not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see section I. of this document), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA)(Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This minor action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United Stats prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Air pollution control, Intergovernmental relations.

Authority: This notice is issued under the authority of sections 101, 110, 112, and 301 of the CAA, as amended (42 U.S.C. 7401, 7410, 7412, and 7601).

Dated: September 21, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–24599 Filed 10–1–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[DE001–1001; FRL–7056–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Delaware; Department of Natural Resources and Environmental Control

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the Delaware Department of Natural Resources and Environmental Control's (DNREC's) request to implement and enforce its hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, and industrial process cooling towers in place of similar Federal requirements set forth in the Code of Federal Regulations. This approval includes granting authority to DNREC to implement and enforce any future amendments to these provisions and standards that EPA promulgates and DNREC adopts unchanged into its regulations. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both DNREC and EPA. EPA is taking this action in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective December 3, 2001 unless EPA receives adverse or critical comments by November 1, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 3, 2001.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029 and Robert Taggart, Delaware Department of Natural Resources and Environmental Control, Division of Air and Waste Management, 715 Grantham Lane, New Castle, DE 19720. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Delaware Department of Natural Resources & Environmental Control, Division of Air and Waste Management, 715 Grantham Lane, New Castle, DE 19720.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297).

SUPPLEMENTARY INFORMATION:

I. Background

The Environmental Protection Agency (EPA) promulgated the General Provisions for the National Emission Standards for Hazardous Air Pollutants (NESHAPs) on March 16, 1994 (59 FR 12430) and subsequently amended these regulations on April 22, 1994 (59 FR 19453), December 6, 1994 (59 FR 62589), January 25, 1995 (60 FR 4963), June 27, 1995 (60 FR 33122), September 1, 1995 (60 FR 45980), May 21, 1996 (61 FR 25399), December 17, 1996 (61 FR

66227), December 10, 1997 (62 FR 65024), May 4, 1998 (63 FR 24444), May 13, 1998 (63 FR 26465), September 21, 1998 (63 FR 50326), October 7, 1998 (63 FR 53996), December 1, 1998 (63 FR 66061), January 28, 1999 (64 FR 4300), February 12, 1999 (64 FR 7467), April 12, 1999 (64 FR 17562) and June 10, 1999 (64 FR 31375).

The General Provisions, located in 40 CFR part 63, subpart A, codify general procedures and criteria to implement the emission standards located in 40 CFR part 63 for sources of hazardous air pollutants. The amendments made by EPA after September 21, 1998 were not codified into the July 1, 1998 version of 40 CFR part 63, subpart A which DNREC used in developing its regulation (see section II. and III. of this rulemaking). These amendments include the incorporation by reference of test methods and other material cited in the pharmaceuticals production emission standard (40 CFR part 63, subpart GGG), the flexible polyurethane foam production emission standard (40 CFR part 63, subpart III), the phosphoric acid manufacturing and phosphate fertilizers production plant emission standards (40 CFR part 63, subparts AA and BB) and the pulp and paper industry emission standard (40 CFR part 63, subpart S), as well as information related to the approval of California's drycleaner regulation and the delegation of emission standards to the State of Washington. These amendments also include changes to 40 CFR 63.8 through 63.10 to allow for reduced monitoring, notification, recordkeeping and reporting requirements for owners or operators using continuous emission monitoring systems (CEMS).

EPA promulgated the NESHAP for perchloroethylene dry cleaning facilities on September 22, 1993 (58 FR 49354) and subsequently amended this regulation on June 3, 1996 (61 FR 27785), May 21, 1996 (61 FR 25397) and December 14, 1999 (64 FR 69637). This regulation is located in 40 CFR part 63, subpart M.

EPA promulgated the NESHAP for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks on January 25, 1995 (60 FR 4948) and subsequently amended this regulation on June 27, 1995 (60 FR 33122), June 3, 1996 (61 FR 27785), August 11, 1997 (62 FR 42918), and December 14, 1999 (64 FR 69637). This regulation is located in 40 CFR part 63, subpart N.

EPA promulgated the NESHAP for industrial cooling towers on September 8, 1994 (59 FR 46339). This regulation is located in 40 CFR part 63, subpart Q.

Section 112(l) of the CAA and 40 CFR 63.91 and 63.92 authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the NESHAP requirements in 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) A demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) A schedule demonstrating expeditious implementation of the regulation; and

(c) A plan that assures expeditious compliance by all sources subject to the regulation.

On March 6, 2000, DNREC requested EPA's approval of its hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, and industrial process cooling towers to be implemented and enforced in place of 40 CFR part 63, subparts A, M, N and Q, respectively. On September 22, 2000, DNREC provided supplemental information for its request.

