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, Incorporation by reference, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 1, 2001.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 01–20215 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CT–066–7223; A–1–FRL–7032–6]

Full Approval of Operating Permit Program; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA is proposing to fully approve the operating permit program for the State of Connecticut. Connecticut's operating permit program was created to meet the federal Clean Air Act (Act) directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources of air pollution and to certain other sources within the states' jurisdiction. EPA is proposing to approve Connecticut's program at the same time Connecticut is proposing changes to its state regulations to address EPA's interim approval issues. EPA will only finalize its approval of Connecticut's program after Connecticut finalizes its rule consistent with the program changes and interpretations described in this notice. The public comment period for Connecticut's program regulations (R.C.S.A. Sections 22a–174–2a and 22a–174–33) is open for comment from July 17, 2001 until September 7, 2001.

DATES: Comments on this proposed rule must be received on or before September 12, 2001.

ADDRESSES: Comments may be mailed to Donald Dahl, 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. EPA strongly recommends that any comments should also be sent to Ellen Walton of the Department of Environmental Protection, Bureau of Air Management, Planning and Standards Division, 79 Elm Street, Hartford, Connecticut 06106–5127. 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 above addresses.

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

SUPPLEMENTARY INFORMATION:

I. Why Was Connecticut 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 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 (Part 70). Title V directs states to develop programs for issuing operating permits to all major stationary sources and to certain other sources. The Act directs states to submit their operating permit programs to EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. Sec. 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. If EPA has not fully approved a program by two years after the November 15, 1993 date, or before the expiration of an interim program approval, it must establish and implement a federal program. EPA granted the State of Connecticut final interim approval of its program on March 24, 1997 (see 62 FR 13830) and the program became effective on April 23, 1997.

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

The Governor of Connecticut submitted a Title V operating permit program for the State of Connecticut on September 28, 1995. In addition to regulations (Section 22a–174–33 of the Department of Environmental Protection Regulations), the program submittal included a legal opinion from the Attorney General of Connecticut 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 Connecticut's 1995 Submittal?

EPA deemed the program administratively complete in a letter to the Governor dated November 22, 1995. On December 6, 1996, EPA proposed to grant interim approval to Connecticut's submittal. After responding to comments, EPA granted interim approval to Connecticut's submittal on March 24, 1997. In the notice granting interim approval, EPA stated that there were several areas of Connecticut'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 is proposing to make all of the rule changes necessary for full approval. The following section contains details regarding the areas of Connecticut's

regulations where the state is proposing to address EPA's interim approval issues.

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

1. Forty CFR 70.5(c)(6) requires sources to explain exemptions from applicable requirements. In Section 22a–174–33(g)(2)(G), the State's proposed rule now requires the applicant to explain any exemptions.

2. Forty CFR 70.5(c)(8)(ii)(B) requires a statement in the application that the source will comply with all future requirements that become effective during the permit term. In Section 22a–174–33(i)(1)(B)(ii), the State's proposed rule now requires a source to make such a statement.

3. Forty CFR 70.5(c)(8)(iii)(C) requires that compliance schedules must be as least as stringent as any judicial consent decree or administrative order. In Section 22a–174–33(i)(1)(B)(iv), the State's proposed rule removes the limitations on judicial consent decrees that were contained in the original rule.

4. Forty CFR 70.8(d) contains the provisions regarding a citizen's rights to petition EPA over a Title V permit. In Section 22a–174–33(n)(2) and (4) the State's proposed rule removes the 45 day deadline for EPA's objection due to a citizen's petition and clarifies that a citizen's right to petition EPA is a function of federal law, not state law.

5. Forty CFR 70.6(a)(7) requires each Title V permit to contain a condition that a source will pay fees on an annual basis. Section 22a–174–33(j)(1)(Z) of the State's proposed rule adds a requirement that all permits shall contain a statement requiring the annual payment of permit fees.

6. Forty CFR 70.5(b) requires a source to submit additional or corrected information whenever that source becomes aware that the original application was either incorrect or incomplete. Section 22a–174–33(h)(2) of the State's proposed rule now requires the applicant to submit additional and corrected information at anytime the source becomes aware its initial application is incomplete or incorrect.

