between the date of interim approval of Colorado's PROGRAM and final PROGRAM approval. In addition the commenter believes that classifying minor new source review changes as title I modifications would have disastrous consequences for industry.

EPA Response: EPA does not consider this an adverse comment regarding approval of the Colorado PROGRAM since Colorado has submitted a SIP revision to their new source review regulations (Regulation 3, part B) which will enable minor modifications to be processed under the title V minor permit modification procedures. However, the commenter should note that EPA has not yet acted on this SIP revision and therefore, it is not currently available. EPA expects to approve this SIP revision before processing Colorado's full PROGRAM approval. In addition, the broader issue of whether or not minor new source review changes should be classified as title I modifications must be addressed at the National level.

Comment #12: The commenter submitted comments it had previously filed on the proposed part 70 rule and stated that it objected to the interim approval of the Colorado PROGRAM for the same reasons it had objected to the part 70 rule itself.

EPA Response: EPA believes the appropriate forum for pursuing objections to the legal validity of the part 70 rule is through a petition for review of the rule brought in the D.C. Circuit Court of Appeals. EPA notes that this commenter has filed such a petition. However, unless and until the part 70 rule is revised, EPA must evaluate programs according to the rule that is in effect.

C. Final Action

The EPA is promulgating interim approval of the PROGRAM submitted by the State of Colorado on November 5, 1993. The State must make the following changes to receive full PROGRAM approval:

- (1) The State must revise its administrative process in section II.D.5 of part A of Regulation 3, for adding additional exemptions to the insignificant activities list, to require approval by the EPA of any new exemptions before such exemptions can be utilized by a source.
- (2) The State must revise the Colorado Air Quality Control Act (25–7–109.6(5)) to remove the condition that an accidental release prevention program pursuant to section 112(r) of the Act will only be implemented if Federal funds are available.

Refer to the technical support document accompanying this rulemaking for a detailed explanation of each PROGRAM deficiency.

In Colorado's part 70 program submission, the State did not seek part 70 PROGRAM approval within the exterior boundaries of Indian Reservations in Colorado. The scope of Colorado's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved PROGRAM) within the State, except the following: any sources of air pollution located in "Indian Country," as defined in 18 U.S.C. 1151, including the Southern Ute Indian Reservation and the Ute Mountain Ute Indian Reservation, or any other sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-55818 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43955, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

In not extending the scope of Colorado's approved PROGRAM to sources located in "Indian Country," EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over such sources. Should the State of Colorado choose to seek PROGRAM approval within "Indian Country," it may do so without prejudice. Before EPA would approve the State's part 70 PROGRAM for any portion of "Indian Country," EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval, that such approval would constitute sound administrative practice, and that those sources are not subject to the jurisdiction of any Indian Tribe.

This interim approval, which may not be renewed, extends until February 24, 1997. During this interim approval period, the State of Colorado is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in the State of Colorado. 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.

If the State of Colorado fails to submit a complete corrective PROGRAM for full approval by August 24, 1996, EPA will start an 18-month clock for mandatory sanctions. If the State of Colorado then fails to submit a corrective PROGRAM that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the State of Colorado has corrected the deficiency by submitting a complete corrective PROGRAM. Moreover, if the Administrator finds a lack of good faith on the part of the State of Colorado, both sanctions under section 179(b) will apply after the expiration of the 18month period until the Administrator determined that the State of Colorado had come into compliance. In any case, if, six months after application of the first sanction, the State of Colorado still has not submitted a corrective PROGRAM that EPA has found complete, a second sanction will be required.

If EPA disapproves the State of Colorado's complete corrective PROGRAM, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State of Colorado has submitted a revised PROGRAM and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the State of Colorado, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the State of Colorado has come into compliance. In all cases, if, six months after EPA applies the first sanction, the State of Colorado has not submitted a revised PROGRAM that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the State of Colorado 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 Colorado PROGRAM by the expiration of this interim approval and that expiration