II. DNREC's Regulations

A. Hazardous Air Pollutant General Provisions

In 1998, DNREC adopted, with changes, the provisions of §§ 63.1 through 63.15 of 40 CFR part 63, subpart A, dated July 1, 1997. The DNREC's rule was established as subpart A in Regulation No. 38 of the State of Delaware's "Regulations Governing the Control of Air Pollution." Regulation No. 38 is entitled "Emission Standards for Hazardous Air Pollutants for Source Categories." In 1999, DNREC amended this regulation to conform to several amendments that EPA made to §§ 63.11 and 63.14 of its regulation and codified in 40 CFR part 63, subpart A, dated July 1, 1998. The DNREC's regulation became effective on September 11, 1999. In summary, DNREC made the following changes from the Federal regulation:

(1) Added a definition for "Department," meaning "the Department of Natural Resources and Environmental Control, as defined in Title 29, Delaware Code, Chapter 80, as amended";

(2) Redefined "permitting authority" to mean "Department";

(3) Removed the reference to the State in the definition of "Administrator";

(4) Replaced the terms "Administrator," "Administrator or by a State with an approved permit program," "Administrator (or a State with an approved permit program)," "Administrator (or the State with an approved permit program)," "Administrator (or a State)" and "Administrator (or the State)" with "Department" or "Administrator or Department," where appropriate;

(5) Replaced references to the Federal title V permit program and approval dates with Delaware's title V state operating permit program under Regulation 30 of the State of Delaware "Regulations Governing the Control of Air Pollution" and its interim approval date, January 3, 1996;

(6) Replaced Federal language with language more appropriate for a State rule by including references to DNREC's permit programs under Regulation 2, 25, and 30, removing references to "in all States," "in that State" and "a State" throughout the text, and defining "Act" as the Federal Clean Air Act, dated November 15, 1990;

(7) Modified the Federal language to require that the owner or operator refrain from conducting a performance test or a performance evaluation which uses an alternative test method or alternative monitoring method, approved by the Administrator, until after the Department has approved of the site-specific test plan or performance evaluation plan;

(8) Modified the Federal language to allow an extension of up to 60 calendar days after approval of the site-specific test plan or performance evaluation plan to conduct the performance test or performance evaluation if the site-specific test plan or performance evaluation plan is not approved by the Department within 30 days before the test or evaluation is scheduled to begin;

(9) Modified the Federal language to state that the Administrator's determination of an adequate validation of an alternative test method will occur upon approval of the use of the alternative test method;

(10) Required copies of requests for alternative monitoring methods, petitions for relative accuracy test substitutions, petitions for adjustments to opacity emission standards, and proposed test plans or results of testing or monitoring required for approval of alternative nonopacity emission standards to be submitted to both the Administrator and the Department;

(11) Modified the Federal language to note that owners or operators subject to this regulation may also be required to not only obtain a permit, but also revise or amend such permit;

(12) Removed the sentence referencing sources subject to 40 CFR part 60 or part 61 in the definition of affected source;

(13) Included a reference to §§ 63.5(b)(3) in 63.5(b)(4);

(14) Included references to DNREC's enforcement authority under 7 Del. C., Chapter 60, DNREC's monitoring, recordkeeping and reporting authority under Regulation 17 of the State of Delaware ''Regulations Governing the Control of Air Pollutants,'' and DNREC's confidentiality authority under 7 Del. C., Chapter 60 and 29 Del. C. , Chapter 100, Section 10002(d), where appropriate;

(15) Modified the Federal language so that sources that intend to reconstruct an area source such that the source becomes a major affected source must obtain prior written approval and are subject to the same notification requirements as major sources intending to reconstruct; and

(16) Replaced the requirement to keep the record of an applicability determination for a period of 5 years to a period of the life of the source.

As stated in section I. of this rulemaking, DNREC's regulation was adopted prior to the changes that EPA made to its regulation on and after September 21, 1998. These changes, therefore, are not included in the Delaware regulation. These changes, described in section I. of this rulemaking, do not impact the stringency of DNREC's regulation and, thus, do not alter EPA's decision to approve of DNREC's rules (see EPA's analysis in section III. of this rulemaking).

