implement an oxygenated gasoline program.

IV. Administrative Review

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

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)).

List of subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: April 23, 1996.

Chuck Clarke,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c) (25) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(25) On March 24, 1994, ADEC submitted a revision to its SIP for the State of Alaska addressing the attainment and maintenance of the NAAQS for CO in the Anchorage CO nonattainment area.

(i) Incorporation by reference.

(A) March 24, 1994 letter from the Alaska Governor to the EPA Regional Administrator including as a revision to the SIP the State of Alaska, Department of Environmental Conservation, 18 AAC 53, ''Fuel Requirements for Motor Vehicles,'' (Article 1, 18 AAC 53.005—18 AAC 53.190 and Article 9, 18 AAC 53.990, with the exception of 18 AAC 53.010(c)(2)), filed March 24, 1994 and effective on April 23, 1994.

* * * * *

[FR Doc. 96–12352 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[NJ001; FRL–5505–7]

Clean Air Act Final Interim Approval Of Operating Permit Program; New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating final interim approval of the operating permit program which the State of New Jersey had submitted in accordance with Title V of the Clean Air Act (the Act) and its implementing regulations codified at Part 70 of Title 40 of the Code of Federal Regulations (40 CFR Part 70). This approved interim program allows New Jersey to issue federally enforceable operating permits to all major stationary sources and to certain other sources for a period of two years, at which time it must be replaced by a fully approved program.

EFFECTIVE DATE: This interim program will be effective June 17, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval as well as the Technical Support Document are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 21st Floor,

New York, New York 10007–1866; Attention: Steven C. Riva.

FOR FURTHER INFORMATION CONTACT: Suilin Chan, Permitting and Toxics Support Section, at the above EPA office in New York or at telephone number (212) 637–4019.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The Act and its implementing regulations at 40 CFR Part 70 require that states develop and submit operating permit programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the complete submittal. The EPA reviews state programs pursuant to Section 502 of the Act and the Part 70 regulations, which together outline the criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to two years. Additionally, where a state can demonstrate to the satisfaction of EPA that reasons exist to justify the granting of a source category-limited interim approval, EPA may so exercise its authority. A source category-limited interim program is one that substantially meets the requirements of Part 70 and applies to at least 60% of all affected sources which account for 80% of the total emissions within the state. If a state does not have an approved program by the end of an interim program, EPA must establish and implement a federal operating permit program for that state.

On January 30, 1996, EPA proposed to approve the source category-limited operating permit program submitted by New Jersey (see 61 FR 2983). During the 30-day public comment period which ended on February 29, 1996, six comment letters were received on the Proposed Approval Notice. Five of the comments regarded the list of deficiencies that NJ has to correct in order to receive full program approval. These commenters opined that the NJ program is not deficient in those areas and therefore should not be required to address them in the full program submittal. One commenter argued that NJ has no authority to collect emissions-based Title V fees from two Title IV-affected Phase I units. A response to all of the comments received is included in Section II.B. of this notice. Based upon EPA's review, none of the comments received changes EPA's decision to approve NJ's source category-limited interim program. Therefore, in this notice, the EPA is taking final action to promulgate interim approval of the New Jersey Operating Permit Program.

II. Final Action and Implications

A. Analysis of State Submission

On January 30, 1996, the EPA proposed interim approval of NJDEP's Title V Operating Permit Program. The program elements discussed in the proposed notice are unchanged from the analysis in the Interim Approval Notice and continue to substantially meet the requirements of 40 CFR Part 70.

B. Response to Public Comments

1. *Deferral of Non-major Sources.* Two comments were received on this issue, from the Industrial Operating Permit Legislative/Regulatory Workgroup (IOPLRW) and NJDEP.

IOPLRW argues that non-major sources subject to NJ's NSR program should not be required to go through the ''formalities'' of obtaining an operating permit because (1) it is inconsistent with EPA's ''White Paper'' policies and (2) NJDEP already imposes substantial requirements to control emissions of pollutants from such sources. The NJDEP, however, acknowledges that its current rule is deficient in not requiring non-deferred non-major sources subject to Section 111 of the Act to obtain operating permits and agrees to amend its rule in the next revision. NJDEP asserts that this deficiency, however, does not exist for non-deferred non-major sources subject to Section 112 of the Act since its rule (N.J.A.C. 7:27–22.26(b), (c), and (d)) contains the necessary requirements.

