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. 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 establishing source-specific requirements for four named sources.

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 approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from four power plants in the Pittsburgh area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 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 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(161) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(161) Revisions pertaining to NO_X and/or VOC RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on January 6, 1995, September 13, 1996, and July 1, 1997.

(i) *Incorporation by reference.*

(A) Letters from the Pennsylvania Department of Environmental Protection dated January 6, 1995, September 13, 1996, and July 1, 1997, transmitting source-specific VOC and/or NO_X RACT determinations.

(B) The following companies' Plan Approvals (PA), or Consent Orders (CO):

(*1*) Duquesne Light Company's Cheswick Power Station, CO 217, effective March 8, 1996, except for condition 2.5.

(*2*) Duquesne Light Company's Elrama Plant, PA 63–000–014, effective December 29, 1994.

(*3*) Pennsylvania Electric Company's Keystone Generating Station, PA 03–000–027, effective December 29, 1994.

(ii) *Additional materials.*

(A) The federally enforceable Major Modification PSD Permit, ACHD Permit #0056, issued on March 5, 2001 to Orion Power Midwest L.P. for its Brunot Island Power Station (formerly owned by Duquesne Light Company).

(B) The Consent Order and Agreement, dated April 15, 1999, between the Commonwealth of Pennsylvania, Department of Environmental Protection and Duquesne Light Company, INC., regarding NO_X Allowances, which states that the emission reductions resulting from the curtailment of operations at the Phillips Station prior to April 15, 1999 are not eligible to be used to generate emission reduction credits (ERCs) and cannot be used as creditable emission reductions in any New Source Review (NSR) applicability determination.

(C) Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(161)(i)(B) of this section.

* * * * *

[FR Doc. 01–26263 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[ME–063–7012a; A–1–FRL–7085–5]

Clean Air Act Final Approval of Operating Permits Program; State of Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to fully approve the Operating Permits Program of the State of Maine (program). Maine submitted its program for the purpose of complying with Clean Air Act (the Act) requirements for a state to develop a program to issue operating permits to all major stationary and certain other sources. EPA granted source category-limited interim approval to Maine's operating permit program on February 21, 1997. On September 28, 2001, EPA received Maine's revisions to its program that address the issues described in EPA's interim approval.

DATES: This direct final rule is effective on December 17, 2001 without further notice, unless EPA receives adverse comment by November 19, 2001. If adverse comment is received, EPA 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: Comments may be mailed to Steve Rapp, Unit Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the state submittal and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA Region I.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918–1657.

SUPPLEMENTARY INFORMATION:

I. Why Was Maine Required To Develop an Operating Permit Program?

Title V of the Clean Air Act (the Act), as amended (42 U.S.C. 7401 and 7661 *et seq.*), requires all states to develop an operating permit program and submit it to EPA for approval. EPA has promulgated rules that define the minimum elements of an approvable

state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and, if necessary, withdraw approval of state operating permit programs. See 57 FR 32250 (July 21, 1992). These rules are codified at 40 Code of Federal Regulations (CFR) part 70.

Title V directs states to develop programs for issuing operating permits to all major stationary sources and to certain other sources. EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. 7661a) and the Part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program either partial or interim approval. See 40 CFR 70.4(d). EPA granted the State of Maine final interim approval of its program on February 21, 1997 (see 62 FR 7978), which became effective on March 24, 1997.

II. What Did Maine Submit To Meet the Title V Requirements?

Maine submitted a Title V operating permit program on October 23, 1995. In addition to regulations (Chapter 140 of the Department of Environmental Protection Regulations), the program submittal included a legal opinion from the Attorney General of Maine stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration. This program, including the operating permit regulations, substantially met the requirements of part 70.

III. What Was EPA's Action on Maine's 1995 Submittal?

EPA deemed the program administratively complete in a letter to the state dated December 29, 1995. On September 19, 1996, EPA proposed to grant interim approval to Maine's submittal. After responding to comments, EPA granted interim approval to Maine's submittal on February 21, 1997. In the notice granting interim approval, EPA stated that there were several areas of Maine's program regulations that would need to be amended in order for EPA to grant full approval of the state's program. EPA has been working closely with the state and has determined that the state has made all necessary rule changes for full approval. The following section contains details regarding the areas of Maine's regulations which the state changed to address EPA's interim approval issues.

IV. What Were EPA's Interim Approval Issues and Where Has Maine Amended its Regulation To Address the Interim Approval Issues?

1. Forty CFR 70.4(b)(12)(i) requires states to allow for facilities to make changes as required by Section 502(b)(10) of the Act, ''Section 502(b)(10) changes'' as defined in Part 70, with just a seven day notice. Chapter 140, section 8 and the relevant definitions in Chapter 100, sections 39 and 113 of the State's rule, adequately addresses the relevant sections of 40 CFR 70.4(b)(12) governing ''Section 502(b)(10) changes.''