B. DNREC's Hazardous Air Pollutant Emission Standard for Perchloroethylene Dry Cleaning Facilities

In 1999, DNREC adopted, with changes, the provisions of §§ 63.320 through 63.325 of 40 CFR part 63, subpart M. The DNREC's rule was established as subpart M in Regulation No. 38 of the State of Delaware's ''Regulations Governing the Control of Air Pollution.'' Regulation No. 38 is entitled ''Emission Standards for Hazardous Air Pollutants for Source Categories.'' In 2000, DNREC amended this regulation to conform with an amendment that EPA made to § 63.320 of its regulation. The DNREC's amended regulation became effective on October 11, 2000. In summary, DNREC made the following changes from the Federal regulation:

(1) Added a definition for ''Department,'' meaning ''the Department of Natural Resources and Environmental Control, as defined in Title 29, Delaware Code, Chapter 80, as amended'';

(2) Removed the reference to the State in the definition of ''Administrator'';

(3) Replaced the terms ''Administrator,'' ''applicable title V permitting authority,'' and ''Administrator or delegated State authority'' with ''Department,'' where appropriate;

(4) Replaced references to the Federal title V permit program with Delaware's title V state operating permit program under Regulation 30 of the State of Delaware ''Regulations Governing the Control of Air Pollution'';

(5) Replaced the Federal regulation's compliance dates with the original effective date of the state regulation, June 30, 1999;

(6) Specified the date of the expiration of the title V permit deferral for area sources as December 9, 2004 and the date by which these sources must submit their title V permit applications as December 9, 2005;

(7) Required copies of requests for use of equivalent emission control technology to be submitted to both the Administrator and the Department;

(8) Removed redundant references in the applicability section of the rule, 40 CFR 63.320(c);

(9) Added work practice (pollution prevention), notification, recordkeeping and reporting requirements for coin-operated dry cleaning machines;

(10) Added title V permitting requirements for coin-operated drycleaning machines located at an affected major source;

(11) Added requirements for dry cleaning facilities that have existing dry-to-dry machines only or both existing dry-to-dry machines and transfer machines and that consume less than 530 liters (140 gallons) of perchloroethylene per year to repair leaks within 24 hours of discovery;

(12) Added requirements for dry cleaning facilities that have transfer machines only and that consume less than 760 liters (200 gallons) of perchloroethylene per year to repair leaks within 24 hours of discovery;

(13) Added requirements for sources using carbon adsorbers on room enclosures to measure the perchloroethylene concentration in the exhaust at least weekly;

(14) Redefined ''diverter valve'' to mean both a ''flow control device'' and ''flow control devices'';

(15) Added requirements for dry cleaning facilities that have existing dry-to-dry machines only or both existing dry-to-dry machines and transfer machines to notify the Department if the perchloroethylene consumption meets or exceeds 530 liters (140 gallons) in any 12 month period;

(16) Added requirements for dry cleaning facilities that have transfer machines only to notify to notify the Department if the perchloroethylene consumption meets or exceeds 760 liters (200 gallons) in any 12 month period; and

(17) Added a review procedure for the Department to follow in the event that any dry cleaning facility exceeds its annual perchloroethylene consumption rates, as established in the applicability section of the regulation, potentially requiring that facility to adhere to more stringent control requirements.

C. DNREC's Hazardous Air Pollutant Emission Standards for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

In 1999, DNREC adopted, with changes, the provisions of §§ 63.340 through 63.347 of 40 CFR part 63, subpart N. The DNREC's rule was established as subpart N in Regulation No. 38 of the State of Delaware's ''Regulations Governing the Control of Air Pollution.'' Regulation No. 38 is entitled ''Emission Standards for Hazardous Air Pollutants for Source Categories.'' In 2000, DNREC amended this regulation to conform with an amendment that EPA made to 40 CFR 63.340 of its regulation. The DNREC's amended regulation became effective on October 11, 2000. In summary, DNREC made the following changes from the Federal regulation:

(1) Replaced the terms ''Administrator'' and ''applicable title V permitting authority'' with ''Department,'' where appropriate;

(2) Replaced references to the Federal title V permit program with Delaware's title V state operating permit program under Regulation 30 of the State of Delaware ''Regulations Governing the Control of Air Pollution'' and its minor new source construction and modification permitting program under Regulation 2 of the State of Delaware ''Regulations Governing the Control of Air Pollution,'' where appropriate;

(3) Replaced the Federal regulation's compliance dates with the original effective date of the state regulation, September 11, 1999 and remove irrelevant or expired compliance dates, where appropriate;

(4) Specified the date of the expiration of the title V permit deferral for area

sources as December 9, 2004 and the date by which these sources must submit their title V permit application as December 9, 2005;

(5) Changed the term ''part'' in the Federal rule to ''regulation'' when referring to subpart A (General Provisions) of 40 CFR part 63;

(6) Changed ''Table 1 to Sec. 63.432'' to ''Table 342–1 to Sec. 63.342'' and changed ''Table 1 to subpart N of part 63'' to ''Table 1 of subpart N of Regulation 38'';

(7) Removed references to operations in California;

(8) Required copies of proposed work practice standards, alternative air pollution device descriptions, notifications of compliance status and performance test results to be submitted to both the Administrator and the Department;

(9) Removed irrelevant language pertaining to compliance extension requests in both the text of the rule and Table 342–1, which refers to applicable sections of the General Provisions;

(10) Referenced the test methods of 40 CFR part 63, appendix A, where appropriate;

(11) Clarified language to require an owner or operator of an area source who constructs or reconstructs a new source to submit a notification to the Department and for an owner or operator of a major source who constructs or reconstructs a new source to submit an application for approval of construction or reconstruction to the Department and, if appropriate, an application under Delaware's Regulation 2; and

(12) Added minor clarifying language and corrected typographical errors, where appropriate.