Response. EPA agrees with NJDEP that its rule is adequate in addressing the requirements for non-deferred non-major sources subject to Section 112 of the Act. Therefore, in the final approval of NJ's interim program, EPA is only requiring NJDEP to revise its rule to address non-major sources subject to Section 111 of the Act. With respect to the comments submitted by the IOPLRW, EPA disagrees with the commenter that no rule revision was necessary. This comment conflicts with the provision of 40 CFR § 70.3(b)(2) which is not affected by guidance established in EPA's ''White Paper''.

2. *Definition of Prompt Reporting.* Four comments were received on this issue, from IOPLRW, Bayway Refining Company, National Environmental Development Association (NEDA), and Du Pont Chemicals.

All four commenters echoed the same arguments; therefore, their comments will be grouped together and responded to as a single comment. The commenters argued that 40 CFR § 70.6 provides the permitting authority the flexibility to ''define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements''. As such, the commenters questioned EPA's basis and authority for requiring a 10-day reporting of deviations where the air contaminants are released in a quantity or concentration that pose no potential threat to the public health, welfare, or the environment and the permittee does not intend to assert affirmative defense for the deviation. All commenters felt that NJ's current requirement of immediate reporting for deviation resulting in air contaminants released in a quantity or concentration which poses a potential threat to public health, welfare or the environment or which might reasonably result in citizen complaints is adequate. Further, a two-day reporting requirement was asserted to be adequate where the quantity or concentration of the releases poses no potential threat to the public health, welfare or environment and which will not likely result in citizen complaints but that the permittee intends to assert an affirmative defense. The ten-day reporting requirement is unilaterally considered an unnecessary administrative burden to both NJDEP and the regulated community resulting in no commensurate improvement to the environment.

Response. EPA reconsidered its initial proposal to require a 10-day reporting on deviations that do not pose a potential threat to the public health, welfare, or the environment and for which the permittee does not intend to assert an affirmative defense. Although EPA acknowledges that NJ's reporting rules have worked fairly well in the past, EPA does not find that to be grounds for ruling out the ten-day reporting requirement altogether. There may be circumstances where such reporting timeframe is warranted. Therefore, after considering the concerns brought forth by the commenters, EPA has decided not to require NJ to incorporate the 10-day reporting provision in its operating permit rule. Rather, EPA will determine the appropriateness of imposing this requirement on an as-needed basis.

3. *Affirmative Defense.* Five comments were received on this issue, from IOPLRW, Bayway Refining Company, NEDA, NJDEP, and Du Pont Chemicals.

Since all five commenters voiced the same concerns on this issue, their comments are grouped together and treated as one. While EPA cited the affirmative defense provisions found in N.J.S.A.26:2C–19.1 through 19.5 to be in conflict with the provisions of 40 CFR

§ 70.6(g), all five commenters asserted that the NJ provisions have worked well in the past by allowing reasonable excursions during startups, shutdowns, malfunctions, and equipment maintenance without compromising protection to the environment and public health and welfare. All commenters maintained that the NJ Law could be interpreted to be in conformance with Part 70. In its proposed approval notice, EPA stated that the NJ Law was deficient in (1) not restricting the use of an affirmative defense to violations of technology-based emission limitations which potentially allows the use of an affirmative defense for violations of health-based emission limitations and (2) allowing an affirmative defense for startups, shutdowns, malfunctions, and equipment maintenance. The commenters argued that although the NJ Law does not restrict the affirmative defense to technology-based emission limitations, it nevertheless provides the same degree of protection for health-based emission limitations by ensuring that the violations do not potentially threaten the environment or public health or welfare. For this same reason, the commenters argued that allowing an affirmative defense for startups, shutdowns, malfunctions, and equipment maintenance does not pose more of a threat to the environment than what Part 70 provides.

