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. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability affecting just one private sector facility.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous air pollutants, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 10, 2001.

Thomas J. Gibson,

Associate Administrator, Office of Policy, Economics and Innovation.

For the reasons set out in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES—[AMENDED]

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

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

Subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry—[AMENDED]

2. Section 63.459 is amended by revising the introductory text in paragraphs (a) (2) and (3) to read as follows:

§ 63.459 Alternative standards.

* * * * *

(2) The owner or operator of the pulping system shall control total HAP emissions from equipment systems listed in paragraphs (a)(2)(i) through (a)(2)(ix) of this section as specified in § 63.443(c) and (d) of this subpart no later than April 16, 2002.

* * *

(3) The owner and operator of the pulping system shall operate the Isothermal Cooking system at the site while pulp is being produced in the continuous digester at any time after April 16, 2002.

* * * * *

[FR Doc. 01–25967 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[DC–T5–2001–01a; FRL–7085–8]

Clean Air Act Full Approval of Operating Permit Program; District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to fully approve the operating permit program of the District of Columbia. The District of Columbia's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of the District of Columbia's operating permit program on August 7, 1995. The District of Columbia amended its operating permit program to address deficiencies identified in the interim approval action and this action approves those amendments. Any parties interested in commenting on this action granting full approval of the District of Columbia's title V operating permit program should do so at this time. A more detailed description of the District of Columbia's submittals and EPA's evaluation are included in a Technical Support Document (TSD) in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

DATES: This rule is effective on November 30, 2001 without further notice, unless EPA receives adverse written comment by November 15, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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 and District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Paresh R. Pandya, Permits and Technical Assessment Branch at (215) 814–2167 or by e-mail at *pandya.perry@.epa.gov.*

SUPPLEMENTARY INFORMATION: On May 21, 2001, August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its State operating permit program. These amendments are the subject of this document and this section provides additional information on the amendments by addressing the following questions:

What is the State operating permit program?
What are the State operating permit program requirements?
What is being addressed in this document?
What is not being addressed in this document?
What changes to the District of Columbia's operating permit program is EPA approving?
What action is being taken by EPA?

What Is the State Operating Permit Program?

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating

permits. Examples of ''major'' sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

What Are the State Operating Permit Program Requirements?

The minimum program elements for an approvable operating permit program are those mandated by title V of the Clean Air Act Amendments of 1990 and established by EPA's implementing regulations at title 40, part 70—''State Operating Permit Programs'' in the Code of Federal Regulations (40 CFR part 70). Title V required state and local air pollution control agencies to develop operating permit programs and submit them to EPA for approval by November 15, 1993. Under title V, State and local air pollution control agencies that implement operating permit programs are called ''permitting authorities''.

Where an operating permit program substantially, but not fully, met the program approval criteria outlined at 40 CFR part 70, EPA granted interim approval contingent on the permitting authority revising its program to correct those programmatic deficiencies that prevented full approval. The District of Columbia's original operating permit program substantially, but not fully, met the requirements of 40 CFR part 70. Therefore, EPA granted final interim approval of the program in a rulemaking published on August 7, 1995. [See 60 FR 40101.] The interim approval notice identified 29 outstanding deficiencies that had to be corrected in order for the District of Columbia's program to receive full approval. On May 21, 2001, August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its operating permit program to EPA to address its outstanding program deficiencies.

The District of Columbia's May 21, 2001, August 30, 2001, and September 26, 2001 submittals satisfy the District's requirement to submit program amendments to EPA for action by December 1, 2001. After December 1, 2001, those jurisdictions lacking fully-approved operating permit programs will, by operation of law, be subject to a federal operating permit program implemented by EPA under 40 CFR part 71 [See 65 FR 32035, dated May 22, 2000].

What Is Being Addressed in This Document?

On May 21, 2001, August 30, 2001, and September 26, 2001, the District of Columbia submitted amendments to its currently EPA-approved title V operating permit program. In general, the District of Columbia amended its operating permit program regulations to address deficiencies identified by EPA when it granted final interim approval of the District of Columbia's program in 1995.

What Is Not Being Addressed in This Document?