7. Forty CFR 70.7(a)(5) requires the state to provide a statement of legal and factual basis for each permit. Sections 22a–174(33)(j)(3) and (4) of the State's proposed rule now require the State to develop the statement of legal authority and technical origin, as well as the factual basis for the permit terms. The rule also provides that DEP shall send these statements to EPA and anyone else who requests them.

8. Forty CFR 70.6(a)(3)(iii)(B) requires prompt reporting of permit deviations. Section 22a–174–33(o)(1) and (p)(1) of the state's proposed rule defines ''prompt'' consistent with how EPA defines prompt for the federal operating permit program at 40 CFR 71.6(a)(iii)(B).

9. Forty CFR 70.6(g) contains Title V's emergency provisions that uses the term ''technology based emission limitation.'' Connecticut's rule had improperly included health based emission limits in its description of ''technology-based emission limitations,'' along with other inconsistencies with 40 CFR 70.6(g). Section 22a–174–33(p)(2) of the State's proposed rule incorporates by reference the relevant sections of Part 70 with regards to the affirmative defense. The proposed rule also removes the previous definition of a technology based emission limit.

10. Forty CFR 70.4(b)(12) requires states to allow for facilities to make ''Section 502(b)(10) changes'' with just a seven day notice. Section 22a–174–33(r)(2) of the State's proposed rule incorporates the relevant sections of 40 CFR 70.4 governing ''Section 502(b)(10) changes,'' but the state rule does not explicitly define ''emissions allowable under the permit.'' Even though not explicitly stated, EPA interprets Connecticut's incorporation by reference of 40 CFR 70.4(b)(12)(i) to include the relevant definition of ''emissions allowable under the permit'' at 40 CFR 70.2. EPA understands that DEP agrees with this interpretation.

11. Connecticut's interim rule contained language regarding EPA's authority to reopen and reissue a Title V permit that included public hearing authority. Since EPA does not derive its hearing authority from state law, the hearing authority language has been removed and Section 22a–174–33(s) simply incorporates EPA's authority to reopen a permit under 40 CFR 70.7.

12. Forty CFR 70.2 defines ''applicable requirements'' as a list of Clean Air Act requirements. The State's proposed rule in Section 22a–174–33(a)(2)(D) now includes the entire list of requirements found in 40 CFR 70.2.

13. Forty CFR 70.3 contains the requirements that make a source subject to the Title V permit program and Section 22a–174–33(c)(3) of Connecticut's interim rule created confusion about the applicability of Title V. As EPA suggested, Connecticut has proposed to delete this language from Section 22a–174–33(c)(3) to make it consistent with Part 70.

14. Forty CFR 70.7(d)(4) allows a state to grant a permit shield for Administrative Amendments only when the change to the permit meets the requirements of a significant permit modification. Connecticut's Administrative Amendment requirements do not have to meet such requirements. Therefore, in Sections 22a–174–33(k)(1) and (4), the State's proposed rule correctly eliminates a permit shield for minor and administrative permit amendments and limits its applicability to new permits, major modifications, and renewals.

15. Forty CFR 70.8 contains the provisions for EPA review, including a 45 day review period of a proposed permit. Connecticut's interim program tried to merge EPA's review of the proposed permit with the draft permit that is subject to public comment. Although this can be done, safeguards must be in place in case the draft permit is changed. The interim program failed to provide EPA an additional 45 day review when a draft permit was changed after 45 days of being made available for public comment. Section 22a–174–33(n) removes this problem by incorporating the procedures for permit review contained in 40 CFR 70.8. Connecticut's rule no longer merges EPA review of the proposed permit with the public comment period on the draft permit.

16. Connecticut's interim program rule contained a cut-off date of 1994 when incorporating the requirements of Code of Federal Regulations. This would have required Connecticut to continually update its rule as EPA published new applicable requirements such as air toxic requirements. Connecticut amended its statute in Section 22a–174–1 to allow the state to delete the cut-off date in Section 22a–174–33, thereby incorporating changes to the CFR on an on-going basis.

