shall provide the notice to shareholders or publish it in any publication with circulation wide enough to be reasonably assured that all of the institution's shareholders have access to the information in a timely manner.

§ 620.17 [Amended]

9. Amend § 620.17 by removing the words ''distribute'' and adding in its place, the word ''provide'' in paragraph (b)(4).

Subpart E—Association Annual Meeting Information Statement

§ 620.20 [Amended]

10. Amend § 620.20 as follows:

a. Remove the word ''distributing'' and add in its place, the word ''providing'' in the heading; and

b. Remove the word ''distribute'' and add in its place, the word ''provide'' in paragraph (a).

11. Amend § 620.21 as follows:

a. Remove the words ''furnished a letter'' and add in their place, the words ''provided a notice'' in the first sentence of paragraph (c)(3);

b. Remove the words ''contained in the letter'' at the end of the first sentence in paragraph (c)(3);

c. Add the words ''paper mail or electronic'' before the word ''mail'' in each place it appears in paragraphs (d)(3)(i)(A), (d)(3)(i)(B), (d)(3)(ii)(A), and (d)(3)(ii)(B);

d. Revise paragraph (d)(5) to read as follows:

§ 620.21 Contents of the information statement and other information to be furnished in connection with the annual meeting.

* * * * *

(d) * * *

(5) For each nominee who is not an incumbent director, except a nominee from the floor, provide the information referred to in § 620.5(j) and (k) and § 620.21(d)(4). If shareholders will vote by paper mail or electronic mail ballot upon conclusion of all sessions, each floor nominee must provide the information referred to in § 620.5(j) and (k) and § 620.21(d)(4) in paper or electronic form to the association within the time period prescribed by the association's bylaws. If the association's bylaws do not prescribe a time period, state that each floor nominee must provide the disclosure to the association within 5 business days of the nomination. The association shall ensure that the information is provided to the voting shareholders by delivering the ballots for the election of directors in the same format as the comparable information contained in the association's annual meeting information statement. If shareholders will not vote by paper mail or electronic mail ballot upon conclusion of all sessions, each floor nominee must provide the information referred to in § 620.5(j) and (k) and § 620.21(d)(4) in paper or electronic form at the first session at which voting is held.

* * * * *

§ 620.30 [Amended]

12. Amend § 620.30 by removing the words ''distribute or mail'' and adding in their place, the word ''provide'' in the second sentence.

Subpart G—Annual Report of Condition of the Federal Agricultural Mortgage Corporation

13. Amend § 620.40 as follows:

a. Remove the words ''distribution of'' and add in their place, the words ''providing of the'' in the heading;

b. Remove the word ''distribute'' and add in its place, the word ''provide'' in paragraph (b);

c. Remove the words ''mail or otherwise furnish to the requestor a copy of'' and add in their place, the words ''provide the requester'' in paragraph (c); and

d. Revise paragraph (d):

§ 620.40 Content, timing, and providing of the Federal Agricultural Mortgage Corporation annual report of condition.

* * * * *

(d) The Corporation shall provide copies of the annual report of condition to the Farm Credit Administration's Office of Secondary Market Oversight within 120 days of its fiscal year-end. If providing paper copies, send three copies to Office of Secondary Market Oversight, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090. If providing electronic copies, send according to our instructions to you.

Dated: October 15, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–26305 Filed 10–19–01; 8:45 am]

BILLING CODE 6705–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 054–OPP; FRL–7087–9]

Clean Air Act Proposed Full Approval of the Title V OperatingPermit Programs for Twenty-Four California Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit programs submitted by the California Air Resources Board (CARB) on behalf of Amador County Air Pollution Control District (APCD), Butte County Air Quality Management District (AQMD), Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Shasta County APCD, Siskiyou County APCD, Tehama County APCD, Tuolumne County APCD, and Yolo-Solano AQMD. All twenty-four operating permit programs were 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 final interim approval to nineteen of the twenty-four districts' operating permit programs on May 3, 1995 (60 FR 21720). The five districts that were not included in that rulemaking were Glenn County APCD, Tehama County APCD, Lake County AQMD, Shasta County APCD, and Mariposa APCD. EPA granted final interim approval to Mariposa APCD's operating permit program on December 7, 1995 (60 FR 62758) and to the other four districts' programs on July 13, 1995 (60 FR 36065). All twenty-four districts revised their programs to satisfy the conditions of the interim approval and this action proposes approval of those revisions. In addition, many districts made other changes to their rules that were not required to correct an interim approval issue; EPA proposes to approve most of these other changes districts have made.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by November 21, 2001.

ADDRESSES: Written comments on this proposed 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 program submittals, and other supporting documentation relevant to this action, during normal business hours at Air

Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the submitted title V programs at the California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814, and at the appropriate local Air Pollution Control District office (current District addresses are listed on the Internet at *http://www.arb.ca.gov/capcoa/roster.htm*)

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

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

I. What Is the Operating Permit Program?

The CAA 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 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 of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

II. 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 the deficiencies. Because all twenty-four operating permit programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to each program in three separate rulemakings, published on May 3, 1995 (60 FR 21720) for nineteen of the twenty-four districts, on July 13, 1995 (60 FR 36065) for Glenn County APCD, Tehama County APCD, Lake County AQMD, and Shasta County APCD, and on December 7, 1995 (60 FR 62758) for Mariposa County APCD. Each interim approval notice described the conditions that had to be met in order for the programs to receive full approval. Since that time, each of the twenty-four districts have revised their interimly approved operating permit program at least once. These changes were necessary to correct the conditions for full approval; but some districts made other changes as well. Table 1 below lists the dates of submission by CARB of each of the revised district programs.

