 47 of Regulation 24.

[FR Doc. 97–12630 Filed 5–13–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ23–1–164, FRL–5823–9]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is granting conditional interim approval of a State Implementation Plan (SIP) revision submitted by New Jersey. This revision establishes and requires the implementation of an enhanced inspection and maintenance (I/M) program in the State. There are two intended effects of this action. One effect is to give conditional approval to the State's proposed enhanced I/M program under section 110 of the Clean Air Act. The other intended effect is to grant interim approval incorporating provisions authorized by section 348 of the National Highway System

Designation Act, where applicable, to last a period of 18 months. Application of section 348 may result in some program adjustments during the 18-month period to ensure efficacy of the I/M program is achieved.

EFFECTIVE DATE: This rule will be effective June 13, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866 and New Jersey Department of Environmental Protection, East State Street, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Rudolph K. Kapichak, Mobile Source Team Leader, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

On October 31, 1996 (61 FR 56172), EPA published a notice of proposed conditional interim approval of New Jersey's enhanced I/M program. New Jersey submitted changes to the existing program on March 27, 1996 to satisfy the applicable requirements of both the Clean Air Act (CAA) and the National Highway System Designation Act (NHSDA).

As described in the October 31, 1996 document, the NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals. The NHSDA also directs EPA and the states to review the program results at the end of the 18-month interim period and to make a determination as to the effectiveness of the program. Following this demonstration, EPA will adjust any credit claims made by the state in its good faith estimate to reflect the emissions reductions actually measured by the state during the program evaluation period. The NHSDA is clear that the interim approval shall last for only 18 months and that the program evaluation is due to EPA at the end of that period. Therefore, EPA believes that Congress intended for these programs to start up as soon as possible, which EPA believes should be on or before November 15, 1997, so at least six months of operational program data can be collected to evaluate the programs. EPA believes that in setting such a strict timetable for program evaluations under the NHSDA, Congress recognized and attempted to mitigate any further delay with the start-up of these programs. If New Jersey fails to start its program by November 15, 1997, the interim approval granted under the provisions of the NHSDA, which EPA believes allows the State to take full credit in its 15 percent plan for all the emission reduction credits in its proposal, will convert to a disapproval after a finding letter is sent to the State by EPA. Therefore, New Jersey would be required to include additional provisions in its SIP to provide the necessary emission credit reductions. Because the start date is not being imposed pursuant to a commitment to correct a deficient SIP under section 110(k)(4), the failure to start the program by this date will not convert the SIP approval to a disapproval automatically. EPA is imposing the start date under its general SIP approval authority of section 110(k)(3), which does not require automatic conversion; therefore, the approval will be converted to a disapproval only upon EPA's notification of the State by letter.

EPA recognizes New Jersey's intent to start up the program on or prior to November 15, 1997 but no later than February 1, 1998.

The program evaluation to be used by the state during the 18-month interim period must be acceptable to EPA. The Environmental Council of States (ECOS) group has developed such a program evaluation process which includes both qualitative and quantitative measures and has been deemed acceptable to EPA. The core requirement for the quantitative measure is that a mass emission transient test (METT) be performed on 0.1% of the subject fleet, as required by the I/M Rule at 40 CFR 51.353 and 51.366. EPA believes that METT evaluation testing is not precluded by the NHSDA, and therefore, is still required to be performed by states implementing I/M programs under the NHSDA and the CAA.

As per the NHSDA requirements, this interim approval of the program will expire on December 14, 1998. A full approval of New Jersey's final I/M SIP revision, which will include the State's program evaluation and final adopted State regulations, is still necessary under sections 110, 182, 184 and 187 of the CAA. After EPA's review of the State's submitted program evaluation and final regulations, any necessary additional rulemaking on New Jersey's SIP revision will occur. If the State's program evaluation demonstrates a shortfall, the State must find additional emission reductions.

Specific requirements of the New Jersey enhanced I/M SIP and the rationale for EPA's proposed action are explained in the October 31, 1996 notice and will not be restated here.

II. Public Comments/Response to Comments

This section discusses the content of the comments submitted to the docket during the Federal comment period for the notice of proposed rulemaking, published in the October 31, 1996 **Federal Register**, and provides EPA's responses to those comments. Comments were received from only the State of New Jersey. Copies of the original comment letter, along with EPA's summary and response to comments, are available at EPA's Region II office at the address listed in the **ADDRESSES** section of this notice.