17. Connecticut's interim program contained an incomplete list of ''regulated air pollutants'' because of the issue number 16 discussed above with the CFR cut-off date. Connecticut has amended its provisions in Sections 22a–174–33(a)(5), (e)(1), and (g)(2)(G) to make their proposed rule consistent with 40 CFR 70.2.

18. Part 70 requires permits to contain all applicable requirements, including provisions for controlling air toxic emissions required by section 112(g) of the Act. Sections 22a–174–3a(a)(1)(C) and 3a(m) in the State's proposed rule are now adequate for issuing permits that contain requirements resulting from a decision pursuant to section 112(g) of the Act.

19. Forty CFR 70.4(b)(10) states that a permit will not expire when a complete renewal application was submitted in a timely manner. Section 22a–174–33(j)(1)(B) of the State's proposed rule now allows continuation of a permit

provided a timely renewal application is submitted.

20. Forty CFR 70.3(b) allows a state to defer non-major sources from the Title V program until EPA makes a decision whether to include non-major sources in the Title V program. Section 22a–174–33(f)(3) of the State's proposed rule is now consistent with Part 70 with regard to the applicability of non-major sources.

21. Forty CFR 70.5(c) requires an applicant to determine the applicable requirements for every emission unit. Connecticut's interim Title V program shifted the determination burden from the applicant to the state. Section 22a–174–33(g)(4) of the State's proposed rule is now consistent with Part 70.

22. Connecticut's interim Title V program contained language describing EPA's authority to reopen and reissue a Title V permit. EPA's authority is not contained within state law. Therefore, Section 22a–174–33(r)(13) has been replaced with Section 22a–174–33(s) and Section 22a–174–33(j)(1)(U) has been amended in the State's proposed rule to remove any confusion.

23. Forty CFR 70.6(d)(1) states that a source will be deemed to be operating without a Title V permit if it is later determined to be ineligible to operate under a general permit. Section 22a–174–33(c)(4) of the State's proposed rule now makes it clear that a source which fails to qualify for a general permit under which it is operating shall be deemed to be operating without a permit.

24. Connecticut's current rule allows changes from the State's minor new source review program to be processed as administrative amendments to the Title V permit, and is inconsistent with 40 CFR 70.7(d)(1)(v). Forty CFR 70.7(e)(2) allows minor new source review permits to be incorporated into a Title V permit by using the minor permit modification procedures of Part 70. Section 22a–174–2a of the State's proposed rule have been developed to allow for such incorporation and no longer processes such changes as administrative amendments.

25. In Connecticut's interim Title V program, the state only had procedures for administrative and significant permit modification procedures. Forty CFR 70.7(e)(1) requires states to develop streamlined procedures for permit modifications. Section 22a–174–2a of the State's proposed rule allows the state to use the equivalent of Part 70's minor permit modification procedures and is consistent with 40 CFR 70.7(e)(1).

26. Forty CFR 70.5(a)(1)(iii) states that the procedures for submitting timely renewal applications must ensure that a permit does not expire. This requires a state to coordinate the timing of permit renewal with the deadline for sources to submit renewal applications. Sections 22a–174–33(f)(5) and (j)(1) of the State's proposed rule have now correctly aligned these time frames.

27. Part 70 requires that a written agreement between the involved parties be submitted to the state prior to any changes in ownership to ensure that the parties named in the permit have accepted liability for complying with the permit. Section 22a–174–2a(g)(2) of the State's proposed rule contains such a requirement by incorporating by reference 40 CFR 70.7(d)(1)(iv).

28. Forty CFR 70.6(a)(3)(i)(B) contains the requirements for periodic monitoring in a Title V permit. Section 22a–174–33(j)(1)(K)(ii) has been amended to make it clear that every Title V permit in Connecticut will contain periodic monitoring as necessary. This section of Connecticut's proposed regulations provides that recordkeeping ''shall'' be sufficient to meet the periodic monitoring requirements ''if so determined by the Commissioner.'' EPA's periodic monitoring requirement provides that recordkeeping ''may'' be sufficient to serve as periodic monitoring. EPA understands that DEP's proposed regulation is the functional equivalent of EPA's regulation. DEP is not mandating that periodic monitoring shall be recordkeeping in all cases, but only in those cases where DEP affirmatively determines recordkeeping to be sufficient to collect data representative of a source's compliance status. EPA understands that DEP agrees with this interpretation.