Response. EPA has thoroughly reviewed the arguments presented by the commenters and maintains that the inconsistencies between the NJ Law and Part 70 must still be resolved in order for EPA to grant full program approval on this provision. In promulgating the Part 70 regulations, EPA intended to restrict the emergency affirmative defense to actions brought for noncompliance with a technology-based emission limitation to ensure greater protection for health-based emission standards (such as the National Ambient Air Quality Standards (NAAQS), National Emissions Standards for Hazardous Air Pollutants (NESHAP), etc.). The NJ Law, however, does not contain similar restrictions. After reviewing the arguments presented by the commenters on this particular issue, however, EPA agrees with the commenters that the NJ Law may be interpreted to provide the same degree of protection for the health-based emission limitations. Therefore, in lieu of making changes to the NJ operating permit rule, EPA will accept an opinion from the Attorney General which affirms that any violation resulting in a ''potential threat to public health'' as used in N.J.S.A. 26:2C–19.1 through 19.5 equates to a violation of a health-based emission standard, such that the affirmative defense created in New Jersey's legislation is not available for violations of health-based emission limits. The Attorney General's opinion should point to either court decisions or legislative history interpreting the ''potential threat to public health'' language. With respect to the issue of restricting the affirmative defense to emergency situations arising from sudden and reasonably unforeseeable events that are beyond the control of the source including the acts of God, NJ's Law is clearly inconsistent with 40 CFR 70.6(g). Although NJ's criteria for asserting an affirmative defense in N.J.S.A. 26:2C–19.2 are similar to the criteria established in 40 CFR § 70.6(g), NJ's affirmative defense in N.J.S.A 26:2C–19.1 and 19.2 goes beyond sudden and unforeseeable events. As stated in the proposed approval, 40 CFR § 70.6(g) only allows an affirmative defense for Title V purposes for sudden and unforeseeable events. NJ's law not only applies to unforeseeable malfunctions, but also to equipment start-up or shut-down and equipment maintenance, activities of which are usually pre-scheduled. Therefore, EPA sees no grounds for finding the NJ approach substantially equivalent to that in 40 CFR § 70.6(g). This is beyond the scope of 40 CFR § 70.6(g) and must be changed before full approval can be granted for this provision. NJ may either change its legislation or its operating permit rule to address this deficiency. As to the comments that Part 70 should be changed to provide more flexibility on this issue, we appreciate the commenters' desire for more flexibility, but program approval is judged on the existing requirements of 40 CFR Part 70, not on any possible future changes to Part 70. EPA is treating this issue consistently nationally by only granting interim approval to states with similar inconsistencies to 40 CFR § 70.6(g). EPA is not aware of any other state programs being treated differently on this issue.

4. *R&D Support Facility Test.* Two comments were received on this issue, from NEDA and IOPLRW.

Both commenters argued that the issue of whether an R&D operation is eligible for separate treatment under the operating permit program should not depend on where the products and processes developed in the R&D operation are used. Rather, eligibility for separate treatment should simply depend on whether the R&D operation produces more than a *de minimis* quantity of products for commercial use.

Response. In its proposal to approve NJ's program, EPA did not identify the application of the support facility test in determining the major source status of a stationary source with an R&D operation to be a condition for full program approval. The support facility test will ensure that only true R&D facilities are properly separated from the source. Under the support facility test, even where neighboring, commonly controlled sources have different 2-digit SIC codes, they should be aggregated to determine whether a major source is present if the output of one is more than 50 percent devoted to the support of the other. However, EPA believes that R&D operations should not generally be considered support facilities, since the ''support'' provided is directed towards development of new processes or products and not to current production. EPA acknowledges that the product of an R&D operation is information potentially useful to create a new industrial process or to improve the process ongoing at the facility, but not to directly support the process in which the industrial activity is currently engaged or capable of engaging in any significant commercial fashion. To the extent an activity bears some resemblance to R&D but in fact contributes to the ongoing product produced or service rendered at a facility in a more than *de minimis* manner, those activities should be considered part of the source. Pilot plants often present instances of activities that are conducted on a trial basis, but which are nevertheless dedicated to producing a product for commerce to a more than *de minimis* extent, and so would not be considered R&D. Whether or not an R&D facility meets the support facility test is a case-by-case determination. As provided in the Preamble of Part 70, R&D operations are not exempt from Title V requirements, but the state is given the flexibility to treat the R&D facility separate from the manufacturing facility with which it is co-located. The definition of R&D in N.J.A.C. 7:27–22–1 establishes the criteria for determining whether or not an operation will be given separate treatment as an R&D facility and is reflective of the federal definition as discussed in the foregoing. Under N.J.A.C. 7:27–22.1, an R&D facility cannot be engaged in the ''manufacture of products for commercial sale, except in a *de minimis* manner.'' This is a close approximation of the support facility test. EPA is not adding any further burden of proof upon the facility in the event of alleged noncompliance with 40 CFR Part 70,

