announced by the Responsible Official shall be implemented. If an appeal decision results in a change in the shares, the revised total share of the Small Business Timber Sale Set-Aside Program shall be accomplished during the remaining portion of the five-year period.

(l) *Timber sale set-aside policy changes.* Timber purchasers shall receive an opportunity, in accordance with all applicable laws and regulations, to review and comment on significant changes in the Small Business Timber Sale Set-Aside program or policy prior to adoption and implementation.

Dated: March 17, 1997.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 97–7274 Filed 3–21–97; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5702–5]

Clean Air Act Final Interim Approval of Operating Permits Program; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the State of Connecticut for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: April 23, 1997.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, CAP, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203–2211, (617) 565–4298.

SUPPLEMENTARY INFORMATION:

I. Background

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the Act'')), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the Part 70 regulations, which together outline 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. If EPA has not fully approved a program by the end of an interim program, it must establish and implement a Federal program.

On December 6, 1996, EPA proposed interim approval of the operating permits program for the State of Connecticut. See 61 FR 64651. The EPA received comments from the Society of the Plastics Industry, Inc. on the proposal. In this document, EPA is taking final action to promulgate interim approval of the operating permits program for the State of Connecticut.

II. Response to Comments

The comments received on EPA's December 6, 1996 proposal to grant interim approval to the Connecticut Program and EPA's response to those comments are as follows:

Comment No. 1: Permit fees for the Connecticut program should be no higher than the amount specified by the Clean Air Act.

Response: The amount in the Act of $25 per ton of emissions on an annual basis, adjusted by the consumer price index, was never intended to be the ceiling on the money a State could collect to operate a title V program. Instead, the Act is clear that a State is required to charge sufficient fees to cover the costs of implementing a title V program. Connecticut has analyzed its needs to fully implement a title V program and has concluded that it would need 3.6 million dollars per year. EPA has determined that this amount meets the requirements of 40 CFR 70.9 regarding the permit fees and disagrees that the State may be collecting excess fees. More importantly, EPA has no authority to require Connecticut to limit its fees to the $25 per ton of emissions.

Comment No. 2: Commenter disagreed with EPA's position to require Connecticut to amend its rule in order to allow EPA to object to a permit at any time after receiving a citizen's petition that requests EPA to veto a permit.

Response: In interim approval condition No. 4, EPA is requiring Connecticut to remove the 45 day limit the State regulations attempt to impose on EPA's ability to object to a permit following receipt of a citizen petition. Section 505(b)(2) of the Act imposes a 60 day deadline on EPA to act on a citizen petition, but it does not disable EPA from objecting to a permit or moving to reopen the permit if EPA should miss the 60 day deadline when responding to a meritorious citizen petition. Section 505(e) of the Act and 40 CFR 70.7(g) make it clear that EPA can initiate the process to modify or revoke and reissue a permit at any time if the permit is inconsistent with the applicable requirements of the Act. Therefore, Connecticut has no authority to impose a 45 day limit on EPA's opportunity to respond to a citizen petition.

Comment No. 3: Connecticut should be allowed to extend the permit shield to Administrative Amendments, especially because administrative amendments have no environmental impact.

Response: Part 70 limits a permit shield to only those permit modifications that receive full EPA, affected states, and public review. Connecticut's administrative amendments do not receive any EPA, affected state, or public review. Therefore, EPA disagrees with the commenter and still requires Connecticut to remove the permit shield from administrative amendments.

While it is true that properly executed administrative amendments should have no environmental impact, this is not a justification for extending the permit shield to such changes. Indeed, the shield is probably irrelevant to the vast majority of administrative amendments because, by definition, they will not effect how the facility demonstrates compliance with the Act (except perhaps to enhance the compliance demonstration through more frequent reporting). Moreover, if a permit change that does effect compliance terms in the permit is mistakenly made using an administrative amendment, Connecticut's rule should not create the risk that this change will shield a facility from direct enforcement of the Act.

Comment No. 4: Title V should only apply to major sources and Connecticut should remove its requirement that non-major sources obtain a title V permit within five years of the implementation date.

Response: At this time, EPA has deferred its decision on whether non-major sources will have to obtain title V permits. 40 CFR 70.3(b) allows

Connecticut the discretion of either following EPA's deferral or requiring that non-major sources obtain a title V permit. So if Connecticut does choose to require non-major sources to obtain a title V permit, EPA would have no basis for objecting to a state program that is more comprehensive than required by federal law.