On December 11, 2000, EPA announced a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs. [See 65 FR 77376.] The public was able to comment on all currently-approved operating permit programs, regardless of whether they have been granted full or interim approval. The December 11, 2000 notice instructed the public to not include in their comments any program deficiencies that were previously identified by EPA when the subject program was granted interim approval. Since those program deficiencies have already been identified and permitting authorities have been working to correct them, EPA will solicit comments when taking action on those corrective measures.

The EPA stated that it will consider information received from the public pursuant to the December 11, 2000 notice and determine whether it agrees or disagrees with the purported deficiencies. Where EPA agrees there is a deficiency, it will publish a notice of deficiency consistent with 40 CFR 70.4(i) and 40 CFR 70.10(b). The Agency will at the same time publish a notice identifying any alleged problems that we do not agree are deficiencies. For programs that have not yet received full approval, such as the District of Columbia's program, EPA will publish these notices by December 1, 2001.

The EPA received numerous comments in response to the December 11, 2000 notice announcing the start of the 90-day public comment period. As part of those comments, EPA Region III received comments germane to the District of Columbia's currently-approved operating permit program. The Agency will respond to those comments in a separate notice(s) by December 1, 2001 as required by the December 11, 2000 notice.

The EPA is not addressing any comments received pursuant to the December 11, 2000 notice in this document. As mentioned above, comments provided in accordance with the December 11, 2000 notice were to address shortcomings that had not previously been identified by EPA as deficiencies necessitating interim, rather than full, approval of a state's operating permit program. This action granting full approval of the District of Columbia's operating permit program only addresses program deficiencies identified when EPA granted interim approval to the District of Columbia's program in 1995. Therefore, any persons wishing to comment on this action should do so at this time.

What Changes to the District of Columbia's Program Is EPA Approving?

The EPA has reviewed the District of Columbia's May 21, 2001, August 30, 2001, and September 26, 2001 program amendments in conjunction with the portion of the District of Columbia's program that was earlier approved on an interim basis. Based on this review, EPA is granting full approval of the District of Columbia's amended operating permit program. The EPA has determined that the amendments to the District of Columbia's operating permit program adequately address the 29 deficiencies identified by EPA in its August 7, 1995 rulemaking granting interim approval. The District of Columbia's operating permit program, including the amendments submitted on May 21, 2001, August 30, 2001, and September 26, 2001, fully meets the minimum requirements of 40 CFR part 70.

Changes to the District of Columbia's Program That Correct Interim Approval Deficiencies

The interim approval deficiencies identified by EPA in 60 FR 40101 (August 7, 1995) are listed in each of the 29 headings below.

1. Rename District of Columbia Municipal Regulations 20 DCMR 399.1 Definition of ''Emissions Emissions'' to ''Fugitive Emissions''

The District of Columbia revised 20 DCMR 399.1 to properly identify the definition of ''fugitive emissions.''

2. Revise 20 DCMR 399.1 Definition of ''Title I Modification or Modification Under Any Provision of Title I of the Act'' To Include Changes Reviewed Under Minor New Source Review (if EPA Establishes Such a Change in Definition Through Rulemaking)

Since EPA has yet to revise the definition of a ''Title I modification'' to include changes subject to minor new source review, the District's current regulations are consistent with 40 CFR part 70. Should EPA revise this definition in the future, the District will be required to revise its regulations as appropriate.

3. Modify 20 DCMR 301.1(b)(6)(B) To Clarify That Applications for Permit Renewal Must Contain Both a Compliance Plan and a Compliance Certification

The District of Columbia has revised 20 DCMR 301.1(b)(6) to add a new section 301.1(b)(6)(C) that requires permit renewal applications to contain compliance certifications, as specified by section 301.3(i). Compliance plans continue to be required by 20 DCMR 301.1(b)(6)(B). This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(c)(1)(i) with regard to permit renewal requirements.

4. Revise 20 DCMR 301.3(c)(1) To Ensure That All Applicable Requirements Will Be Described in Permit Applications

Title 20 DCMR 301.3(c)(1) contained the following exception regarding permit application requirements ''* * * except where the units are exempted under this subsection or section 300.2''. The District of Columbia revised section 301.3(c)(1) to delete this language related to exemptions. By removing this statement, all applicable requirements must be described in permit applications, without exception. This revision makes the District of Columbia's program consistent with 40 CFR 70.5(c).