2. Forty CFR 70.7(e)(2)(iv) requires the state to process minor permit modifications within 90 days of the state's receipt of the application. Chapter 140, section 9.B.2. requires the state to process ''Part 70 Minor Change'' within 90 days.

3. Forty CFR 70.7(e)(2)(iii) and 70.7(e)(2)(iv) require the state to notify EPA and affected states when a source applies for a minor permit modification. States are also required to give EPA 45 days to review any minor permit modification. Previously, Maine allowed sources to revise their permits though a procedure called ''Part 70 Minor Revision'' contained in Chapter 140, section 7, without EPA or affected state review of the modification. In its new rule, Maine has limited these ''Part 70 Minor Revision'' provisions so that they apply only to ''state-only requirements.'' Chapter 140, section 7(A). Therefore, these minor revision procedures will not affect any permit terms used to implement applicable requirements under the Act.

4. Part 70 does not provide a state the option to write a permit condition that would allow a source, under limited circumstances, to continue to emit up to the previous licensed level for up to 24 months after the license is amended. In Chapter 140, Maine amended section 5(B)(6)(j) to limit this provision to ''state requirements.'' EPA understands that Maine's intent is to limit the availability of these extended compliance schedules to those permit terms that are required only under state law. Therefore, these extended compliance schedules will not be available for any applicable requirement in the permit required under the Act.

5. Part 70 allows states to develop lists of activities that are considered insignificant and can be exempted from permits and permit applications, provided such activities are not needed to determine the applicability of or to impose an applicable requirement or evaluate the annual permit fee. See 40 CFR 70.5(c). Chapter 140, appendix B, contains the list of activities in Maine that were exempted from the program. This Appendix allowed an activity that emitted up to 4 tons of hazardous air pollutants (HAPs) to be listed as insignificant. EPA disagreed that such an activity could be considered insignificant. Therefore, Maine has amended Appendix B by lowering the HAPs threshold to one ton per year of total HAPs for any emission unit or activity. Chapter 140, appendix B, section B(1)(c). Maine also clarified in appendix B that exempt activities cannot emit more than the state's own thresholds for HAPs, which can be significantly less than one ton per year. Chapter 140, appendix B, sections B(1)(d) and C.

On February 21, 1997 (62 FR 7978), EPA proposed to add a sixth interim approval condition requiring the state to remove six activities from its list of insignificant activities. Even though EPA never finalized this issue as an interim approval condition, Maine has either removed or clarified the activities on the list of insignificant activities to address EPA's concerns. Specifically, Maine has removed the activities formerly listed as paper forming (1995 version of chapter 140, appendix B, section A(117)); vacuum system exhaust (1995 version of chapter 140, appendix B, section A(118)); and stock cleaning and pressurized pulp washing (1995 version of chapter 140, appendix B, section A(121)). Maine also limited the exemption for the following activities to include only emission units not subject to the pulp and paper MACT standards: Ssewer manholes, junction boxes, sumps, and lift stations associated with wastewater treatment (2001 version of chapter 140, appendix B, section A(97)); and broke beaters, repulpers, pulp and repulping tanks, stock chests and bulk pulp handling (2001 version of chapter 140, appendix B, section A(84)). The activity described formerly as ''liquor clarifier and storage tanks and associated pumping, piping, and handling'' (1995 version of chapter 140, appendix B, section A(114)) has been limited to clarifiers, storage tanks and associated pumping, piping, and handling for white liquor (2001 version of chapter 140, appendix B, section (88)). White liquor handling is currently unregulated by the pulp and paper MACT standard. EPA has determined that the state has either eliminated or appropriately limited the exemptions

we proposed to list as interim approval issues.

V. What Action Is EPA Taking Today?

EPA is taking final action to fully approve the State's operating permit program because the State of Maine's program now fulfills the requirements of part 70. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. In the proposed rules section of this **Federal Register** publication, however, EPA is publishing a separate document that will serve as the proposal to grant full approval should relevant adverse comments be filed. This action will be effective December 17, 2001 unless the Agency receives relevant adverse comments by November 19, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. EPA will address all public comments it receives in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If EPA receives no such comments, the public is advised that this action will be effective on December 17, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will 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, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it 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, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. 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 a State 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, to use VCS in place of a State program 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. 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. section 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.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

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. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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).)

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 6, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

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 revising the entry for Maine to read as follows:

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

* * * * *

Maine

(a) Department of Environmental Protection: submitted on October 23, 1995; source-category limited interim approval effective on March 24, 1997; full approval effective December 17, 2001.

(b) [Reserved]

* * * * *

[FR Doc. 01–26099 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P