than what is already established by the state in N.J.A.C. 7:27–22.1 and 7:27–22.2(d).

5. *Administrative Amendment.* Two comments were received on this issue, from IOPLRW and NJDEP.

IOPLRW asserted that the administrative amendment section of NJ's rule meets the requirements of Part 70. NJDEP clarified that the interpretation EPA read into the language at N.J.A.C. 7:27–22.20(b)(7) as explained in the proposed interim approval was not intended. NJDEP agreed to revise its rule to address EPA's comments.

Response. EPA appreciates the comment from IOPLRW; however, a revision to NJ's rule is nonetheless necessary.

6. *Title IV Fees.* One comment was received on this issue from Atlantic Electric (AE).

AE argued that NJ should not be allowed to assess Title V emissions-based fees during 1995 to 1999 from any Title IV-affected Phase I units even if the emissions occurred outside of the 5-year grace period (prior to 1/1/95).

Response. EPA agrees with the commenter and consequently hereby corrects a statement made in the notice of proposed interim approval. The language in the register incorrectly alluded to allowing a state to collect during 1995 to 1999 Title V fees from Title IV-affected Phase I units based on emissions that occurred prior to January 1, 1995. The correct reading and the actual meaning of Section 408(c)(4) should be a state is allowed to use emissions-based fees for Title V purposes during 1995 and 1999 if such fees were already collected from the Phase I units prior to January 1, 1995 for program ramp-up or the like. Alternatively, the state may collect Title V emissions-based fees after December 31, 1999 from the Phase I units. Finally, the state can collect non-emissions based Title V fees from any Phase I units during the 5-year period. Along with its comments, AE also urged EPA to require NJDEP to submit adequate documentation confirming that the NJ operating permit program will be sufficiently funded without accounting fee revenues from the Phase I units in NJ. EPA appreciates AE's concerns over the funding aspect of the NJ program. As EPA has discussed in details in the proposed approval, NJ is required to re-submit a more refined fee demonstration to assure sufficient funding for the operating permit program before EPA would consider granting full approval. EPA acknowledges that the Title V program is a new program with many uncertainties and variables in the area of cost assessment, in particular. Therefore, EPA finds it appropriate to allow a state to put the program into practice for a short duration (during an interim approval) so that the state may accurately determine the amount of funding needed for successful program implementation provided the state has collected sufficient fee revenues to start the program. EPA's initial proposal to require a more refined fee demonstration in the full program submittal remains unchanged.

C. Final Action

The EPA is promulgating interim approval of the Operating Permit Program submitted by the NJDEP on November 15, 1993, as revised on August 10, 1995, and supplemented on August 28, 1995, November 15, 1995, December 4, 1995, and December 6, 1995. Among other things, the NJDEP has demonstrated that the program substantially meets the minimum requirements for a state operating permit program as specified in 40 CFR Part 70 and the criteria for a source category-limited interim program as discussed in EPA's Guidance entitled ''Interim Title V Program Approvals'' issued by John S. Seitz, Director, Office of Air Quality Planning and Standards on August 2, 1993. This interim approval which may not be renewed, extends until June 16, 1998. Under the approved interim operating permit program, New Jersey is allowed to issue federally enforceable operating permits to all major stationary sources and to certain other sources for the duration of this approval. During this interim approval period, the State of New Jersey is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal operating permit program in New Jersey. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications. In order to ensure that a fully approved program will be in place by the expiration date of the interim approval, New Jersey must submit a modified program to EPA by December 16, 1997 that addresses the following deficiencies:

1. Deferral of Non-Major Sources

New Jersey must revise its operating permit rule to require non-major sources subject to Section 111 standards promulgated after July 21, 1992 to apply for an operating permit unless EPA exempts such sources in future rulemaking or promulgation of future requirements. Applications from these sources should be submitted in accordance with the schedule found under N.J.A.C. 7:27–22.5(i).

