general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, and industrial process cooling towers in place of similar Federal requirements set forth in the Code of Federal Regulations. This proposed approval includes granting authority to DNREC to implement and enforce any future amendments to these provisions and standards that EPA promulgates and DNREC adopts unchanged into its regulations. EPA is not waiving its notification and reporting requirements under this proposed approval; therefore, sources will need to send notifications and reports to both DNREC and EPA. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for rule approval as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before November 1, 2001.

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

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

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to the approval of Delaware's regulations for hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, and industrial process cooling towers (CAA section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: September 7, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–24201 Filed 10–1–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ042–OPP; FRL–7071–6]

Clean Air Act Proposed Full Approval of Operating Permit Programs; Arizona Department of Environmental Quality, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Arizona Department of Environmental Quality (ADEQ or State) operating permit program. The ADEQ operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the ADEQ operating permit program on October 30, 1996 (61 FR 55910). The ADEQ has revised its program to satisfy the conditions of the interim approval and this action proposes approval of those revisions and other revisions since interim approval was granted. EPA is proposing full approval of the operating permits program submitted by ADEQ based on the revisions submitted on August 11, 1998, May 9, 2001, and September 7, 2001.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by November 1, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of ADEQ's submittal and other supporting documentation relevant to this action during normal business hours at the Air Division of EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V program at the following location: ADEQ Department of Environmental Quality, 3033 North central Avenue, Phoenix, Arizona 85012–2809.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252 or vagenas.ginger@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

I. What is the operating permit program?
II. What is EPA's proposed action?
III. What are the program changes that EPA is approving?
IV. What is the effect of this proposed action?
V. Are there other issues with the program?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine 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 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 (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the national ambient air quality standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

II. What Is EPA's Proposed Action?

Because the operating permit program originally submitted by ADEQ substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval to the program in a rulemaking published on October 30, 1996 (61 FR 55910). The interim approval notice described the conditions that had to be met in order for the ADEQ program to receive full approval. Today's **Federal Register** notice describes the changes ADEQ has made to its operating permit program to correct conditions and obtain full approval.

EPA is proposing full approval of the operating permits program submitted by ADEQ based on the revisions submitted on August 11, 1998, May 9, 2001, and September 7, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's October 30, 1996 rulemaking. *See* 61 FR 55910. EPA is also proposing to approve, as a title V operating permit program revision, additional changes to the rules that have been made since ADEQ was granted interim approval. The interim approval issues, ADEQ's corrections, and the additional changes are described below under the section entitled, ''What are the program changes that EPA is approving?'

III. What Are the Program Changes That EPA Is Approving?

A. Corrections to Interim Approval Issues

In its October 30, 1996 rulemaking, EPA made full approval of ADEQ's operating permit programs contingent upon the correction of a number of interim approval issues. Each issue, along with the State's correction, is described below.

1. *Rule deficiency:* AAC R18–2–101(61)(b) (part of the definition of ''major source'') did not clearly require that fugitive emissions of HAPs be included when determining a source's potential to emit. In order to correct the deficiency, the definition needed to be revised so that it would be clear that fugitive emissions of HAPs must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year HAP major source thresholds. *See* 40 CFR 70.2.

Rule change: The definition of major source has been revised to correct the deficiency. It now defines a major source under section 112 of the CAA to include, ''for pollutants other than radionuclides, any stationary source that emits, or has the potential to emit, in the aggregate and including fugitive emissions, 10 tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the CAA, 25 tons per year of any combination of such hazardous air pollutants * * *.'' (Emphasis added.)

2. *Rule deficiency:* EPA found that ADEQ's regulations regarding the application content and permit issuance requirements for previously minor sources that were applying for title V status to be somewhat unclear. In order to correct this problem, EPA required that the State revise AAC R18 to clarify that, when an existing source obtains a significant permit revision to revise its permit from a Class II permit to a Class I permit, the entire permit, and not just the portion being revised, must be issued in accordance with part 70 permit application, content, and issuance requirements, including requirements for public, affected state, and EPA review. *See* 40 CFR 70.7.

Rule changes: R18–2–320(E) and R18–2–304(E)(1) have been revised to address the interim approval issue. These provisions now clearly require that a previously minor source that is obtaining a title V permit must submit a full title V permit application and undergo full public, EPA and affected state review.

3. *Rule deficiency:* Section 70.6(a)(8) requires that title V permits contain a provision that ''no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.'' AAC R18–2–306(A)(10) included this exact provision but also included a sentence that negated this provision. EPA required that ADEQ either delete or revise the negating sentence to make the rule consistent with part 70.

Rule change: The problematic sentence has been deleted from the State's rule.

4. *Rule deficiency:* Section 70.4(b)(12) allows sources to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. The State's rules provided for such permit conditions but did not restrict the allowable changes to those that are not modifications under title I of the Act and those that do not exceed the emissions allowable under the permit. ADEQ was required revise AAC R18–2–306(A)(14) to add these conditions.

Rule change: AAC R18–2–306(A)(14) now includes the following language: ''Changes made under this paragraph (14) shall not include modification under any provision of Title I of the Act and may not exceed emissions allowable under the permit.''

5. *Rule deficiency:* Pursuant to 70.6(g), operating permit programs may only provide for an affirmative defense to actions brought for noncompliance with technology-based emission limits when such noncompliance is due to an emergency situation. In its original title V program submittal, ADEQ included AAC R18–2–310, which established an affirmative defense that was broader than that allowed under part 70. ADEQ was required to modify its program to make it consistent with the section 70.6(g) provision for an emergency affirmative defense.

Rule change: ADEQ has submitted a program revision that, when approved by EPA, will remove R18–2–310 from the State's title V program.

6. *Rule deficiency:* In order to ensure that material permit conditions can be contained in permits issued by the county control officers as well as the Director of ADEQ, EPA required that ADEQ revise AAC R18–2–331(A)(1) to provide under the definition of ''material permit condition'' that ''the condition is in a permit or permit revision issued by the Director or the Control Officer * * *.''

Rule change: The Rule has been modified as required.

B. Other Changes

The rules the State has submitted for EPA approval incorporate changes other than those necessary to correct interim approval deficiencies. In this action, EPA is also proposing to approve those additional program changes made by ADEQ since the interim approval was granted. We have evaluated the additional changes and, with one exception that is described in detail below, find that they are consistent with part 70. We are including the additional changes in our proposed approval.

Paragraph (c) of ADEQ's definition of major source (R18–2–101(64)) lists source categories that must count fugitives. Subparagraph xxvii has been modified to read: ''All other stationary source categories regulated by a standard promulgated as of August 7, 1980 under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.'' Emphasis added. The addition of this 1980 cutoff date restricts the types of sources that are required to count fugitives towards the major source threshold. This is inconsistent with part 70 and is not currently approvable. EPA has, however, proposed a revision to the major source definition that will incorporate the 1980 cutoff date. We are therefore proposing to approve the State's definition of major source provided that EPA finalizes revisions to the part 70 program that will make the change approvable. Alternatively, if EPA does not finalize the changes to part 70 described above, ADEQ's major source definition will conflict with the operative version of part 70 and we will be unable to approve it. The remedy to one of ADEQ's interim approval issues resides within that same definition, so if we are barred from approving ADEQ's new major source definition because of the 1980 date, we will be unable to grant full approval to ADEQ's title V program. As a result, ADEQ would lose its authority to implement its title V operating permits program on December 1, 2001, and part 71 would be in effect.

ADEQ made a number of additional changes to the rules that implement their part 70 program, many of which were non-substantive (e.g., recodifications) or irrelevant (e.g., changes to requirements applying to non-title V sources). A general description of the more substantive changes follows. For more detail on the all of the changes, refer to the technical support document.

Several provisions implementing the compliance assurance monitoring requirements of 40 CFR part 64 have been added to ADEQ's rules. Additional changes were made to expand application processing requirements and permit content provisions to cover voluntarily accepted emission limitations. The rules have also been modified to specify that noncompliance with any federally enforceable requirement is a violation of the Clean Air Act and to designate terms and conditions that are voluntarily entered into as federally enforceable.

IV. What Is the Effect of This Proposed Action?

ADEQ has adopted and submitted rule changes and requested program revisions that address the issues identified in EPA's interim approval and are described above. The rules proposed for approval today listed in Table 1.

TABLE 1.—SUBMITTED RULES

Rule No.	Rule title	Effective	Submitted
R18–2–101(61)	Definitions—definition of ''Major source'' only	6/4/98	8/11/98
R18–2–304	Permit application processing procedures	12/20/99	5/9/01
R18–2–306	Permit contents	6/4/98	8/11/98
R18–2–320	Significant Permit Revisions	12/20/99	5/9/01
R18–2–331	Material Permit Conditions	6/4/98	8/11/98

In addition to proposing to approve the rules listed in Table 1, EPA is also proposing to approve the removal of R18–2–310, Excess Emissions, from the State's title V program.

As noted above, ADEQ has adopted and submitted the required changes and has fulfilled the conditions of the interim approval granted on October 30, 1996 (61 FR 55910). EPA is therefore proposing full approval of the ADEQ operating permit program, contingent on EPA finalizing its proposed change to the part 70 definition of major source.

V. Are There Other Issues With This Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

One citizen's group commented on what it believes to be deficiencies with respect to ADEQ's title V program. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** notice published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval, and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

Request for Public Comments

EPA requests comments on the program revisions discussed in this proposed action. Copies of the ADEQ submittals and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 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 proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the

record in case of judicial review. EPA will consider any comments received in writing by November 1, 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 significantly 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 currently 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.

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: September 17, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–24596 Filed 10–1–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 00–175; FCC 01–261]

2000 Biennial Regulatory Review Separate Affiliate Requirements of Independent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document institutes a broad-based reexamination of part 64, subpart T of the Commission's rules, which establishes safeguards for the provision of in-region interexchange services by incumbent independent local exchange carriers. In this document the Commission invites comment on whether the benefits of the separate affiliate requirement for facilities-based providers continue to outweigh the costs and whether there are alternative safeguards that are as effective but impose fewer regulatory costs.

DATES: Comments due on or before November 1, 2001 and Reply Comments due on or before November 23, 2001.

FOR FURTHER INFORMATION CONTACT: Jessica Rosenworcel, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01–175, FCC 01–261, adopted September 13, 2001, and released September 14, 2001. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* It is also available on the Commission's website at *http://www.fcc.gov.*

Synopsis of the Notice of Proposed Rulemaking

1. Under § 64.1903 of the Commission's rules, incumbent independent local exchange carriers (LECs) providing facilities-based, in-region, interexchange service must do so through a separate corporate affiliate. In this document the Commission invites interested parties to comment on whether application of the separate affiliate requirement for incumbent independent LECs continues to serve the public interest. The Commission first asks a series of questions intended to elicit information regarding the number of incumbent independent LECs providing in-region, interexchange service on either a facilities or resale basis. In addition, the Commission asks for comment on whether or not the benefits of this separate affiliate requirement outweigh the regulatory and economic costs involved. Finally, the Commission seeks comment on possible alternative safeguards, including proposals for applying the