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: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26410 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 044–OPP; FRL–7087–8]

Clean Air Act Proposed Full Approval of Operating Permit Program; San Luis Obispo County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit program of the San Luis Obispo County Air Pollution Control District (District). The 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.

On November 1, 1995, EPA granted interim approval to the District's operating permit program (60 FR 55460). The District has revised its operating permit program (Rule 216) to satisfy the conditions of the interim approval and this action proposes approval of these revisions made since the interim approval was granted. In addition, EPA proposes to approve two other changes that were made by the District but were not required to correct an interim approval issue.

DATES: Written comments must be received by November 19, 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 the District's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted Title V program at the following locations:

- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.
- San Luis Obispo County Air Pollution Control District: 3433 Roberto Court, San Luis Obispo, CA 93401.

You may review all the District rules by retrieving them from the California Air Resources Board (ARB) Web site. The location of the District rules on the ARB Web site is *http://arbis.arb.ca.gov/drdb/slo/cur.htm*.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region IX, at (415) 744–1259 (*rios.gerardo@epa.gov*) or Nahid Zoueshtiagh at (415) 744–1261.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. District's Operating Permit Program

A. What Is the Operating Permit Program?

Title V of the Clean Air Act 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 Clean Air Act (CAA). One goal 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 or more of any single hazardous air pollutant (HAP) listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the National Ambient Air Quality Standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the non-attainment classification.

San Luis Obispo County is classified as an attainment area for all NAAQS.

B. What Is Being Addressed in This Document?

Where an operating permit program 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 contingent on the State revising its program to correct any deficiencies. Because the District's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the District's program on November 1, 1995 (60 FR 55460).

This **Federal Register** notice describes the changes that the District has made to its Rule 216 (District's Operating Permit Program) since interim approval was granted. The District also revised its Rule 201 (Equipment Not Requiring a Permit) to correct one of the deficiency issues. Our notice also describes the change to this rule.

C. Are There Other Issues With the 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.

EPA received a letter from one organization who commented on what they believe to be deficiencies with respect to Title V programs in California. We are not taking any actions 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. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

D. What Are the Program Changes That EPA Is Proposing To Approve?

As discussed above, EPA granted final interim approval on November 1, 1995 (60 FR 55460) to the San Luis Obispo County Air Pollution Control District's (''District'') Title V program. As stipulated in that rulemakings, full approval of the District operating permit program was made contingent upon satisfaction of certain conditions. In response to EPA's interim approval action, the District made major revisions to its Rule 216 (Operating Permit Program), and some revisions to its Rule 201 (Equipment not Requiring a Permit) to remove the deficiencies identified by EPA. The District made its revised rule available to public review and comment, and held a hearing on its proposed action on March 28, 2001. After adoption on March 28, 2001, these revised rules were submitted to EPA via the California Air Resources Board (CARB) on May 18, 2001. We have included below a discussion of each interim approval deficiency issue (as enumerated and explained in our 1995 proposed and final actions on the District's operating permits program (see 60 FR 45685 and 60 FR 55460)), our conditions for correction, followed by a summary of how the District has corrected the deficiency. The Technical Support Document (TSD) for this action includes the District's submittal and details on the revisions made.

Issue 1. In our 1995 action, we identified two problematic items related to dealing with insignificant activities in the District's Operating Permits Program. These identified items were in the District's Rule 201 (Equipment not Requiring a Permit). The District was required to remove any activities from the District's list of insignificant activities that are subject to a unit-specific applicable requirement. (Reference 40 CFR 70.4(b)(2) and 70.5(c)).

District's Response to Issue 1. The District corrected this deficiency by amending its Rule 201.M to require a permit for any comfort air conditioning and refrigerant unit that contains more than 50 pounds of refrigerant. The District also added a new section to Rule 201.A about agricultural equipment. The revised rule now states that a Federal Title V Permit shall always be required for any source that is subject to District Rule 216, Federal Part 70 Permits, including agricultural sources as allowed for in the California Health and Safety Code. With this addition, the District will not need to revise its operating permit rule should California law change on exempting agricultural equipment.