The commenter appears to have misunderstood EPA's interim approval condition on this point. The issue with Connecticut's rule is not that the State requires minor sources to obtain a title V permit, rather it is the failure of Connecticut's rule to require that non-major sources come into the program when EPA determines that non-majors must get title V permits. The State defers minor sources for five years from the effective date of Connecticut's rule unless the Commissioner notifies a source of an earlier date. The State's rule is not consistent with 40 CFR 70.3(b) because it does not require the State to issue title V permits to non-major sources if the Administrator decides to include non-major sources in the title V program; instead the rule leaves it to the discretion of the Commissioner to bring non-majors into the program prior to expiration of the five year deferral. Connecticut must amend its rule to be consistent with part 70.

Comment No. 5: Connecticut should streamline its permit modification procedures.

Response: EPA agrees with the commenter that Connecticut's program needs a streamlined permit modification process and has stated as much in 61 FR 64651, Proposed Action, section II.B.25. The commenter suggests Connecticut should use the process outlined in EPA's August 31, 1995 proposed changes to part 70. Connecticut should base any new permit modification procedures on final EPA regulations, not a proposal.

III. Final Action

The EPA is promulgating interim approval of the operating permits program submitted by the State of Connecticut on September 28, 1995. The State must make the changes specified in the proposed rulemaking, under II.B., Proposed Action, in order to be granted full approval. See 61 FR 64651–64658 (December 6, 1996) for a complete discussion of those conditions. In brief, the State must: (1) Require sources to explain exemptions from applicable rules. (2) Require applicants to state they will comply with future requirements that become effective during the permit term. (3) Require that compliance schedules must be as least as stringent as any judicial consent decree or administrative order. (4) Remove time limitation on the Administrator responding to a citizen petition. (5) Insert a permit condition requiring that permit fees be paid on an annual basis. (6) Require a source to submit additional or corrected information whenever that source becomes aware that the original application was either incorrect or incomplete. (7) Make available a statement of legal and factual basis for each permit and insert in the permit the origin and authority for permit terms. (8) Clarify reporting requirements for permit deviations and affirmative defense. (9) Change the definition of ''technology-based emission limitations'' to be consistent with part 70. (10) Adequately address ''Section 502(b)(10) changes.'' (11) Clarify that EPA does not derive its hearing authority from State law. (12) Complete all elements of the definition for ''applicable requirements.'' (13) Clarify that all emission units have to be addressed in a title V permit. (14) Remove the permit shield from administrative amendments. (15) Allow EPA 45 days to review a tentative determination no matter when the State makes changes to a tentative determination. (16) Delete the ''cut-off'' date in the definition for ''Code of Federal Regulations.'' (17) Include all elements in the definition for ''regulated air pollutants.'' (18) Adopt regulations that implement section 112(g) of the Act. (19) Allow a permit to continue in effect if a complete renewal application had been filed. (20) Require non-major sources to obtain a title V permit if required by the Administrator. (21) Require that an applicant cannot omit any information needed to determine the applicability of, or to impose, any applicable requirement. (22) Clarify that EPA derives its reopening authority from the Act, not from State regulations. (23) State that a source that fails to comply with a general permit is operating without a title V permit. (24) Require minor new source review actions to be processed in a manner at least equivalent to 40 CFR 70.7(e)(2). (25) Provide adequate, streamlined, and reasonable procedures for expeditiously processing permit modifications. (26) Align the time frames between the due date for renewal applications and when the State can process those applications to ensure that the applications are acted upon prior to the permit expiring. (27) Clarify who is the responsible party when a source's ownership is transferred. (28) Require all permits to address periodic monitoring. (29) Revise the definition of responsible official to be consistent with part 70.

The scope of the State of Connecticut's part 70 program approved in this document applies to all part 70 sources (as defined in the approved program) within the State of Connecticut, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval extends until April 26, 1999. During this interim approval period, the State of Connecticut is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in the State of Connecticut. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If the State of Connecticut fails to submit a complete corrective program for full approval by October 26, 1998 EPA will start an 18-month clock for mandatory sanctions. If the State of Connecticut then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the State of Connecticut has corrected the deficiency by submitting a complete corrective program. If, six months after application of the first sanction, the State of Connecticut still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves the State of Connecticut's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State of Connecticut has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. If, six months after EPA

applies the first sanction, the State of Connecticut has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the State of Connecticut has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the State of Connecticut program by the expiration of this interim approval, since the expiration would occur after November 15, 1995, EPA would be required to promulgate, administer and enforce a Federal permits program for the State of Connecticut upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under Part 70. However, at this time Connecticut does not have the authority to include most of the section 112 standards in title V permits or in state-only permits, including sections 112 (g) and (j). The lack of authority is due to the effect the definition of ''code of federal regulations'' has on the definition of ''applicable requirements.'' Given the State's current rule, Connecticut is unable to write any permit conditions that incorporate section 112 standards promulgated after September 16, 1994. See 61 FR 64651, Proposed Action, section II.B.16 (December 6, 1996), for further detail. Therefore, EPA is not promulgating approval of the State's program under section 112(l)(5) and 40 CFR 63.91 for receiving delegation of section 112 standards at this time.