Comment—Functional Evaporative System Testing

New Jersey commented that underlying uncertainties remain with the functional evaporative system pressure and purge testing procedures as indicated in a draft report by the New Jersey Institute of Technology and in EPA's November 5, 1996 guidance. The State also commented that these uncertainties are carried through the MOBILE model used to determine compliance with the I/M performance standard requirement.

Response to Comment

On November 5, 1996, EPA issued a policy memorandum from Margo Oge, Director of EPA's Office of Mobile Sources (OMS), entitled ''I/M Evaporative Emissions Tests''. This memo outlines the difficulties related to pressure and purge functional testing, in practice in I/M programs. The memo provides that EPA will accept states' credit claims for the benefits from implementing purge testing, although many states are not expected to begin using this test for 12–18 months.

On December 20, 1996, EPA issued an addendum to the November 5, 1996 memo. This memorandum from Leila Cook, Regional and States Program Group Leader of EPA's OMS, serves to clarify the policy set forth in the November 5, 1996 memo. Specifically, this memo requires states to actually perform an available pressure test to receive credits claimed for such a program in their SIP revision. Full modeled credit (i.e., from the MOBILE model) for the performance of pressure testing is available only if a state performs an Arizona-like pressure test from the fill pipe *and* a separate gas cap check. States performing only a gas cap check will receive only 40% of the available MOBILE-modeled credits for pressure testing.

EPA has acknowledged problems with the current purge test. Therefore, states such as New Jersey that have indicated that they will perform a purge test when one is available may continue to take 100% of the credit for the purge test, without actually performing such testing, until such time as EPA develops a viable purge test procedure. New Jersey has also indicated that they will be performing a gas cap check and an Arizona-like pressure test as part of the enhanced I/M program.

Comment—Implementation Date

New Jersey anticipates that implementation of the enhanced I/M program will begin on or before November 15, 1997. However, full program start-up will probably not occur until early 1998. New Jersey believes that this schedule will allow them enough time to collect at least six months of operational data consistent with EPA guidance under the NHSDA.

New Jersey cites section 348(c) of the NHSDA which states that interim approval expires 18 months from the date of final interim approval or on the date of final approval, whichever is earlier and that final approval will be granted after the state demonstrates that the I/M program credits are appropriate. New Jersey also cites the EPA December 12, 1995 guidance which states that to obtain at least six months of program operation to evaluate performance, programs must start as soon as possible but no later than 12 months after final interim approval.

Response to Comment

As stated earlier in this notice, the NHSDA is clear that the interim approval shall last for only 18 months and that the program evaluation is due to EPA at the end of that period. This interim approval will expire on December 14, 1998. While EPA is in agreement with the State that start-up in early 1998 would allow New Jersey to collect sufficient data for program evaluation prior to the expiration of this conditional interim approval, EPA continues to believe that under the NHSDA the program should start up as soon as possible, which EPA believes is on or before November 15, 1997. If the State fails to start its program by this date, this interim approval will convert to disapproval after a finding letter is sent to the State, as addressed above.

III. Conditional Interim Approval

a. Major Deficiencies

Under the terms of EPA's October 31, 1996 proposed conditional interim approval notice, the State was required to make commitments within 30 days to correct two major deficiencies with the I/M program SIP by dates certain. On November 27, 1996, New Jersey submitted a letter to EPA from Robert C. Shinn, Jr., Commissioner of the New Jersey Department of Environmental Protection, committing to satisfy the major deficiencies cited in the October 31, 1996 notice by dates certain specified in the letter. On April 22, 1997, Commissioner Shinn submitted a letter amending the date by which the required performance standard modeling would be submitted. A discussion of New Jersey's deficiencies follows below.

Enhanced I/M Performance Standard Modeling

States must submit modeling demonstrating that the proposed I/M program achieves the required emission reductions by the relevant dates to determine whether the state I/M program meets the enhanced I/M performance standard. New Jersey did not include modeling results or assumptions in its submittal, but in its April 22, 1997 letter has committed to submit them no later than February 1, 1998.