Issue 2. The District was required to revise the definitions of ''Minor Part 70 Permit Modification'' in Rule 216 C.13, to ensure that significant changes to existing monitoring permit terms or conditions, rather than just relaxations of existing monitoring terms, are processed as significant permit modifications. (Reference: 40 CFR 70.7(e)(4)).

District's Response to Issue 2. The District revised Rule 216.C.15.d. to state that minor modifications do not involve any significant change to any existing federally-enforceable monitoring term or condition or involve any relaxation of reporting or recordkeeping requirements in the Part 70 Permit.

Issue 3. The District was required to revise Rule 216 J.1.b. to include notice ''by other means if necessary to assure adequate notice to the affected public.''(Reference 40 CFR 70.7(h)(1)).

District's Response to Issue 3. The District added 216.J.1.b.3 to address EPA's concerns. The revised rule now requires that any notice of a preliminary decision shall be provided by other means if necessary to assure adequate notice to the affected public.

Issue 4. San Luis Obispo County was required revise Rule 216 H.1.a.4. and L.1.e. to further limit the types of significant permit modifications that may be operated prior to receiving a final part 70 permit revision to only those modifications that are subject to section 112(g) or required to have a permit under Title I, parts C and D of the CAA and that are not otherwise prohibited by an existing part 70 permit. (Reference 40 CFR 70.5(a)(1)(ii)).

District's Response to Issue 4. The District made several changes to correct the deficiency issues. Several parts of Section H of Rule 216 were revised to clarify the timing for implementing various types of modification requests. These changes are as follows.

- Significant Part 70 Permit Actions—APCO must take final action to approve the application before the source may be operated pursuant to the modification (Rule 216.H.1.a.4).
- Minor Part 70 Permit Modifications—APCO must take final action to approve the application before the source may be operated pursuant to the modification (Rule 216.H.3.a).
- Non-Federal Minor Changes—a source requesting a non-federal minor change to its Part 70 Permit must submit an application for a modified Part 70 Permit to the District, with a copy to the EPA (Rule 216.H.4.a).

In addition Section L was revised as follows:

- Rule 216.L requires that when a complete application to modify a Part 70 Permit has been submitted, the stationary source must be operated in compliance with all applicable conditions on its Part 70 Permit, except as allowed under ''Administrative Part 70 Permit Amendment'', and all applicable conditions on an Authority to Construct for the modification issued pursuant to Rule 202 (Permits), and Rule 218 (Federal Requirements for Hazardous Air Pollutants), until the Part 70 Permit is revised or the modification is denied.
- Section 216.L.1.e. clarifies the requirements by stating that the protection granted by Subsections L.1.a through c for a significant Part 70 Permit modification shall not be applicable where a federally-enforceable condition of an existing Part 70 Permit would prohibit the modification of a source corresponding to the significant Part 70 Permit modification. In this case, the source shall obtain such modification to the source's Part 70 Permit prior to commencing operation of the modified portion of the source.

Issue 5. The District was required to revise Rule 216 to establish a binding requirement that the Part 70 Permit

Format will be included in all part 70 permits or revise Rule 216 to fully address all part 70 permit content requirements within the Rule. (Reference 40 CFR 70.6).

District's Response to Issue 5. The District significantly revised its Rule 216.F to ensure that each Part 70 Permit conforms to an EPA approved format and includes EPA's required elements. The revised Rule 216.F now requires more specific information instead of referencing to an approved format. For example it requires that Part 70 permit include the following elements:

- Monitoring requirements that assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement.
- Requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
- Detailed records of required monitoring information.

Other revisions to Rule 216.F include:

- A new provision stating 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.
- Specifying ''prompt'' reporting requirements as a verbal report as soon as reasonably possible, but in any case within four (4) hours after the deviation's detection, followed by a written report within 10 calendar days of having corrected the deviation.
- Clarify requirements for inspection and entry to facilities.

In addition the District revised its Rule 216.G to:

- Require applicants to include EPA in their notification when they are permitted to operate under an emissions cap that allows them to trade emissions within the emissions cap with 30 calendar days written notification. If the District objects to the emissions trade, the source, the District, and the EPA shall attach each such notice to their copy of the relevant permit.
- Include EPA in notification requirements under operational flexibility.