5. Revise 20 DCMR 301.3(g) To Correct Misreferenced Sections of the District's Regulations Which Address Alternate Operating Scenarios and Emissions Trading

Title 20 DCMR 301.3(g) contained two misreferenced sections. An incorrect reference to section 302.1(i) has been changed to 302.1(j) regarding alternative operating scenarios and an incorrect reference to section 302.1(j) has been changed to 302.1(k) regarding defining permit terms and conditions allowing emissions trading. This amendment makes the District of Columbia's program consistent with 40 CFR 70.5(c)(7), 70.4(b)(12)(iii), and 70.6 (a)(10).

6. Revise 20 DCMR 301.3(h)(3)(C) To Clarify That Any Schedule of Compliance Shall Be Supplemental to and Shall Not Sanction Noncompliance With the Applicable Requirements on Which It Is Based

The District of Columbia revised 20 DCMR 301.3(h)(3)(C) to include the following language: ''Any schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.5(c)(8)(iii)(C).

7. Revise 20 DCMR 302.1(k) To Clarify That Terms and Conditions for the Trading or Averaging of Emissions Must Meet All Applicable Requirements and the Requirements of the Operating Permits Program

The District of Columbia revised 20 DCMR 302.1(k) to include the following language: ''The terms and conditions for the trading or averaging of emissions shall meet all applicable requirements and the requirements of the operating permits program.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.6(a)(10)(iii).

8. Renumber 20 DCMR 302.3(e)(6) to 302.3(f)

The District of Columbia renumbered 20 DCMR 302.3(e)(6) to 302.3(f).

9. Revise 20 DCMR 302.4(e) To Clarify That Requests for Coverage Under a General Permit Must Meet the Permit Application Requirements of Title V of the Clean Air Act, and Include All Information Necessary To Assure Compliance With the General Permit

The District of Columbia revised 20 DCMR 302.4(e) to require subject sources to meet the general permit qualification criteria and application requirements and that sources covered by the general permit must be in compliance with the general permit. This amendment makes the District of Columbia's program consistent with 40 CFR 70.6(d)(2).

10. Restructure 20 DCMR 302.8 Pertaining to Operational Flexibility in Accordance With the Structure of 40 CFR Part 70 Operational Flexibility Provisions

The EPA indicated that the District should restructure 20 DCMR 302.8 pertaining to operational flexibility in accordance with the structure of 40 CFR part 70 provisions for operational flexibility. The District of Columbia provided a legal opinion on the adequacy of its air quality regulations regarding operational flexibility dated September 26, 2001. In its legal opinion, the District compared each of the requirements of 40 CFR 70.4(b)(12) to the requirements in 20 DCMR 302.8. The District's legal opinion clarifies that the District's regulations pertaining to operational flexibility are functionally equivalent to the federal requirements. With the clarifying opinion from the District, the restructuring of section 302.8 is not necessary. The District of Columbia's program is consistent with 40 CFR 70.4 with regard to operational flexibility.

11. With Respect to 20 DCMR 302.8, Clarify That Compliance With Emissions Trading Provisions in a Permit Will Be Determined According to Requirements of the Applicable State Implementation Plan (SIP)/Federal Implementation Plan (FIP) or Applicable Requirements Authorizing the Emissions Trade

The District of Columbia provided a legal opinion on the adequacy of its air quality regulations regarding operational flexibility dated September 26, 2001. The District's legal opinion states that 20 DCMR 302.8 is substantially similar to 40 CFR 70.4(b)(12). One of the purposes of 20 DCMR 302.8(b) and 40 CFR 70.4(b)(12)(ii)(B) is to enable permitted sources to trade increases and decreases in emissions. However, the federal regulations explicitly provide that the trades shall be determined according to requirements of the applicable implementation plan authorizing the emissions trade. The District's regulations refer to compliance with ''applicable requirements'' instead of directly referencing the District's SIP. The term ''applicable requirements,'' however, is a defined term in 20 DCMR 399 and includes the requirements of the District's approved SIP. The District's legal opinion states that the District's regulations, by requiring emission trades to comply with ''applicable requirements,'' also requires compliance with the District's SIP. Therefore, the District interprets its operational flexibility provisions to require that a source wishing to trade emissions first have that authority under the District's SIP and provide written notice of that authority pursuant to the SIP. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.4 with regard to emissions trading.