Test Procedures, Standards and Equipment

Written test procedures and pass/fail standards and equipment specifications shall be established and followed for each model year and vehicle type included in the I/M program. New Jersey's I/M program will be using a one-mode ASM emissions test for most of its fleet. New Jersey has been working with other states and the equipment manufacturers, in coordination with EPA, to develop their own procedures, specifications and standards for one and-two-mode ASM testing. EPA must receive the State's test procedures, standards and equipment specifications well before testing begins since finalization of these program elements is critical to the program beginning operation as planned. New Jersey committed to submit the final test procedures, standards and equipment specifications by January 31, 1997. EPA has received the State's final test equipment, specifications and standards. Therefore, this condition has been met.

EPA is taking final conditional approval action upon the New Jersey I/M SIP, under section 110 of the CAA on the condition that the State performs and submits modeling results to EPA no later than February 1, 1998. As discussed in detail later in this notice, this approval program is also being granted an interim approval for an 18-month period, under the authority of the NHSDA.

b. De Minimus Deficiencies

In addition to the above, the State must correct eight minor, or de minimus, deficiencies related to the CAA requirements for enhanced I/M. Although satisfaction of these deficiencies does not affect the conditional interim approval status of the State's program, these deficiencies must be corrected in the final I/M SIP revision to be submitted at the end of the 18-month interim period:

(1) New Jersey must submit proof that adequate funding will be available throughout the life of the program as per 40 CFR 51.354.

(2) New Jersey must submit final requirements for inspection of fleet vehicles as per 40 CFR 51.356.

(3) New Jersey's quality control measures must be in accordance with the requirements set forth in 40 CFR 51.359.

(4) New Jersey must provide a detailed description of its motorist compliance enforcement program as per 40 CFR 51.361.

(5) New Jersey must provide a description of the procedures that will ensure program quality; such as audits, and training requirements as set forth in 40 CFR 51.363.

(6) New Jersey must provide final program requirements for data collection as set forth in 40 CFR 51.365.

(7) New Jersey must provide final procedures for analyzing and reporting program data as per 40 CFR 51.366.

(8) New Jersey must complete the public information program, including the repair station report card as set forth in 40 CFR 51.368.

IV. Explanation of the Interim Approval Process

At the end of the 18-month period, the interim approval for this program, which satisfies the requirements of CAA section 182(c)(3), will automatically expire pursuant to the NHSDA. It is expected that the State will at that time be able to make a demonstration of the program's effectiveness using an appropriate evaluation criteria. EPA expects the State will have at least six months of program data that can be used for the demonstration. If the State fails to provide a demonstration of the program's effectiveness to EPA at the end of the 18-month interim approval period, the interim approval will expire, and EPA may disapprove the emission credits claimed for the State's I/M SIP revision. If the State's program evaluation demonstrates a lesser amount

of emission reductions actually realized than were claimed in the State's previous submittal, EPA will adjust the State's credits accordingly, and use this information to act on the State's final I/M program.

V. Final Rulemaking Action

EPA is conditionally approving New Jersey's enhanced I/M program based upon the conditions described in Section III(a) of this notice. Unlike the start date condition, which was addressed above, should the State fail to fulfill the performance standard modeling condition by February 1, 1998, this conditional interim approval will convert to a disapproval pursuant to CAA section 110(k)(4). In that event, EPA would issue a letter to notify the State that the condition has not been met, and the approval has converted to a disapproval. EPA clarifies that it is taking both a limited conditional approval of the New Jersey enhanced I/M program under section 110 which strengthens the SIP, as well as a conditional interim approval under section 348 of the NHDSA for purposes of compliance with the CAA section 182(c)(3). The limited approval of the enhanced I/M program will not expire at the time the interim approval of the 15 percent and 9 percent plans and the interim approval of the enhanced I/M program under the NHSDA expire. Thus, although an approved I/M program satisfying all of the requirements of section 182(c)(3) may no longer be in place, the I/M program will remain an enforceable SIP requirement. As explained above, the credits provided by the I/M program on an interim basis for those plans may be adjusted based on EPA's evaluation of the I/M program's performance.