2. Affirmative Defense

The New Jersey legislation as stated in N.J.S.A. 26:2C–19.1 through 19.5 and the New Jersey rule provisions on affirmative defenses as stated in N.J.A.C. 7:27–22.3(nn) and 22.16(l) must be revised or clarified to ensure conformance with 40 CFR § 70.6(g). Specifically, New Jersey needs to limit the use of affirmative defense to 1) violations of technology-based emission limitations, not health-based emission limitations and 2) to sudden and unforeseeable events. To address the first deficiency, New Jersey has the option of either changing its legislation at N.J.S.A.26:2C–19.1 through 19.5 to specify that the affirmative defense can only be used in emergency situation resulting in violations of technology-based emission limitations or submitting an opinion from the State Attorney General (AG). The AG's opinion must demonstrate how the State Law has clearly equated the term ''potential harm to public health'' to violations of health-based emission limitations. The AG's opinion must also clarify that the NJ Law prohibits the use of an affirmative defense for violations of health-based emission limitations and must be supported by court decisions or legislative history interpreting the ''potential threat to public health'' language. To address the second deficiency, the NJ Law at N.J.S.A.26:2C–19.1 through 19.5 and the NJ rule at N.J.A.C. 7:27–22.3(nn) and 22.16(l) must be changed to limit the use of an affirmative defense, for Title V purposes, to sudden and unforeseeable events that are beyond the control of the source.

3. Administrative Amendments

New Jersey must revise its operating permit rule to ensure that the administrative amendment procedure is properly used for incorporating preconstruction permits into the operating permit. Specifically, New Jersey must either:

i. specify in § 7:27–22.20(b)(7) the procedures under which preconstruction permits must have been issued (40 CFR § 70.7 and 40 CFR § 70.8) and permit content requirements the permit must meet (40 CFR § 70.6) in order to be eligible for incorporation by administrative amendment, or

ii. codify those procedural and permit content requirements into the

preconstruction review regulations and obtain EPA's approval of those regulations.

4. Permit Fees

In order to receive full program approval, New Jersey must submit a revised fee demonstration showing that $9.51 million is adequate to administer the operating permit program during the initial four years of full program implementation. Should the cap of $9.51 million fall short of the actual program costs, New Jersey must take all necessary corrective actions (including legislative changes) prior to submitting the corrected program.

If NJ fails to submit a complete corrective program for full approval by December 16, 1997, EPA will start an 18-month clock for mandatory sanctions. If NJ then fails to submit a complete corrective program before the expiration of that 18-month period, EPA will apply sanctions as required by Section 502(d)(2) of the Act, which will remain in effect until EPA determines that NJ has corrected the deficiencies by submitting a complete corrective program.

If EPA disapproves NJ's complete corrected program, EPA will apply sanctions as required by Section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date, NJ has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if NJ has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the NJ program by the expiration of this interim approval, EPA must promulgate, administer and enforce a federal operating permit program for the State of New Jersey upon interim approval expiration.

It should be noted that this interim approval is granted based on the information submitted by the NJDEP on August 10, 1995 and supplements subsequently received. Should the program approvability status of NJ's program change in the future for any reasons including changes in state laws or regulations or procedures which limit the NJDEP's enforcement authority or program administration and enforcement, EPA will revisit this approval and exercise its authority as provided under 40 CFR § 70.10 (b) or (c) to afford NJ an opportunity to correct its program deficiencies or withdraw program approval.