D. DNREC's Hazardous Air Pollutant Emission Standards for Industrial Process Cooling Towers

In 1999, DNREC adopted, with changes, the provisions of §§ 63.400 through 63.406 of 40 CFR part 63, subpart Q. The DNREC's rule was established as subpart Q in Regulation No. 38 of the State of Delaware's ''Regulations Governing the Control of Air Pollution.'' Regulation No. 38 is entitled ''Emission Standards for Hazardous Air Pollutants for Source Categories.'' The DNREC's regulation became effective on May 11, 1998. In summary, DNREC made the following changes from the Federal regulation:

(1) Replaced the term ''Administrator'' with ''Department'' and removed references to ''delegated authority,'' where appropriate;

(2) Replaced references to the Federal title V permit program with Delaware's title V state operating permit program under Regulation 30 of the State of Delaware ''Regulations Governing the Control of Air Pollution';

(3) Replaced the Federal regulation's compliance dates with the original effective date of the state regulation, May 11, 1998; and

(4) Included references to DNREC's analysis and data collection authority under Regulation 17 of the State of Delaware ''Regulations Governing the Control of Air Pollutants.''

III. EPA's Analysis of DNREC's Submittal and Regulations

Based upon DNREC's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that DNREC has satisfied the criteria of 40 CFR 63.91 and 63.92. In accordance with 40 CFR 63.91(d)(3)(i), DNREC submitted a written finding by the State Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), DNREC submitted copies of its statutes, regulations and requirements that grant DNREC the authority to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), DNREC submitted documentation of adequate resources and a schedule and plan to assure expeditious State implementation and compliance by all sources. In accordance with 40 CFR 63.92(b)(1), DNREC submitted a demonstration of adequate public notice and opportunity to submit written comments on its regulations. The requirements of 40 CFR 63.92(b)(2)–(3), requiring a demonstration of regulations no less stringent than the Federal regulations, are described in detail in sections III.(A)–(D), below. Therefore, the DNREC program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts A, M, N and Q. The DNREC has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Delaware, including on-site inspections, record keeping reviews, and enforcement.

A. Hazardous Air Pollutant General Provisions

EPA has determined that subpart A in Regulation No. 38 of the State of Delaware's ''Regulations Governing the Control of Air Pollution'' is more stringent than the General Provisions in 40 CFR part 63, subpart A and, therefore, can be approved as equivalent to the Federal regulation in accordance with the rule substitution provisions of 40 CFR 63.91 and 63.92. The DNREC's regulation incorporates most of EPA's regulation with some changes. Most of these changes meet the definition of ''minor editorial, formatting, and other nonsubstantive changes,'' as described in 40 CFR 63.92(b)(3)(ix). These nonsubstantive changes include:

(1) Adding or modifying the definitions of ''Department,'' ''permitting authority,'' ''Act,'' ''Administrator'' and ''affected source'';

(2) Replacing references to ''Administrator'' with ''Department'';

(3) Replacing references to the title V program with references to Delaware's Regulation 30;

(4) Eliminating references to applicability of the regulation in other states;

(5) Including references to Delaware's Regulation 2, 25, and 30, which are the regulations governing permitting of sources in Delaware, where appropriate;

(6) Removing the general references to ''States'' in the Federal regulation;

(7) Providing clarification that the application for approval of construction or reconstruction can be used to fulfill the notification requirements for all facilities which are constructing a new major source or reconstructing any source;

(8) Including references to DNREC's enforcement, monitoring, recordkeeping and reporting and confidentiality authority under the relevant State statutes and regulations;

(9) Clarifying that owners or operators refrain from conducting a performance test or evaluation which uses an alternative test or monitoring method until after the Department has approved of the site-specific test or performance evaluation plan;

(10) Modifying the Federal language to state that the Administrator's determination of an adequate validation of an alternative test method will occur upon approval of the use of the alternative test method; and

(11) Allowing an extension of up to 60 days after the approval of a site-specific test or performance evaluation plan to conduct the performance test or evaluation if the plan is not approved by the Department within 30 days before the test is scheduled to begin.