VI. Further Requirements for Permanent I/M SIP Approval

This approval is being granted on an interim basis for a period of 18 months, in order for an evaluation of emission reduction credits, under the authority of section 348 of the NHSDA. At the end of this period, the interim approval of the emission credits will expire and the credits will be adjusted accordingly based on the evaluation. At that time, EPA must take action regarding the efficacy of the State's SIP under the authority of sections 110 and 182 of the CAA. EPA will evaluate New Jersey's I/M program based upon the following criteria:

(1) The State has complied with all the conditions of its commitment to EPA,

(2) EPA's review of the State's program evaluation confirms that the appropriate amount of program credit was claimed by the State and achieved with the program during the interim period,

(3) Final program regulations are submitted to EPA, and

(4) The State's I/M program meets all of the requirements of EPA's I/M rule, including those de minimus deficiencies identified in Section III(b) above as minor for purposes of interim approval.

The State will be required to meet all conditions of this approval. In addition, the emission credits obtained will be evaluated for their adequacy for attainment, maintenance and other requirements of the CAA.

VII. Administrative Requirements

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual 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. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA

submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 July 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule to conditionally approve the New Jersey I/M SIP, on an interim basis, 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) of the Administrative Procedures Act).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 28, 1997.

William J. Muszynski,

Deputy Regional Administrator, Region II.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart FF—New Jersey

2. Section 52.1580 is added to read as follows:

§ 52.1580 Conditional approval.

(a) The State of New Jersey's March 27, 1996 submittal for an enhanced motor vehicle inspection and maintenance (I/M) program, as amended on November 27, 1996 and April 22, 1997, is conditionally approved based on certain contingencies, for an interim period to last 18 months. If New Jersey fails to start its program by November 15, 1997, the interim approval granted under the provisions of the NHSDA, which EPA believes allows the State to take full credit in its 15 percent plan for all of the emission reduction credits in its proposal, will convert to a disapproval after a finding letter is sent to the State by EPA. If the State fails to submit to EPA the final modeling demonstrating that its program will meet the relevant enhanced I/M performance standard by February 1, 1998, the conditional approval will automatically convert to a disapproval as explained under Section 110(k) of the Clean Air Act.

(b) In addition to the above condition, the State must correct eight minor, or de minimus, deficiencies related to the CAA requirements for enhanced I/M. The minor deficiencies are listed in EPA's conditional interim final rulemaking on New Jersey's motor vehicle inspection and maintenance program published on May 14, 1997. Although satisfaction of these deficiencies does not affect the conditional interim approval status of the State's rulemaking, these deficiencies must be corrected in the final I/M SIP revision to be submitted at the end of the 18-month interim period.

(c) EPA is also approving this SIP revision under Section 110(k), for its strengthening effect on the plan.

[FR Doc. 97–12628 Filed 5–13–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 021–1021; FRL–5817–5]

Approval and Promulgation of Implementation Plans and State Operating Permit Programs; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is fully approving the operating permit program submitted by the state of Missouri for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and certain other sources.

The EPA is also approving a revision to the Missouri State Implementation Plan (SIP) which updates references and modifies the Missouri intermediate operating permit program. SIP approval of revised state rules ensures that the SIP is current and permits Federal enforceability of the state rules.

DATES: This rule is effective on June 13, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joshua Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Part 70 Program

The Clean Air Act (Act) and its implementing regulations at 40 CFR Part 70 require that states develop and submit operating permit programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving a complete submittal. The EPA reviews state programs pursuant to section 502 of the Act and the Part 70 regulations, which together outline the criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of 40 CFR Part 70, the EPA may grant the program interim approval for a period of up to two years. If a state does not have an approved program within two years of interim approval, the EPA must establish and implement a Federal operating permits program for that state.

The EPA published a notice of interim approval of the Missouri operating permit program on April 11, 1996. The revisions required by the EPA for full approval of the state's program were discussed fully in that notice and accompanying technical support document. Missouri made the required revisions to its program and submitted that information, along with a request for full approval, to the EPA on August 6, 1996. Consequently, on December 3, 1996, the EPA published a notice proposing full approval. This notice explained the EPA's rationale for finding that Missouri had corrected the deficiencies that were the basis for the interim approval.

B. Section 112(g) and Section 112(l) Programs

In the April 11, 1996, interim approval notice, the EPA approved the state's preconstruction review program for the purpose of implementing the 112(g) requirements. This approval remains in effect. The EPA issued a final 112(g) rule on December 27, 1996. The state has 18 months from the effective date of the rule to adopt an equivalent program.