12. Revise 20 DCMR 303.1(f) and 303.1(d)(1) To Ensure That the Part 70 Permit Issuance Deadlines Will Be Met

Title 20 DCMR 303.1(f) provides that the Mayor shall transmit a proposed permit, permit modification, or renewal to the Administrator no later than 45 days before the appropriate deadline for permit issuance. Section 303.1(d)(1) provides that the proposed permit, modification, or renewal shall be issued no later than 45 days preceding the respective deadlines for permit issuance, modifications and renewals. The District of Columbia revised 20 DCMR 303.1(f) and 303.1(d)(1) to ensure that the part 70 permit issuance deadlines will be met. This amendment makes the District of Columbia's program consistent with 40 CFR 70.4(b)(6).

13. Modify 20 DCMR 303.3(a) To Clarify That Public Participation and EPA and Affected State Review Will Apply to the Entire Draft Renewal Permit, Including Those Portions Which Are Incorporated by Reference

The District of Columbia revised 20 DCMR 303.3(a) to clarify that applications for permit renewal and renewal permits in their entirety must be subject to the same procedural requirements, including those for public participation, affected state review and EPA review that apply to initial permit issuance. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(c)(1)(i).

14. Revise 20 DCMR 303.5(d)(1) To Require the Use of the Significant Permit Modification Procedures for any Type of Change Which Does Not Qualify as Either a Minor Permit Modification or an Administrative Amendment

The District of Columbia revised 20 DCMR 303.5(d)(1) by adding 303.5(d)(1)(E) requiring that significant modification procedures shall be used for applications requesting permit modifications that do not qualify as administrative permit amendments or minor permit modifications. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(e).

15. Revise 20 DCMR 303.10 To Provide for Sending Notice to Persons on a Mailing List Developed by the Permitting Authority, Including Those People Who Request in Writing To Be on the List

The District of Columbia revised the public participation procedures of 20 DCMR 303.10(a) to require the District to send notices of permit actions to persons on a mailing list developed by the Mayor, including those who request in writing to be on the list pursuant to 20 DCMR 303.10(a)(2). This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(h)(1).

16. Revise 20 DCMR 303.10(a)(1)(B) to Require the Notice To Include Procedures To Request a Hearing in the Event That a Hearing Has Not Been Scheduled

The District of Columbia revised 20 DCMR 303.10(a)(1)(B) to establish procedures for the public to request a hearing on a permit action if the Mayor has not scheduled a hearing. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(h)(2).

17. Revise 20 DCMR 303.10 To Include a Provision That Requires Notice of a Public Hearing at Least 30 Days in Advance of the Hearing

The District of Columbia revised 20 DCMR 303.10(a)(1) by adding 303.10(a)(1)(C) requiring that any notice of a public hearing be published at least 30 days in advance of the hearing. This amendment makes the District of Columbia's program consistent with 40 CFR 70.7(h)(4).

18. Clarify That the Average 1989 Consumer Price Index (CPI) Value Will Be Used for the Purposes of Calculating the CPI Fee Adjustment

Each title V source in the District of Columbia is provided the updated adjusted annual fee calculation each year by the District. The District of Columbia adjusts the annual fee based on the CPI-Urban Index that represents the12-month average from September through August of the following year. The District uses the same presumptive minimum fee that is computed by EPA each year. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.9(b)(2)(iv).

19. Revise 20 DCMR 305.1 To Ensure That Provisions for Equivalent Fee Schedules Are Enforceable as a Practical Matter or Remove Section 305.1 Language ''or the Equivalent Over Some Other Period''

The District of Columbia revised 20 DCMR 305.1 to remove ''or the equivalent over some other period.'' The revised 20 DCMR 305.1 now reads as follows: ''Owners or operators of Part 70 sources shall pay annual fees of twenty-five dollars ($25) per year (as adjusted pursuant to the criteria set forth in section 305.2) times the total tons of actual emissions of each regulated pollutant (for presumptive fee calculation purposes) emitted from Part 70 sources.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.9.