None of these changes decrease the stringency of the regulation when compared to the Federal regulation. These changes improve the clarity of the regulation by either adding terms or references, redefining terms, eliminating unnecessary references or slightly modifying procedures. For example, in the Federal regulation, a performance test or evaluation which uses an alternative test or monitoring method cannot be conducted until after the site-specific test or performance evaluation plan (which includes the approval of the alternative test method) is deemed acceptable by the Administrator. Because major alternative test and monitoring methods can only be approved by the EPA Administrator, per 40 CFR 63.91(g)(2), DNREC, in its regulation, separated the approval of the alternative test or monitoring method and the approval of the site-specific test or evaluation plan into two distinct procedures. Therefore, once the alternative test or monitoring method is approved by either EPA, in the case of major alternatives, or the Department, in the case of minor or intermediate alternatives, the site-specific test or performance evaluation plan can be subsequently approved by the Department. These changes clarify the intent of the regulation but do not decrease the stringency.

The DNREC regulation includes changes from the Federal regulation which meet the definition of adjustments by ''increasing the frequency of required reporting, testing, sampling or monitoring,'' as described in 40 CFR 63.92(b)(3)(iv). These changes include:

(1) Requiring that copies of requests for alternative monitoring methods, petitions for relative accuracy test substitutions, petitions for adjustments to opacity emission standards and proposed test plans or results of testing or monitoring required for approval of alternative nonopacity emission standards be submitted to both the Administrator and the Department;

(2) Noting that owners and operators may be required to not only obtain a permit but to also revise or amend such permit;

(3) Requiring that the record of an applicability determination be retained for the life of the source; and

(4) Requiring that reconstructed area sources obtain prior written approval and be subject to the same notification requirements as major sources intending to reconstruct.

These changes are clearly more stringent than the Federal regulation. The Federal regulation requires that copies of certain requests, petitions and plans be submitted only to EPA. The DNREC's regulation requires the submission of these documents to both EPA and DNREC. The Federal regulation notes that owner or operators may need to obtain a permit, while DNREC's regulation notes that owners or operators may need to obtain, revise or amend a permit. The Federal regulation requires that a record of applicability determination be retained for 5 years while DNREC's regulation requires that this record be retained for the life of the source. The Federal regulation requires that major sources which reconstruct obtain prior written approval while DNREC's regulation requires that both major and area sources which reconstruct obtain prior written approval.

As stated earlier, DNREC's regulation does not include all of the modifications that EPA made to its regulation since July 1, 1998. These changes, described in section III. of this rulemaking, do not impact the stringency of DNREC's regulation and, thus, do not alter EPA's decision to approve of DNREC's rules. Most of these changes are not relevant to this rulemaking because they involve the incorporation of test methods and other material which are pertinent to emission standards and program approvals which are not addressed by this rulemaking. One amendment, however, allows for reduced monitoring, notification, recordkeeping and reporting requirements for owners or operators using continuous emission monitoring systems (CEMS). Because DNREC did not incorporate this change into its regulation, the DNREC regulation is clearly more stringent than the Federal regulation.

B. DNREC's Hazardous Air Pollutant Emission Standard for Perchloroethylene Dry Cleaning Facilities

EPA has determined that subpart M in Regulation No. 38 of the State of Delaware's ''Regulations Governing the Control of Air Pollution'' is more stringent than the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities in 40 CFR part 63, subpart M and, therefore, can be approved as equivalent to the Federal regulation in accordance with the rule substitution provisions of 40 CFR 63.91 and 63.92. The DNREC's regulation incorporates most of EPA's regulation with some changes. Most of these changes meet the definition of ''minor editorial, formatting, and other nonsubstantive changes,'' as described in 40 CFR 63.92(b)(3)(ix). These nonsubstantive changes include:

(1) Adding or modifying the definitions of ''Department,'' ''diverter valve'' and ''Administrator';

(2) Replacing references to ''Administrator,'' ''applicable title V permitting authority'' and ''Administrator or delegated authority'' with ''Department';

(3) Removing redundant references in the applicability section of the rule;

(4) Replacing references to the title V program with references to Delaware's Regulation 30;

(5) Replacing the Federal regulation's compliance date with the original effective date of the state regulation;

(6) Specifying the exact date of the title V permit deferral for area sources and the exact due date for permit applications for these sources; and

(7) Adding a review procedure for the Department to follow in the event that any dry cleaning facility exceeds the annual perchloroethylene consumption rates established in the rule.