Issue 6. The District was required to revise Rule 216 to define and provide for giving notice to and responding to comments from affected States. Alternatively, San Luis Obispo could have made a commitment to: (1) Initiate rule revisions upon being notified by EPA of an application by a tribe for State status, and (2) provide affected State notice to tribes upon their filing for State status (i.e., prior to revising Rule 216 to incorporate affected State notice procedures). (Reference 40 CFR 70.2, 70.7(e)(2)(iii), and 70.8(b)).

District's Response to Issue 6. The District revised Rule 216.C.3 to define ''Affected State'' as:

(a) Whose air quality may be affected by the issuance, modification, or re-issuance of a Part 70 permit and that is contiguous to the State of California; or

(b) That is within 50 miles of the permitted source.

The District also revised Rule Section 2 of 216.J.2.b (Minor Part 70 Permit Modifications) and 216.J.2.c (Significant Part 70 Permit Actions) to provide that the APCO shall provide, to the EPA and any affected State, written notification of any refusal by the District to accept all recommendations that an ''affected'' State submitted for the Part 70 permit. The notice shall include the District's reasons for not accepting such recommendations.

Issue 7. The District was required to revise the rule to limit the exemption in Rule 216 D.4 for solid waste incineration units required to obtain a permit pursuant to section 3005 of the Solid Waste Disposal Act to those units that are not a major source. Section 70.3(b) states that all major sources, affected sources (acid rain sources), and solid waste incinerators regulated pursuant to section 129(e) of the CAA may not be exempted from Title V permitting. Although section 129(g)(1) of the CAA exempts solid waste incineration units subject to section 3005 of the Solid Waste Disposal Act from regulation under section 129, these units are still subject to Title V and part 70 if they are also major sources. (Reference: 40 CFR 70.3(a)(1)).

District's Response to Issue 7. The District deleted its Rule 216.D.4, therefore removing any exemptions from permitting of solid waste incineration units subject to Section 3005 of the Solid Waste Disposal Act.

Issue 8. San Luis Obispo County was required to revise Rule 216 H.4. to require that the permittee keep records describing non-federal minor changes (e.g., off-permit changes) and the emissions resulting from these changes. (Reference: 40 CFR 70.4(b)(14)(iv)).

District's Response to Issue 8. The District responded that while the District's original program submittal envisioned allowing off-permit non-federal minor changes, such actions were not allowed under the actual program that was implemented. In fact, any source subject to an applicable requirement in the District must first notify the District. For example, the District Rule 202 requires that an application be filed and approved before a non-federal minor change can be made, and failing to do so is a misdemeanor under California law and subject to fines and penalties. In sum, the District does not and will not allow off-permit changes. We agree with the District that the issue is moot because the District's revised Rule 216 has now clarified its procedure for various types of permit modification requests. In correcting our deficiency issue 4, the District has also responded to issue 8 and addressed our concerns resulting from the description of off-permit changes in the original program submittal.

Issue 9. One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V

permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Other District Revisions

In addition to the changes necessary to correct interim approval issues, the District made two other changes to its rule that we propose to approve as part of today's action. First, the District expanded Section A of its Rule 216 to allow the District's program to be suspended during any time period in which a 40 CFR Part 71 operating permit program is being administered. The two exceptions to this are when EPA objects to a permit or when EPA and the District agree, via a delegation agreement, to not suspend all or part of the District's rules. In the latter case, the delegation agreement would describe the terms, conditions and scope of the District's authority for implementing Part 71. This is approvable because it clarifies how the District's program will be administered during time periods where Part 71 is in place.

Second, the District added a statement to its definition of potential to emit (''PTE'') at Rule 216.C.18 to state that limiting conditions must be legally and practicably enforceable by EPA and citizens or by the District. The last paragraph of Rule 216.C.18 (previously Rule 216.C.6) now reads as follows:

> The potential to emit for an emissions unit is the maximum quantity of each air pollutant that may be emitted by the emissions unit, based on the emissions unit's physical and operational design. Physical and operational design shall include limitations that restrict emissions, such as hours of operation and type or amount of material combusted, stored or processed, provided such limitations are legally and practicably enforceable by EPA and citizens or by the District.