Requirements for approval, specified in 40 CFR § 70.4(b), encompass Section 112(l)(5) requirements for approval of a program for delegation of Section 112 standards as promulgated by the EPA as they apply to Part 70 sources. Section 112(l)(5) requires that the state's program contain adequate authorities, adequate resources for implementation, an expeditious compliance schedule, and adequate enforcement ability, which are also requirements under Part 70. In a letter dated November 15, 1995, NJDEP requested delegation through 112(l) of all existing 112 standards for Part 70 sources and infrastructure programs. With respect to future 112 standards, NJDEP intends to accept delegation of most, if not all, of the standards. NJDEP will review each standard within 45 days of receiving notice from EPA prior to accepting delegation. In the letter, NJDEP demonstrated that they have sufficient legal authorities, adequate resources, the capability for automatic delegation of future standards, and adequate enforcement ability for implementation of Section 112 of the Act for all Part 70 sources. Therefore, the EPA is also promulgating interim approval under Section 112(l)(5) and 40 CFR Part 63.91 to grant New Jersey approval for its program mechanism for receiving delegation of all existing and future Section 112(d) standards for all Part 70 sources, and Section 112 infrastructure programs that are unchanged from federal rules as promulgated.

III. Administrative Requirements

A. Docket

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

B. Executive Order 12866

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

C. Regulatory Flexibility Act

The EPA's actions under Section 502 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy 40 CFR Part 70. Since these operating permit programs were already adopted at the state level and today's action does not introduce any additional requirements that are new to the state program already in effect, no significant impact on a substantial number of small entities is expected to occur as a result of today's action.

D. Unfunded Mandates

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

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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: May 5, 1996.

Jeanne M. Fox,

Regional Administrator.

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

PART 70—[AMENDED]

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

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

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

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

* * * * *

New Jersey

(a) The New Jersey Department of Environmental Protection submitted an operating permit program on November 15, 1993, revised on August 10, 1995, with supplements on August 28, 1995, November 15, 1995, December 4, 1995, and December 6, 1995; interim approval effective on June 17, 1996; interim approval expires June 16, 1998.

(b) (Reserved)

* * * * *

[FR Doc. 96–12347 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5505–2]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Washington County Landfill Superfund Site from the National Priorities List (NPL).

SUMMARY: The U.S. Environmental Protection Agency (U.S. EPA) announces the deletion of the Washington County Landfill site in Minnesota from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Minnesota, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Minnesota have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Lawrence Schmitt (312) 353–6565 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Minnesota Pollution Control Agency Public Library, 520 Lafayette Rd., St. Paul, MN 55155–4194 and Lake Elmo Branch of the Washington County Public Library, 3459 Lake Elmo Avenue, Lake Elmo, MN. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Washington County Landfill Site located in Washington County, Minnesota. A Notice of Intent to Delete for this site was published April 1, 1996 (61 FR 14280). The closing date for comments on the Notice of Intent to Delete was May 1, 1996. EPA received no comments and therefore no Responsiveness Summary was prepared.

The U.S. EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 7, 1996.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region V.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Site ''Washington County Landfill Site, Lake Elmo County, Minnesota''.

[FR Doc. 96–12348 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 570

[APD 2800.12A, CHGE 71]

RIN 3090–AF92

General Services Administration Acquisition Regulation; Acquisition of Leasehold Interests in Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to revise sections 570.106 and 570.303 to authorize the use of design-build selection procedures in section 303M of the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 104–106, February 10, 1996, for lease construction projects when the statutory criteria for use are met.

DATES: Effective Date: May 16, 1996.

Comment Date: Comments should be submitted in writing to the address shown below on or before July 15, 1996 to be considered in formulating the final rule.

ADDRESSES: Interested parties should submit written comments to the Office of Acquisition Policy (MV), General Services Administration, Room 4010, 18th & F Streets, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Tom Wisnowski, GSA Acquisition Policy Division, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Determination To Issue an Interim Rule

A determination has been made under the authority of the Administrator of General Services that urgent and compelling reasons exist to publish an interim rule prior to affording the public opportunity for comment.

Section 4105 of Public Law 104–106 amended the Federal Property and Administrative Services Act of 1949 to add a new section 303M on design-build selection procedures. The law authorizes use of two-phase selection