None of these changes decrease the stringency of the regulation when compared to the Federal regulation. These changes improve the clarity of the regulation by either adding terms or references, redefining terms, eliminating unnecessary references or providing guidance on how the Department may address exceedances of the perchloroethylene limits established in the rule. The review procedure added in DNREC's regulation follows EPA's policy memo, entitled ''Guidance Concerning Implementation of National Emission Standards for Hazardous Air Pollutants for Perchloroethylene Dry Cleaning Facilities,'' dated May 20, 1996. The review procedure allows the Department to evaluate the cause of an exceedance of an annual perchloroethylene consumption rate before requiring more stringent control requirements. Because this review procedure does not exempt sources from more stringent control requirements if an exceedance occurs, but only outlines how the Department may evaluate these exceedances, this addition to the regulation is no less stringent than the Federal regulation.

The DNREC regulation includes changes from the Federal regulation which meet the definition of adjustments by ''increasing the frequency of required reporting, testing, sampling or monitoring,'' as described in 40 CFR 63.92(b)(3)(iv). These changes include:

(1) Requiring that copies of requests for use of an equivalent emission control technology be submitted to both the Administrator and the Department;

(2) Requiring that sources using carbon adsorbers on room enclosures

measure the perchloroethylene concentration in the exhaust at least weekly;

(3) Requiring drycleaning facilities that have only existing dry-to-dry machines or both existing dry-to-dry machines and transfer machines and that consume less than 530 liters of perchloroethylene per year to notify the Department if the perchloroethylene consumption meets or exceeds 530 liters in any 12 month period; and

(4) Requiring drycleaning facilities that have only transfer machines and that consume less than 760 liters of perchloroethylene per year to notify the Department if the perchloroethylene consumption meets or exceeds 760 liters in any 12 month period.

These changes are clearly more stringent than the Federal regulation. The Federal regulation requires copies of requests to use equivalent emission control technology only be submitted to EPA. The DNREC's regulation requires the submission of these documents to both the Administrator and DNREC. The Federal regulation does not require testing of the exhaust from room enclosure carbon adsorbers. The Federal regulation does not require notification of perchloroethylene consumption that exceeds the 530 and 760 liter limits.

The DNREC regulation includes changes from the Federal regulation which meet the definition of adjustments by ''subjecting additional emission points or sources to control requirements,'' as described in 40 CFR 62.92(b)(3)(vii). These changes include:

(1) Requiring coin-operated dry cleaning machines located at a major affected source to adhere to the same work practice, notification, recordkeeping and reporting requirements as small area sources with existing machines and subjecting these sources to title V permit requirements;

(2) Requiring drycleaning facilities that have only existing dry-to-dry machines or both existing dry-to-dry machines and transfer machines and that consume less than 530 liters of perchloroethylene per year to repair leaks within 24 hours of discovery; and

(3) Requiring drycleaning facilities that have only transfer machines and that consume less than 760 liters of perchloroethylene per year to repair leaks within 24 hours of discovery.

These changes are clearly more stringent than the Federal requirement. The Federal regulation exempts coin-operated dry cleaning machines from work practice, notification, recordkeeping, reporting and title V requirements. The Federal regulation does not require the aforementioned facilities to repair leaks within 24 hours of discovery.

C. DNREC's Hazardous Air Pollutant Emission Standards for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

EPA has determined that subpart N in Regulation No. 38 of the State of Delaware's ''Regulations Governing the Control of Air Pollution'' is more stringent than the National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks in 40 CFR part 63, subpart N and, therefore, can be approved as equivalent to the Federal regulation in accordance with the rule substitution provisions of 40 CFR 63.91 and 63.92. The DNREC's regulation incorporates most of EPA's regulation with some changes. Most of these changes meet the definition of ''minor editorial, formatting, and other nonsubstantive changes,'' as described in 40 CFR 63.92(b)(3)(ix). These nonsubstantive changes include:

(1) Replacing references to ''Administrator'' and ''applicable title V permitting authority'' with ''Department'';

(2) Replacing references to the title V program with references to Delaware's Regulation 30 and its minor new source construction and modification permitting program under Regulation 2 of the State of Delaware ''Regulations Governing the Control of Air Pollution,'' where appropriate;

(3) Replacing the Federal regulation's compliance date with the original effective date of the state regulation;

(4) Specifying the exact date of the title V permit deferral for area sources and the exact due date for permit applications for these sources;

(5) Removing references to operations in California;

(6) Removing irrelevant language pertaining to compliance extension requests;

(7) Referencing relevant test methods in 40 CFR part 63, appendix A; and

(8) Adding minor clarifying language and correcting typographical errors, where appropriate.

None of these changes decrease the stringency of the regulation when compared to the Federal regulation. These changes improve the clarity of the regulation by either adding terms or references, redefining terms, eliminating unnecessary references or correcting typographical errors. The DNREC removed the language related to compliance extension requests because sources can no longer apply for these extension, since the compliance date has already past.