In addition, Connecticut's current new source review (NSR) program is unable to fully address section 112(g) requirements. One of the main reasons for the State's lack of authority is due to the requirement that a NSR permit is only needed for new or modified sources that have a net emission increase of a single pollutant greater than 15 tons per year. Section 112(g) can be triggered for new sources that emit 10 tons per year of a single hazardous air pollutant or 25 tons per year of total hazardous air pollutants.

IV. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final interim approval, including comments received by the State of Connecticut and reviewed by EPA on the proposal, are contained in the docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. 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 May 23, 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

C. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an Agency to conduct a regulatory flexibility analyses of any rule subject to notice and comment rulemaking requirements unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements. I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates

Under sections 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 the 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Additionally, it will not cost $100 million to operate or comply with this program.

F. 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).

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: February 20, 1997.

John P. DeVillars,

Regional Administrator, Region I.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for Part 70 continues to read as follows:

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

2. Appendix A to Part 70 is amended by adding the entry for Connecticut in alphabetical order to read as follows:

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

* * * * *

Connecticut

(a) *Department of Environmental Protection:* submitted on September 28, 1995; interim approval effective on April 23, 1997; interim approval expires April 26, 1999.

(b) [Reserved]

* * * * *

[FR Doc. 97–7349 Filed 3–21–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 136

Guidelines Establishing Test Procedures for the Analysis of Pollutants

CFR Correction

In title 40 of the Code of Federal Regulations, parts 136 to 149, revised as of July 1, 1996, on page 26 § 136.3 (e), table II, under metals, the third entry should read as follows:

TABLE II—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter No./name	Container [1]	Preservation [2,3]	Maximum holding time [4]
* * * * *	*	*	*
Metals:[7]			
* * * * *	*	*	*
3, 5–8, 12, 13, 19, 20, 22, 26, 29, 30, 32–34, 36, 37, 45, 47, 51, 52, 58–60, 62, 63, 70–72, 74, 75. Metals, except boron, chromium VI and mercury.	P, G	.....do	6 months.
* * * * *	*	*	*

BILLING CODE 1505-01-D

40 CFR Part 180, 185 and 186

[OPP–300465; FRL–5597–7]

RIN No. 2070–AB78

Avermectin B_1 and Its Delta-8,9-Isomer; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document establishes time-limited tolerances for residues of the insecticide avermectin and its delta-8,9-isomers in or on the following raw agricultural commodities: cottonseed, citrus, dried hops, potatoes, meat and meat byproducts, milk and processed food/feed commodities. Merck Co., Inc. submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act as amended by the Food Quality Protection Act of 1996 requesting the tolerances.

DATES: This regulation becomes effective March 24, 1997. The entries in the table expire on September 1, 1999. Objections and requests for hearings must be received by May 23, 1997.

ADDRESSES: Written objections and hearing requests identified by the docket control number [OPP–300465/PP 7F3500; 8F3592; 5F4508; 4E4419 and FAP 8H5660], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St. SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm 1132, CM#2, 1921 Jefferson-Davis Hwy, Arlington, VA. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP(Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300465/PP 7F3500; 8F3592; 5F4508; 4E4419 and FAP 8H5660]]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St, SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 204, CM #2, 1921 Jefferson-Davis Hwy, Arlington, VA 22202, (703) 305–6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** dated May 8, 1996 (61 FR 20745), EPA proposed to renew time-limited tolerances for the insecticide avermectin and its delta-8,9-isomer (avermectin) in or on cottonseed at 0.005 parts per million (ppm); citrus, whole fruit, at 0.02 ppm; citrus oil, at 0.1 ppm; citrus dried pulp, at 0.1 ppm; cattle, meat, at 0.02 ppm; cattle, meat byproducts, at 0.02 ppm; cattle, fat, at 0.015 ppm; milk, at 0.005 ppm; and hops, dried, at 0.5 ppm. These tolerances were originally established in response to pesticide petitions 7F3500, 8F3592, 4E4419, and food additive petition 8H5550 and have since expired. They were time-limited due to aquatic pesticide exposure issues. The Agency was unable to publish a final rule prior to the enactment of Food Quality Protection Act of 1996. Because of new procedures under FQPA, Merck was required to submit a new notice of filing requesting reissuance of these tolerances in compliance with FQPA.

In the **Federal Register** dated December 10, 1996 (61 FR 65043), EPA issued a notice of filing which announced that Merck had filed a request to amend 40 CFR 180.449 by