(c) Except as provided in paragraph (b) of this section, agencies that wish a different retention period must request an exception to the GRS by submitting an SF 115 in accordance with § 1228.30 accompanied by a written justification for the different retention period.

* * * * *

10. Revise § 1228.50(a)(4) to read as follows:

§ 1228.50 Application of schedules.

* * * * *

(a) * * *

(4) Agencies must submit to the National Archives and Records Administration (NWML) copies of published records schedules and all directives and other issuances relating to records disposition, within 30 days of implementation or internal dissemination, as specified below. If an agency both prints copies for distribution and posts an electronic copy, it should follow the instructions in paragraph (a)(4)(ii) of this section.

(i) Agencies that print these materials for internal distribution must forward to NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001, three copies of each final directive or other issuance relating to records disposition and 20 copies of all published records schedules (printed agency manuals) and changes to all manuals as they are issued.

(ii) Agencies that make these materials available via the Internet or internally on an Intranet web site or by other electronic means must submit one printed or electronic copy, in a format specified by NARA, to NARA (NWML) when the directive or manual is posted or distributed. Electronic mail messages transmitting copies of agency schedules as electronic attachments may be sent to *records.mgt@nara.gov.* These submissions must specify the name, title, agency, address, and telephone number of the submitter. If the records schedule is posted on a publicly available web site, the agency must also provide the Internet address (URL).

* * * * *

Dated: February 11, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02–11577 Filed 5–10–02; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN63–01–7288a; FRL–7165–7]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving a revision to the Minnesota State Implementation Plan (SIP) which updates Minnesota's performance test rule in the SIP. The Minnesota Pollution Control Agency (MPCA) submitted the proposed revision to EPA on December 16, 1998. The proposed revisions set out the procedures for facilities that are required to conduct performance tests to demonstrate compliance with their emission limits and/or operating requirements. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

DATES: This direct final rule will be effective July 12, 2002, unless EPA receives adverse comment by June 12, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353–8328, before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is approving into the Minnesota SIP a revision to the SIP that MPCA submitted on December 16, 1998 which updates the Minnesota performance test rule. The Minnesota performance test rule was originally approved into the SIP on May 6, 1982 (47 FR 19520). Specifically, EPA is approving into the SIP Minnesota Rules 7017.2001 through 2060, removing from the SIP Minn. R. 7017.2000, and amending in the SIP Minn. R. 7011.0010, 7011.0105, 7011.0510, 7011.0515, 7011.0610, 7011.0710, 7011.0805, 7011.1305, 7011.1405, and 7011.1410.

2. Why Is EPA Taking this Action?

EPA is taking this action because the state's submittal, which revises the performance test rule SIP, is fully approvable. The revisions made by MPCA to the performance test rule since 1976 vastly improve the performance testing requirements found in the Minnesota SIP. The 1976 rule, which is currently enforceable by EPA in the SIP (Minn. R. 70 17.2000), lacks many of the requirements now specifically set forth in the revised state rules.

EPA reviewed the SIP revision request for completeness based on the completeness requirements contained in Title 40 of the *Code of Federal Regulations,* Part 51, Appendix V. The EPA determined that the submittal is complete, and notified the State of Minnesota in a March 23, 1999 letter from Richard C. Karl, EPA, to Karen Studders, MPCA. The state has adequately addressed EPA's concerns, as discussed below, and the performance test SIP revision satisfies the applicable requirements of the Act. A more detailed explanation of how the state's submittal meets these requirements is in EPA's June 19, 2001 Technical Support Document (TSD).

3. What Is the Background for This Action?

A. Original Performance Test Rule SIP Submittal

Minnesota promulgated the original performance test rules in 1976 as Air Pollution Control 21 (APC 21). APC 21 was submitted to EPA in 1980 as part of Minnesota's Total Suspended Particulate Matter control plan and was incorporated into the SIP on May 6,

1982 (47 FR 19520). The state recodified APC 21 to Minn. R. 7005.1860 in 1983, and yet again to Minn. R. 7017.2000 in 1993. The state made only minor changes to the performance test rule between 1976 and 1993. MPCA initiated major additions to the performance test rule in 1993 as described below.

B. 1993 Rulemaking Changes to the Performance Test Rule

The MPCA revised the performance test rule in 1993 for the following reasons: (1) The need to clarify and consolidate the state's performance test requirements; (2) the increase in the number of regulated pollutants and the increase in available test methods for performance testing; and (3) the need to use a definition of ''PM10'' that is consistent with the federal definition. On December 6, 1993, the state repealed the 1976 performance test rule, Minn. R. 7017.2000, and the 1993 performance test rule, Minn. R. 7017.2001–2060, became effective.

EPA reviewed and commented on the rule during its development and had identified several issues that required resolution before the rule could be approved into the SIP. EPA and MPCA staff participated in numerous discussions subsequent to the rulemaking to resolve these issues. EPA formally provided MPCA with its final comments by letter dated May 9, 1997. EPA's primary concerns with the 1993 version of the performance test rule were that certain provisions in the regulations could unintentionally impede enforcement, and that provisions addressing malfunction, startup and shutdown were less stringent than the federal New Source Performance Standards (NSPS).

II. Review of State Implementation Plan Revision

1. Why Did the State Submit This SIP Revision?

MPCA initiated its latest revision to the performance test rule to address EPA's May 9, 1997 comments. As previously stated, in 1993 the state repealed the 1976 version of the performance test rule, which is currently in the Minnesota SIP.

In a June 25, 1997 letter to EPA, MPCA staff responded to EPA's May 9, 1997 comments with additional revisions to the rule. Due to filing errors, MPCA placed the performance test rule on public notice twice, from July 28 to August 27, 1997 and from April 20 to May 20, 1998 before rulemaking was completed on the final rule.

Because over a year had passed between MPCA's June 25, 1997 response to EPA's May 9, 1997 comments and the completion of formal rulemaking, MPCA re-responded to EPA's comments which it included in their December 16, 1998 SIP submittal.

2. What Information Did Minnesota Submit, and What Were Its Requests?

In order to resolve those issues that EPA identified as impediments to SIP approval, MPCA made the following revisions to its performance test rule. MPCA revised language in the performance test rule to reference the use of credible evidence where a test does not meet the administrative and technical requirements of the rule, and incorporated NSPS language to make the revised rule's provisions regarding malfunction, startup and shutdown equally stringent to the federal requirements. MPCA also incorporated a number of relatively minor language changes to help clarify the intent of the rule. Additional changes to the performance test rule were based on MPCA's review and experience since the state adopted the rule in December 1993, and the streamlining of certain administrative procedures. EPA has reviewed both the 1997 and 1998 response documents submitted by MPCA and has found that the state has adequately addressed EPA's concerns.

The State has requested that EPA approve the following: (1) The removal of Minn. R. 7017.2000 from the SIP, since this rule was repealed by the state in 1993; (2) the inclusion of the revised performance test rule, Minn. R. 7019.2001–2060, into the SIP; and (3) the inclusion into the SIP of updates to small portions of the opacity rules and other related rules identified while amending the performance test rule. Listed below are some of the changes made by the state to strengthen the performance test rule since it was incorporated into the SIP in 1976.

Definitions (7017.2005). A detailed set of definitions for the terms used in the performance test provisions was added to enhance the clarity and enforceability of the requirements.

Federal Testing Requirements and Test Methods (7017.2010, 7017.2015, and 7017.2050). The amended rule requires compliance with current EPA test methods. Because the rule incorporates by reference federal test methods and any future amendments or versions of those methods, the SIP will automatically require compliance with the latest EPA requirements (including testing requirements set forth in NSPS and NESHAPS).

Pretest Requirements (7017.2030). Substantial pretest requirements have been added, including a requirement to submit a detailed test plan and to meet with MPCA personnel prior to testing.

Testing Procedures and Quality Assurance (7017.2045 7017.2060). Incorporates new language regarding testing procedures and quality assurance.

Operational Requirements and Limitations (7017.2025). Establishes enforceable operating limitations based on tested conditions to better ensure that the compliance shown during testing is actually maintained during day-to-day operations.

Reporting and Certification Requirements (7017.2035, 7017.2040). Prescribes detailed reporting requirements, including what information must be in the test report, and specific requirements for responsible persons to certify the sampling, analysis, and reporting of the test results.

Consequences for Failing a Test (7017.2025, subparts 4 and 5). Lays out specific retesting requirements and a standard requirement to shut down units failing a retest except in certain circumstances.

Credible Evidence (7017.2020, subpart 6). Ensures that no person can mistakenly assume that the performance test requirements in any way undermine the ability to use any credible evidence to establish a violation.

Changes to Opacity Averaging Times in Performance Standards (7011). Changes the averaging times of all opacity limit excursion levels to six-minute intervals, and proportionately lowers the excursion limit. This results in an opacity standard that is essentially equivalent and consistent with EPA Method 9 and therefore makes the excursion limits more enforceable.

III. Final Rulemaking Action

EPA is approving into the Minnesota SIP revisions to the Minnesota performance test rule. The Minnesota performance test rule was originally approved into the SIP on May 6, 1982 (47 FR 19520). Specifically, EPA is approving into the SIP Minnesota Rules 7017.2001 through 2060, and amending the following rules currently in the SIP with amendments adopted by the state on July 13, 1998: Minn. R. 7011.0010, 7011.0105, 7011.0510, 7011.0515, 7011.0610, 7011.0710, 7011.0805, 7011.1305, 7011.1405, and 7011.1410. In addition, EPA is removing Minn. R. 7017.2000 from the SIP, since this rule was repealed by the state in 1993. As described above, MPCA has addressed the issues identified by EPA and the performance test rule revision is therefore fully approvable.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective July 12, 2002 without further notice unless we receive relevant adverse comments by June 12, 2002. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 12, 2002.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. 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.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP 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 a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United 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. 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 July 12, 2002. 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 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: January 17, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, 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. 7401–7671q.

2. Section 52.1220 is amended by adding paragraph (c)(58) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(58) On December 16, 1998, the State submitted an update to the Minnesota performance test rule, which sets out the procedures for facilities that are required to conduct performance tests to demonstrate compliance with their emission limits and/or operating requirements. In addition, EPA is removing from the state SIP Minnesota Rule 7017.2000 previously approved as APC 21 in paragraph (c)(20) and amended in paragraph (c)(40) of this section.

(i) Incorporation by reference.

(A) Amendments to Minnesota Rules 7011.0010, 7011.0105, 7011.0510, 7011.0515, 7011.0610, 7011.0710, 7011.0805, 7011.1305, 7011.1405, 7011.1410, 7017.2001, 7017.2005, 7017.2015, 7017.2018, 7017.2020,

7017.2025, 7017.2030, 7017.2035, 7017.2045, 7017.2050 and 2060, published in the *Minnesota State Register* April 20, 1998, and adopted by the state on July 13, 1998.

[FR Doc. 02–11734 Filed 5–10–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CT–021–1224a; A–1–FRL–7210–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting full approval to the Clean Air Act (Act), Operating Permits Program of the State of Connecticut (program). Connecticut submitted its program for the purpose of complying with the Act's directive under title V that states develop programs to issue operating permits to all major stationary sources and certain other stationary sources of air pollution. EPA granted interim approval to Connecticut's initial operating permit program on March 24, 1997. On August 13, 2001, EPA proposed full approval of Connecticut's pending revised program, provided the state finalized the sections of its proposed rules that address EPA's interim approval conditions. On January 11, 2002 EPA received Connecticut's adopted revisions to its program. On March 15, 2002, EPA proposed full approval to rule changes Connecticut made that were not related to EPA's interim approval issues. The Agency has determined that Connecticut's program fully meets the requirements of title V.