20. Revise the Corporation Counsel's Opinion to Reference Existing Provisions in District of Columbia Law Which Satisfy the Requirements of 40 CFR 70.11(a)(1) and (2), or Establish Authorities To Restrain or Enjoin Immediately Permit Violators Presenting Substantial Endangerment, and to Seek Injunctive Relief for Program and Permit Violations Without the Need for Prior Revocation of the Permit

The EPA determined that the provisions cited in the Corporation Counsel's opinion of January 13, 1994 did not specifically identify authorities to restrain or enjoin immediately permit violators without the need for prior revocation of the permit. EPA added that if such enforcement authority existed, the District must clearly establish that the authority extends to Chapter 3 of Title 20 DCMR. The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'', cites to several provisions in the District's Air Pollution Control Act implementing regulations and to the Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. section102(a)) that provide the necessary authorities. Specifically, the Corporation Counsel identifies the following authorities in the implementing regulations of the Air Pollution Control Act: (1) 20 DCMR 102.3 provides that the Mayor may seek ''enforcement of this subtitle by injunctive relief or other appropriate remedy; (2) 20 DCMR 401.10 authorizes the Mayor to issue emergency orders forbidding operation where the Mayor finds that a situation is causing or contributing to air pollution, or has the potential to do so; and, (3) 20 DCMR 401.12 provides that nothing shall preclude the Mayor from seeking relief or remedy, other than penalties, that is provided for by law. The Corporation Counsel further states that 20 DCMR 102.3 extends to all chapters in Subtitle A of the Air Pollution Control Act, including Chapter 3. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.11.

21. Amend Subtitle I of 20 DCMR To Specifically Address the Types of Violations for Which Civil Fines Are Recoverable, or Otherwise Have the Corporation Counsel Demonstrate That 20 DCMR 100.6 Applies to Each of the Specific Types of Violations Mentioned in 40 CFR 70.11(a)(3)(i)

EPA requested that the District of Columbia clarify that civil fines are recoverable for the violations enumerated in 40 CFR 70.11(a)(3)(i). The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'', cites to several provisions in its Air Pollution Control Act implementing regulations for the required authority. Specifically, the Corporation Counsel indicates that 20 DCMR 100.6 and 105.1 authorize the imposition of civil fines for each of the violations listed in 40 CFR 70.11(a)(3)(i), including a violation of any applicable requirement as defined in 20 DCMR 399, any permit condition, including any requirement in 20 DCMR 302; any fee or filing requirement as provided in 20 DCMR 301 and 305; any duty to allow or carry out inspection, entry or monitoring activities as provided in 20 DCMR 302.3; or, any regulation or orders issued by the Mayor pursuant to 20 DCMR 102 and 104.10. In addition, according to the Corporation Counsel, 20 DCMR 100.6 and 105.2 authorize the imposition of civil fines, penalties and fees as alternative sanctions for violations of the Air Pollution Control Act's implementing regulations using the process of scheduling and enforcing these fines under the Civil Infractions Act. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.11(a)(3).

22. Establish Civil Enforcement Authority for the Collection of Penalties in a Maximum Amount of Not Less Than $10,000 Per Day Per Violation

EPA requested that the District of Columbia establish civil enforcement authority for the collection of penalties in the maximum amount of not less than $10,000 per day per violation. The District revised 20 DCMR 105.5 to require that ''[i]n the event of any violation of, or failure to comply with, the air quality provisions of this title [which includes Subtitle A thereof, the Air Pollution Control Act's implementing regulations], each and every day of the violation or failure shall constitute a separate offense, and the penalties described in 20 DCMR 105.1 shall be applicable to each separate offense.'' The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' stated that civil fines are recoverable under 20 DCMR 100.6, 105.1, 105.2, and 105.5 in the amount of $10,000 per day per violation for failure to comply with 20 DCMR including the Air Pollution Control Act's implementing regulations in 20 DCMR Subtitle A as required by 40 CFR 70.11(a)(3)(i). This amendment makes the District of Columbia's program consistent with 40 CFR 70.11(a)(3).

23. Establish Regulatory Provisions for Strict Civil Liability, or Provide a Demonstration From the Corporation Counsel That Mental State Is Not Allowed as an Element of Proof for Civil Violations

With respect to the 20 DCMR 100.6 civil enforcement authority, EPA requested that the District of Columbia clarify that mental state is not allowed as an element of proof for civil violations. The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' states that 20 DCMR 100.6, 105.1 and 105.2 do not include mental state as an element of proof of civil violations. District laws and regulations enacted to protect the public health and safety (among other purposes), including those of 20 DCMR Subtitle A are generally construed as strict liability violations for purposes of civil proceedings. With this clarification, the District of Columbia's program is consistent with 40 CFR part 70.