29. Forty CFR 70.2 contains a definition of ''responsible official'' and requires that a corporate officer signatory must have the responsibility for overall operation of a facility, not just for environmental compliance. Section 22a–174–2a(a)(6) has been added to be consistent with Part 70.

V. 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 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), nor will it 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), because it 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 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing permit program 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 clear authority to disapprove a permit program submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a permit program submission, to use VCS in place of a program 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the

takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. 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.*)

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: August 3, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA-New England.

[FR Doc. 01–20264 Filed 8–10–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 96–98; DA 01–1658]

Update and Refresh Record on Rules Adopted in 1996 Local Competition Docket

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document invites parties to update and refresh the record on issues pertaining to the rules the Commission adopted in the First Report and Order in CC Docket No. 96–98, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996.*

DATES: Comments are due September 12, 2001 and reply comments are due September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis Johnson, Attorney Advisor, Network Services Division, Common Carrier Bureau, (202) 418–2320.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document regarding CC Docket No. 96–98, released on July 12, 2001. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC. It is also available on the Commission's website at: *http://www.fcc.gov/Daily_Releases/Daily_Business/2001/db0712/da011658.doc.*

Synopsis

1. On August 8, 1996, the Commission released the *Local Competition Second Report and Order,* FCC 96–333, 61 FR 47284 (September 6, 1996), as required by the Telecommunications Act of 1996. Many of the parties filed petitions for reconsideration of that order. The Commission subsequently resolved a majority of these petitions but due to the significant litigation arising from the rules adopted in the *Local Competition Second Report and Order,* several petitions remain unresolved. Specifically, the remaining petitions seek reconsideration of the rules governing intraLATA toll dialing parity pursuant to section 251(b)(3) of the Telecommunications Act of 1996 (Act), and network change disclosure rules pursuant to section 251(c)(5) of the Act. Since many of these petitions were filed several years ago, the passage of time and intervening developments may have rendered the record developed by those petitions stale. Moreover, some issues raised in petition for reconsideration may have become moot or irrelevant in light of intervening events.

2. For these reasons, the Commission requests that parties that filed petitions for reconsideration following release of the *Local Competition Second Report and Order* identify issues from that order that remain unresolved now and supplement those petitions, in writing, to indicate which findings and rules they still wish to be reconsidered. To the extent that intervening events have materially altered the circumstances surrounding filed petitions or the relief sought by filing parties, those entities may refresh the record with new information or arguments related to their original filings that they believe to be relevant to the issues. The previously filed petitions will be deemed withdrawn and will be dismissed if parties do not indicate in writing an intent to pursue their respective petitions for reconsideration. The refreshed record will enable the Commission to undertake appropriate and expedited reconsideration of its local competition rules.

List of Subjects in 47 CFR Part 51

Communications common carriers, Interconnection.

Federal Communications Commission.

Diane Griffin Harmon,

Acting Chief, Network Services Division Common Carrier Bureau.

[FR Doc. 01–20227 Filed 8–10–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223, 224 and 226

[Docket No. 010731194–1194–01; I.D. 070601B]

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List Southern Resident Killer Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of finding; request for information.

SUMMARY: NMFS received a petition to list the Eastern North Pacific Southern Resident stock of killer whales (*Orcinus orca*) as endangered or threatened species under the Endangered Species Act (ESA) and to designate critical habitat for this stock under that Act. NMFS determined that the petition presents substantial scientific information indicating that a listing may be warranted and will initiate an ESA status review. NMFS solicits information and comments pertaining to these killer whale populations and their habitats and seeks suggestions for peer reviewers for any proposed listing determination that may result from the agency's status review of the species.

DATES: Information and comments on the action must be received by October 12, 2001.

ADDRESSES: Information and comments on this action should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street—Suite 500, Portland, OR 97232. Comments will not be accepted if submitted via email or the internet. However, comments may be sent via fax to (503) 230–5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 231–2005 or Tom Eagle, NMFS, Office of Protected Resources, (301) 713–2322 ext. 105.

SUPPLEMENTARY INFORMATION: