full approval as discussed in part 70, except with regard to criminal fine authority. The City of Albuquerque/ Bernalillo County addressed appropriately all requirements necessary to receive interim approval of the City/County's operating permits program pursuant to title V, the 1990 Amendments and 40 CFR part 70.

B. Options for Approval/Disapproval and Implications

The EPA is promulgating interim approval of the operating permits program submitted by the City of Albuquerque for Albuquerque/ Bernalillo County on April 4, 1994. Interim approvals under section 502(g) of the Act do not create any new requirements, but simply approve requirements that the State/local area is already imposing. The City/County must make the following changes for this program to receive full approval: Following the State's correction of the statutory defect in criminal fine authority, correct the corresponding defects in City and County Ordinances for Albuquerque and Bernalillo County. In addition to raising the criminal fine amounts to at least \$10,000 for all offenses listed in 40 CFR 70.11(a)(3)(ii), statutory and ordinance revisions must provide authority for the imposition of those fines on a per day per violation basis, as required by 40 CFR 70.11(a)(3)(ii)

Evidence of these statutory and ordinance revisions and their procedurally correct adoption must be submitted to the EPA within 18 months of the EPA's approval of the Albuquerque/Bernalillo County **Operating Permits Program.** This interim approval, which may not be renewed, extends for a period of two years. During the interim approval period, the City of Albuquerque/ Bernalillo County are protected from sanctions for failure to have a program, and the EPA is not obligated to promulgate a Federal permit program in the City of Albuquerque/ Bernalillo County. Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the three-year time period for processing the initial permit applications.

If this interim approval is converted to a disapproval, it will not affect any existing City/County requirements applicable to small entities. Federal disapproval of the City of Albuquerque/ Bernalillo County submittal would not affect its local enforceability. Moreover, the EPA's disapproval of the submittal would not impose a new Federal requirement. Therefore, the EPA certifies that such a disapproval action would not have a significant impact on a substantial number of small entities because it would not remove existing City requirements or substitute a new Federal requirement.

III. Proposed Rulemaking Action

In this action, the EPA is promulgating interim approval of the operating permits program submitted by the City of Albuquerque for Albuquerque/Bernalillo County. The program was submitted to EPA by the Governor's designee for the City/County for the purpose of complying with Federal requirements found in title V of the 1990 Amendments, and in 40 CFR part 70, which mandate that States/local areas develop, and submit to the EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources with the exception of Indian Lands.

Requirements for title V approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of Federal section 112 standards as they apply to part 70 sources. Section 112(l)(5) requires that the State/local program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, as part of this interim approval, the EPA is also promulgating approval of the City/ County program under section 112(l)(5) and 40 CFR 63.91 for the purpose of the City/County receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

The EPA's policy is to apply sanctions to State/local programs if the Governor or his designee fails to submit a corrected program for full approval within 18 months after the due date for the submittal. If the City/County fail to submit a complete corrected program for full approval by June 10, 1996, the EPA will start an 18-month clock for mandatory sanctions. If the City/County program fail to submit a complete program before the expiration of that 18month period, the EPA would impose sanctions. If the EPA disapproves the City/County's corrective program, and has not determined that the City/County have corrected the deficiency within 18 months after the disapproval, then the EPA must impose mandatory sanctions. In either case, if the City/County have not come into compliance, EPA applies

the first sanction. In addition, discretionary sanctions may be applied where warranted any time after the end of the interim approval period if the City/County have not submitted a complete corrective program or EPA has disapproved a corrective program. If the EPA has not granted full approval to the City/County program by January 10, 1997, the EPA must promulgate, administer, and enforce a Federal operating permits program for the City of Albuquerque Environmental Health Department, Air Pollution Control Division.

The EPA has reviewed this submittal of the Albuquerque/ Bernalillo County Operating Permits Program and is promulgating interim approval. Certain defects in the State's statutory criminal fine authority and the City/County ordinances preclude the EPA from granting full approval of the City/ County's operating permits program. The EPA is promulgating interim approval of the City/County operating permits program, and the State, City and County will need to obtain the needed criminal fine authority within 18 months after the Administrator's approval of this program pursuant to 40 CFR 70.4 in order for the City of Albuquerque/Bernalillo County's title V program to be eligible for full approval.

IV. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this final rule. Copies of the City/County's submittal and other information relied upon for the proposed interim approval are contained in a 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, the EPA in the development of this proposed rulemaking. The principal 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 rulemaking process, and

(2) to serve as the record in case of judicial review. The EPA will consider any comments received by February 9, 1995.

B. Executive Order 12866

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

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, the EPA must prepare a regulatory flexibility analysis