24. Amend Subtitle I of 20 DCMR to Specifically Address the Types of Knowing Violations for Which Criminal Fines Are Recoverable, or Have the Corporation Counsel Demonstrate That Section 105.1 Applies to Each of the Specific Types of Knowing Violations Mentioned in 40 CFR 70.11(a)(3)(ii) and (iii)

The EPA requested that the District of Columbia clarify that criminal fines are recoverable for each of the specific types of knowing violations mentioned in 40 CFR 70.11(a)(3)(ii) and (iii). The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' states that criminal penalties are recoverable under 20 DCMR 105.1 for all the violations enumerated in 40 CFR 70.11(a)(3)(ii), which include any applicable requirement (as defined in 20 DCMR 399); any permit condition (including any requirement in 20 DCMR 302); and, any fee or filing requirement (as provided in 20 DCMR 301 and 305). The Corporation Counsel further states that 20 DCMR 105.1 allows for recovery of criminal penalties for all the violations enumerated in 40 CFR 70.11(a)(3)(iii), which include making a false statement, representation or certification in any form, in any notice or report required by a permit (prohibited by 20 DCMR 105.1) or knowingly rendering inaccurate any required monitoring device or method (prohibited by 20 DCMR 107.1). With this clarification, the District of Columbia's program is consistent with 40 CFR 70.11.

25. Revise Criminal Enforcement Provisions To Authorize the Collection of Penalties in a Maximum Amount of Not Less Than $10,000 Per Day Per Violation

The EPA requested that the District of Columbia revise 20 DCMR 105.1 to provide for the recovery of criminal fines at a maximum amount of $10,000 per day per violation as required by 40 CFR 70.11(a)(3)(i) for the violations enumerated in 40 CFR 70.11(a)(3)(ii) and (iii). The District revised 20 DCMR 105 by adding 105.5. The Corporation Counsel in its ''May 2001 Amendment to 'Corporation Counsel's (Attorney General's) Legal Opinion' submitted to the United States Environmental Protection Agency, Region III, by letter dated January 13, 1994'' states that pursuant to 20 DCMR 105.5, ''[i]n the event of any violation of, or failure to comply with, the air quality provisions of this title [which includes Subtitle A thereof, the Air Pollution Control Act's implementing regulations], each and every day of the violation or failure shall constitute a separate offense, and the penalties described in 20 DCMR 105.1 shall be applicable to each separate offense.'' This amendment makes the District of Columbia's program consistent with 40 CFR 70.11(a)(3).

26. Amend 20 DCMR 303.11 To Clarify That When the Mayor Fails To Issue or Deny a Permit Within the Required Deadline, This Failure Can Be Challenged Any Time Before the Permitting Authority Denies the Permit or Issues the Final Permit

The District of Columbia revised 20 DCMR 303.11 by deleting 303.11(c) and restructuring 303.11(a) to clarify that when the Mayor fails to issue or deny a permit within the required deadline, this failure can be challenged any time before the permitting authority denies the permit or issues the final permit. The permit program regulations now provide that no application for judicial review may be filed more than 90 days following the final action on which the review is sought, unless the final action being challenged is the Mayor's failure to take final action, in which case an application for judicial review may be filed any time before the Mayor denies the permit or issues the final permit. This amendment makes the District of Columbia's program consistent with 40 CFR 70.4.

27. Clarify the Specific Responsibilities and Procedures for Coordination Regarding the Engineering and Planning Branch (EPB) and the Compliance and Enforcement Branch (CEB) Involvement in Compliance and Enforcement Activities for Part 70 Sources. Such a Clarification Must Demonstrate That Compliance and Enforcement Activities Will Be Fully Supported by Title V Fees

The District of Columbia's management of its operating permit program is divided between the EPB and the CEB. EPB, under the supervision of the branch chief, is responsible for permit issuance; modifications and renewals; inventory management; and, the annual fee computation. Likewise, under the supervision of the branch chief, CEB is responsible for plant inspections; receipt and review of semi-annual and annual compliance reports and certifications; review and approval of testing protocols; compliance determinations; issuance of citations to violators; participation in hearings; and, transmittal of enforcement data to EPA. Both branches are supported by the Office of the Program Manager (OPM) and the attorney advisor in the Air Quality Division (AQD). Staff from EPB, CEB, and OPM who work on title V activities, including compliance and enforcement activities charge the time expended on such tasks to the title V account to reflect direct salary, fringe benefits and indirect costs (to cover overhead, such as utilities, rental, telephone and supplies). Other AQD supervisors and advisors who provide applicable title V services also charge their time appropriately, inclusive of fringe benefits and indirect costs. The number of hours worked on title V activities during each pay period are submitted on time sheets. With this clarification, the District of Columbia's program is consistent with 40 CFR 70.9(c).

28. Submit Additional Information Regarding How the District Will Monitor and Track Source Compliance or Reference Any Agreement the District Has With EPA That Provides This Information

The District of Columbia's Compliance & Enforcement Branch (CEB) is responsible for ensuring source compliance with the applicable requirements of title V permits. This is accomplished through annual on-site inspections, review of semi-annual and annual certification reports, and pursuit of enforcement actions. Existing EPA and District of Columbia agreements require the District to submit a compliance monitoring strategy, which includes detailed information about sources targeted for inspections. These existing agreements require the District to submit semi-annual enforcement reports, to participate in quarterly enforcement program reviews, and to report inspection compliance and enforcement data. With this clarification, the District of Columbia's program is consistent with 40 CFR part 70.

29. Clarify That Information on the District's Enforcement Activities Will Be Submitted to EPA at Least Annually

The District of Columbia reports enforcement activities, including specific information required by 70.4(b)(9) to EPA primarily by way of the Aerometric Information Retrieval System/AIRS Facility Subsystem (AIRS/AFS). With this clarification, the District of Columbia's program is consistent with 40 CFR part 70.

What Action Is Being Taken By EPA?

The District of Columbia has satisfactorily addressed the program deficiencies identified when EPA granted final interim approval of its operating permit program on August 7, 1995. The operating permit program amendments that are the subject of this document considered together with that portion of the District of Columbia's operating permit program that was earlier approved on an interim basis fully satisfy the minimum requirements of 40 CFR part 70 and the Clean Air Act. Therefore, EPA is taking direct final action to fully approve the District of Columbia title V operating permit program in accordance with 40 CFR 70.4(e).

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. 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 operating permit program approval if adverse comments are filed relevant to the issues discussed in this action. This rule will be effective on November 30, 2001 without further notice unless EPA receives adverse comment by November 30, 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. The EPA will address all public comments in a subsequent final rule based on the proposed rule. The 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.

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 Fed. Reg. 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 Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State operating permit program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. 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 an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of an operating permit program submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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. The 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 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 December 17, 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 fully approving the District of Columbia's title V operating permit program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: October 10, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

Appendix A of part 70 of title 40, chapter I, 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 paragraph (b) to the entry for the District of Columbia to read as follows:

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

* * * * *

District of Columbia

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(b) The District of Columbia Department of Health submitted program amendments on May 21, 2001, August 30, 2001, and September 26, 2001. The rule amendments contained in the May 21, 2001, August 30, 2001, and September 26, 2001 submittals adequately addressed the conditions of the interim approval effective on September 6, 1995. The District of Columbia is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–26097 Filed 10–15–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2560

[WO–350–1410–00–24 1A]

RIN 1004–AD34

Alaska Native Veterans Allotments

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This document amends the final regulations published in the **Federal Register** on Friday, June 30, 2000 (65 FR 16648). The regulation allows certain Alaska Native veterans another opportunity to apply for a Native allotment under the repealed Native Allotment Act of 1906. Congress passed the Alaska Native Veterans Allotment Act in 1998 which mandates regulations to implement it. This action will enable certain Alaska Native veterans who, because of their military service, were not able to apply for an allotment during the early 1970s, to do so now.

EFFECTIVE DATE: This rule is effective on November 15, 2001.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Connie Van Horn, Division of Conveyance Management, Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599; telephone (907) 271–3767; or Kelly Odom, Bureau of Land Management, Regulatory Affairs Group, Mail Stop 401, 1620 L Street, NW.,