DATES: This rule is effective on May 31, 2002.

ADDRESSES: Copies of the documents 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 Regional Office, One Congress Street, 11th floor, Boston, MA.

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

SUPPLEMENTARY INFORMATION:

The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

I. What Action Is EPA Taking Today?

EPA is taking final action to approve the changes Connecticut made to its regulations (R.C.S.A. Sections 22a–174–1, 22a–174–2a and 22a–174–33) regarding the state's title V permitting program. The Agency is granting full approval to Connecticut's title V permitting program because Connecticut has made all the necessary changes to its program required by EPA's interim approval and the additional program changes that the state made meet the requirements of title V and EPA's state operating permit program regulations at 40 CFR part 70 (part 70). Details of the state's regulatory changes can be found in EPA's two proposed rulemakings, 66 FR 42496 (August 13, 2001) and 67 FR 11636 (March 15, 2002).

EPA received comments from several groups on the proposed rulemakings. Responses to relevant comments are contained in the following section. In the final adoption, the state made several changes to its proposed rule in response to comments the state received. These changes do not effect the substance of the provisions EPA relied on when it proposed to grant full approval to Connecticut's program. The exact changes the state made can be found as part of EPA's public record. In addition, in EPA's proposal of March 15, 2002, the Agency explained several interpretations of the state's rules upon which we are relying to fully approve the program. The Connecticut Department of Environmental Protection (DEP) has submitted a letter confirming DEP's agreement with our interpretations. See letter from Carmine DiBattista to Donald Dahl, April 12, 2002.

Unlike the prior interim approval, this full approval has no expiration date. However, the state may revise its program as appropriate in the future by following the procedures of 40 CFR 70.4(i). EPA may also exercise its oversight authority under section 502(i) of the Act to require changes to a state's program consistent with the procedures of 40 CFR 70.10.

II. What Issues Were Raised During the Public Comment Periods and What Are EPA Responses?

EPA received several comments on its proposals during the public comment periods. The state's rule changes touch upon three separate, though related, programs—the title V operating permit program, the new source review (NSR) preconstruction permit program, and mechanisms that may be used to limit a source's potential emissions. EPA received comments that raise issues about all three programs. EPA is not taking action here on the portions of the state's rule changes that concern NSR and the mechanisms that may limit potential emissions. In the Agency's Technical Support Document, EPA has categorized the comments into three areas: comments relating to the title V program, comments relating to new source review, and all other comments including several comments on section 22a-174–3b which establishes operational requirements for facilities that assure their emissions will remain at insignificant levels. The requirements of section 3b may ultimately play a role in a facility's potential to emit. But this section is not part of the title V program, and relates more to the requirements for staying out of the title V program. Comments concerning new source review or other programs, including section 3b, are not related to EPA's proposal and are beyond the scope of today's actions. EPA is now responding only to the comments that are relevant to fully approving Connecticut's title V program. Those comments and our responses are as follows:

1. *Comment:* The commenter states that Connecticut did not fully meet a state legislative mandate that requires the DEP to identify and explain differences between federal and state requirements.

Response: Under section 506(a) of the Clean Air Act, a state is free to establish ''additional permitting requirements not inconsistent with [the] Act.'' Therefore, EPA will not look behind a state's decision to include permitting requirements beyond the minima of the Act and part 70, provided the program satisfies those requirements. While state agencies may have an independent obligation under state law to explain their reasons for including requirements beyond those specified in part 70, that obligation does not apply to EPA's assessment of the program's adequacy under the Act and part 70.

2. *Comment:* The commenter states that the DEP should continue its work in clarifying terminology. Examples were given where clarity could be