We propose to approve this revision because even though the new definition is not consistent with Part 70, it is consistent with the new meaning of potential to emit at 40 CFR § 70.2 as established by a 1996 court decision. In *Clean Air Implementation Project* v. *EPA*, No. 96–1224 (D.C. Cir. June 28, 1996), the court remanded and vacated the requirement for federal enforceability for potential to emit limits under part 70. Therefore, even though part 70 has not been revised, it should be read to mean, ''federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.''[1]

EPA has issued several guidance memoranda that discuss how the court rulings affect the definition of potential to emit under CAA § 112, New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs, and title V.[2] In particular, the memoranda reiterate the Agency's earlier requirements for practicable enforceability for purposes of effectively limiting a source's potential to emit.[3] For example, practicable enforceability for a source-specific permit means that the permit's provisions must, at a minimum: (1) Be technically accurate and identify which portions of the source are subject to the limitation; (2) specify the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); (3) be independently enforceable and describe the method to determine compliance including appropriate monitoring, recordkeeping and reporting; (4) be permanent; and (5) include a legal obligation to comply with the limit. EPA will rely on San Luis Obispo County implementing this new definition in a manner that is consistent with the court's decisions and EPA policies. In addition, EPA wants to be certain that absent federal and citizen's enforceability, San Luis Obispo County's enforcement program still provides sufficient incentive for sources to comply with permit limits. This proposed rulemaking serves as notice to San Luis Obispo County about our expectations for ensuring the permit limits they impose are enforceable as a practical matter (i.e., practicably enforceable) and that its enforcement program will still provide sufficient compliance incentive. In the future, if San Luis Obispo County does not implement the new definition consistent with our guidance, and/or

[1] See also, *National Mining Association (NMA)* v. *EPA*, 59 F.3d 1351 (D.C. Cir. July 21, 1995) (Title III) and *Chemical Manufacturing Ass'n (CMA)* v. *EPA,* No. 89–1514 (D.C. Cir. Sept. 15 1995) (Title I).

[2] *See*, e.g., January 22, 1996, Memorandum entitled, ''Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement to EPA Regional Offices; January 31, 1996 paper to the Members of the Subcommittee on Permit, New Source Review and Toxics Integration from Steve Herman, OECA, and Mary Nichols, Assistant Administrator of Air and Radiation; and the August 27, 1996 Memorandum entitled, ''Extension of January 25, 1995 Potential to Emit Transition Policy'' from John Seitz, Director, OAQPS and Robert Van Heuvelen, Director, Office of Regulatory Enforcement.

[3] *See*, e.g., June 13, 1989 Memorandum entitled, ''Guidance on Limiting Potential to Emit in new Source Permitting, from Terrell F. Hunt, Associate Enforcement Counsel, OECA, and John Seitz, Director, OAQPS, to EPA Regional Offices. This guidance is still the most comprehensive statement from EPA on this subject. Further guidance was provided on January 25, 1995 in a memorandum entitled ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, ORE to Regional Air Directors. Also please refer to the EPA Region 7 database at *http://www.epa.gov/region07/programs/artd/air/policy/policy.htm for more information.*

has not established a sufficient compliance incentive absent Federal and citizen's enforceability, EPA could find that the District has failed to administer or enforce its program and may take action to notify the District of such a finding as authorized by 40 CFR 70.10(b)(1).

E. What Is Involved in This Action?

We have determined that the District has addressed our specific concerns identified as interim approval issues. Therefore, we are now proposing to fully approve the District's Operating Permit Program. We are also proposing to approve two additional changes that were made beyond those necessary to correct interim approval issues.

II. Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the District submittal 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 19, 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.

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: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26419 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 046–OPP; FRL–7087–3]

Clean Air Act Proposed Full Approval of Operating Permit Program; Mojave Desert Air Quality Management District, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve the operating permit program of the Mojave Desert Air Quality Management District (''Mojave'' or ''District''). The Mojave 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 Mojave operating permit program on February 5, 1996, but listed conditions that Mojave's program would be required to meet for full approval. Mojave has revised its program to satisfy the conditions of the interim approval. Thus, this action proposes full approval of the Mojave operating permit program as a result of those revisions.

DATES: Comments on the proposed full approval discussed in this proposed action must be received in writing by November 19, 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 Mojave's submittals, and other supporting documentation relevant to