The DNREC regulation includes changes from the Federal regulation which meet the definition of adjustments by ''increasing the frequency of required reporting, testing, sampling or monitoring,'' as described in 40 CFR 63.92(b)(3)(iv). These changes include:

(1) Requiring that copies of requests of proposed work practice standards, alternative air pollution device descriptions, notifications of compliance status and performance test results be submitted to both the Administrator and the Department; and

(2) Clarifying that an owner or operator of an area source who constructs or reconstructs a new source submit a notification to the Department and that an owner or operator of a major source who constructs or reconstructs a new source submit an application for approval of construction or reconstruction to the Department and, if appropriate, an application under Delaware's Regulation 2.

These changes are clearly more stringent than the Federal regulation. The Federal regulation requires that copies of requests and notifications only be submitted to the Administrator. The DNREC's regulation requires the submission of these documents to both the Administrator and DNREC. The Federal regulation does not clarify that construction and reconstruction notifications and applications be submitted to the delegated authority.

D. DNREC's Hazardous Air Pollutant Emission Standards for Industrial Process Cooling Towers

EPA has determined that subpart Q in Regulation No. 38 of the State of Delaware's ''Regulations Governing the Control of Air Pollution'' is more stringent than the National Emission Standards for Hazardous Air Pollutants for Industrial Cooling Towers in 40 CFR part 63, subpart Q and therefore, can be approved as equivalent to the Federal regulation in accordance with the rule substitution provisions of 40 CFR 63.91 and 63.92. The DNREC's regulation incorporates most of EPA's regulation with some changes. All of these changes meet the definition of ''minor editorial, formatting, and other nonsubstantive changes,'' as described in 40 CFR 63.92(b)(3)(ix). These nonsubstantive changes include:

(1) Replacing the term ''Administrator'' with ''Department'';

(2) Replacing references to the title V program with references to Delaware's Regulation 30;

(3) Replacing the Federal regulation's compliance date with the original effective date of the state regulation; and

(4) Including references to DNREC's analysis and data collection authority under Regulation 17 of the State of Delaware ''Regulations Governing the Control of Air Pollutants.''

None of these changes decrease the stringency of the regulation when compared to the Federal regulation. These changes improve the clarity of the regulation by either adding terms or references, redefining terms, or eliminating unnecessary references.

IV. Terms of Program Approval and Delegation of Authority

In order for DNREC to receive delegation of future amendments to the Federal hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, and industrial process cooling towers, each amendment must be legally adopted by the State of Delaware, with adequate opportunity for public participation and public comment, and DNREC must notify the Director, Air Protection Division, EPA Region III, that it has adopted additional amendments and that it intends to enforce the amendments in conformance with the terms of this program approval and delegation. EPA, upon its review and approval, in accordance with 40 CFR 63.91(e), will incorporate by reference the State of Delaware's revised regulations into 40 CFR 63.14 and amend 40 CFR 63.99, as appropriate.

The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to DNREC and EPA Region III.

If at any time there is a conflict between a DNREC regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of DNREC. EPA is responsible for determining stringency between conflicting regulations. If DNREC does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that DNREC's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) Approval of alternative non-opacity emission standards, e.g., 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) Approval of alternative opacity standards, e.g., 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) Approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) Approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, DNREC must notify EPA Region III in writing:

(1) Applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, e.g., 40 CFR 63.1 and applicable sections of relevant standards [1];

(2) Responsibility for determining compliance with operation and maintenance requirements, e.g., 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) Responsibility for determining compliance with non-opacity standards, e.g., 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) Responsibility for determining compliance with opacity and visible emission standards, e.g., 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) Approval of site-specific test plans,[2] *e.g.* 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) Approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) Approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) Approval of shorter sampling times/volumes when necessitated by process variables and other factors, *e.g.*, 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) Waiver of performance testing, *e.g.*, 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) Approval of site-specific performance evaluation (monitoring) plans,[3] *e.g.*, 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) Approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) Approval of adjustments to time periods for submitting reports, *e.g.*, 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.10(f) and applicable sections of relevant standards.

[1] Applicability determinations are considered to be nationally significant when they:

(i) Are unusally complex or controversial;

(ii) Have bearign on more than one state or are multi-Regional;

(iii) Appear to create a conflict with previous policy or determinations;

(iv) Are a legal issue which has not been previously considered; or

(v) Raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring*, dated February 1999. The DNREC may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[2] The DNREC will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

[3] The DNREC will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

As required, DNREC and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a DNREC interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of DNREC. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Delaware. The DNREC will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii).

Quarterly reports will be submitted to EPA by DNREC to identify sources determined to be applicable during that quarter.

Although DNREC has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, and industrial process cooling towers requirements, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

V. Final Action

EPA is approving DNREC's Regulation No. 38, subpart A, as amended, effective September 11, 1999, DNREC's Regulation No. 38, subpart M, as amended, effective October 11, 2000, DNREC's Regulation No. 38, subpart N, as amended, effective October 11, 2000 and DNREC's Regulation No. 38, subpart Q, effective April 4, 1998, as equivalent to the CAA section 112(d) requirements set forth in 40 CFR part 63, subparts A, M, N and Q, respectively, for affected sources in the State of Delaware. Accordingly, EPA is revising 40 CFR 63.14 and 63.99 to reflect the Federal enforceability of DNREC's regulations. The DNREC's regulation adopts the Federal requirements found in 40 CFR part 63, subparts A, M, N and Q, dated July 1, 1998, with some adjustments. Affected sources will need to refer to both DNREC's regulations and 40 CFR part 63, subparts A, M, N and Q, dated July 1, 1998 to comply. This approval also includes granting authority to DNREC to implement and enforce any future amendments to these provisions and standards that EPA promulgates and DNREC adopts unchanged into its regulations. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. The adjustments and substitutions made in the DNREC regulation are primarily non-substantive and relate to minor editorial and formatting changes from the Federal rule. The substantive changes from the Federal regulation relate to increasing the frequency of reporting, testing, sampling or monitoring, and subjecting additional emission points or sources to control requirements. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the program approval request if adverse comments are filed. This rule will be effective on December 3, 2001 without further notice unless EPA receives adverse comment by November 1, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does 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 (65 FR 67249 November 9, 2000), nor will it 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885 April 23, 1997), because it is not economically significant.

In reviewing requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of

Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2001. 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, pertaining to the approval of Delaware's regulations for hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, and industrial process cooling towers (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations.

Dated: September 7, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

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

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

2. Section 63.14 is amended by adding paragraph (d)(3)(iii) to read as follows:

§ 63.14 Incorporation by Reference.

* * * * *

(d) * * *

(3) * * *

(iii) State of Delaware Regulations Governing the Control of Air Pollution (October 2000), IBR approved for § 63.99(a)(8)(ii)–(v) of subpart E of this part.

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

3. Section 63.99 is amended by adding paragraphs (a)(8)(ii) through (v) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(8) Delaware

(i) * * *

(ii) Affected sources must comply with the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart A, effective September 11, 1999 (incorporated by reference as specified in § 63.14). The material incorporated in the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart A pertains to owners and operators of stationary sources in the State of Delaware that are subject to emission standard requirements of the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subparts M, N and Q and 40 CFR part 63 and has been approved under the procedures in § 63.91 and § 63.92 to be implemented and enforced in place of 40 CFR part 63, subpart A. Delaware is delegated the authority to implement and enforce its regulation in place of 40 CFR part 63, subpart A, in accordance with the final rule, published in the **Federal Register** on October 2, 2001, effective December 3, 2001.

(iii) Affected sources must comply with the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart M, effective October 11, 2000 (incorporated by reference as specified in § 63.14). The material incorporated in the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart M pertains to owners and operators of perchloroethylene drycleaning facilities and has been approved under the procedures in § 63.91 and § 63.92 to be implemented and enforced in place of 40 CFR part 63, subpart M. Delaware is delegated the authority to implement and enforce its regulation in place of 40 CFR part 63, subpart M, in accordance with the final rule, published in the **Federal Register** on October 2, 2001, effective December 3, 2001.

(iv) Affected sources must comply with the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart N, effective October 11, 2000 (incorporated by reference as specified in § 63.14). The material incorporated in the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart N pertains to owners and operators of hard and decorative chromium electroplating and chromium anodizing tanks and has been approved under the procedures in § 63.91 and § 63.92 to be implemented and enforced in place of 40 CFR part 63, subpart N. Delaware is delegated the authority to implement and enforce its regulation in place of 40 CFR part 63, subpart N, in accordance with the final rule, published in the **Federal Register** on October 2, 2001, effective December 3, 2001.

(v) Affected sources must comply with the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart Q, effective May 11, 1998 (incorporated by reference as specified in § 63.14). The material incorporated in the State of Delaware Regulations Governing the Control of Air Pollution, Regulation No. 38, subpart Q pertains to owners and operators of industrial process cooling towers and has been approved under the procedures in § 63.91 and § 63.92 to be implemented and enforced in place of 40 CFR part 63, subpart Q. Delaware is delegated the authority to implement and enforce its regulation in place of 40 CFR part 63, subpart Q, in accordance with the final rule, published in the **Federal Register** on October 2, 2001, effective December 3, 2001.

[FR Doc. 01–24202 Filed 10–1–01; 8:45 am]

BILLING CODE 6560–50–P