TABLE 1.—RULE NUMBER, NAME, ADOPTION DATE(S), AND PROGRAM SUBMISSION DATES, FOR CALIFORNIA NON-GRANTEE DISTRICTS' OPERATING PERMIT PROGRAMS

District name	Rule No. and name	Date(s) of adoption of revised rule	Date of submission by CARB
Amador County APCD	Rule 500—Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	3/27/01 and 2/27/97	04/10/01
Butte County AQMD	Rule 1101—Title V—Federal Operating Permits	4/26/01 and 6/24/99	5/17/01
Calaveras County APCD	Regulation X—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	6/11/01	7/27/01
	Rule 1001—Purpose and General Requirements of Regulation X.		
	Rule 1002—Definitions		
	Rule 1003—Applicability		
	Rule 1004—Administrative Procedures for Sources		
	Rule 1005—District Administrative Procedures		
	Rule 1006—Permit Content Requirements		
	Rule 1007—Supplemental Annual Fee		
Colusa County APCD	Rule 3–17—Permits to Operate for Sources Subject to Title V.	8/7/01	8/22/01
El Dorado County APCD	Rule 522—Title V Federal Operating Permit Program	7/10/01	8/16/01
Feather River AQMD	Rule 10.3—Federal Operating Permits	5/7/01 and 12/4/00	5/22/01
Glenn County APCD	Article VIII—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	6/19/01 and 1/30/01	9/13/01

TABLE 1.—RULE NUMBER, NAME, ADOPTION DATE(S), AND PROGRAM SUBMISSION DATES, FOR CALIFORNIA NON-GRANTEE DISTRICTS' OPERATING PERMIT PROGRAMS—Continued

District name	Rule No. and name	Date(s) of adoption of revised rule	Date of submission by CARB
Great Basin Unified APCD	Rule 217—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	5/9/01 and 3/8/95	5/18/01
Imperial County APCD	Rule 900—Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	6/26/01 and 4/4/00	8/2/01
Kern County APCD	Rule 201.1—Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	5/3/01 and 1/9/97	5/24/01
Lake County AQMD	Chapter XII—Requirements for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	5/22/01 and 12/5/00	6/1/01
	Article I—Purpose and General Requirements		
	Article III—Applicability		
	Article IV—Administrative Procedures for Sources		
	Article V—District Administrative Procedures		
	Article VI—Permit Content		
	Article VII—Permit Fees		
	Article VIII—Designated Non-major Stationary Source		
Lassen County APCD	Regulation VII—Title V—Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	7/2/01	8/2/01
	Rule 7–1—Purpose and General Requirements		
	Rule 7–2—Applicability		
	Rule 7–3—Exemptions		
	Rule 7–4—Definitions		
	Rule 7–5—Administrative Procedures for Sources		
	Rule 7–6—District Administrative Procedures		
	Rule 7–7—Permit Content Requirements		
	Rule 7–8—Annual Fees		
Mariposa County APCD	Regulation X—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	9/4/01	9/20/01
	Rule 1001—Purpose and General Requirements of Regulation X.		
	Rule 1002—Definitions		
	Rule 1003—Applicaibility		
	Rule 1004—Administrative Procedures for Sources		
	Rule 1005—District Administrative Procedures		
	Rule 1006—Permit Content Requirements		
	Rule 1007—Supplemental Annual Fee		
Mendocino County APCD	Regulation V—Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendment of 1990.	11/14/00	4/13/01
	Chapter I—Purpose and General Requirements		
	Chapter II—Definitions		
	Chapter III—Applicability		
	Chapter IV—Administrative Procedures for Sources		
	Chapter V—District Administrative Procedures		
	Chapter VI—Permit Content		
Modoc County APCD	Rule 2.13—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	7/24/01	9/12/01
North Coast Unified AQMD	Regulation V—Procedures for Issuing Permits to Operate for Sources Subject to Title V.	5/18/01 and 11/21/94	5/24/01
	Chapter 1—Purpose and General Requirements; Rules 100, 110, and 120.		
	Chapter 2—Definitions; Rule 200—Definitions		
	Chapter 3—Applicability; Rule 300—Applicability		
	Chapter 4—Administrative Procedures for Sources; Rules 400, 405, 410, 415, 425, 430, 440, 450, 455, 460, and 470.		
	Chapter 5—District Administrative Procedures; Rules 500, 510, 520, 530, 540, 545, 550, 560, 570, and 580.		
	Chapter 6—Permit Content; Rules 600, 610, 615, 620, 625, 630, 635, 640, 645, 650, 660, 670, 675, 680, and 690.		
Northern Sierra AQMD	Rule 522—Title V Federal Operating Permits	3/8/01 and 9/11/94	5/24/01
Northern Sonoma County APCD.	Regulation V—Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendment of 1990.	5/8/01	5/21/01
	Chapter I—Purpose and General Requirements		

TABLE 1.—RULE NUMBER, NAME, ADOPTION DATE(S), AND PROGRAM SUBMISSION DATES, FOR CALIFORNIA NON-GRANTEE DISTRICTS' OPERATING PERMIT PROGRAMS—Continued

District name	Rule No. and name	Date(s) of adoption of revised rule	Date of submission by CARB
	Chapter II—Definitions Used in Regulation 5		
	Chapter III—Applicability of Regulation 5		
	Chapter IV—Administrative Procedures for Sources		
	Chapter V—District Administrative Procedures		
	Chapter VI—Permit Content Requirements		
Placer County APCD	Rule 507—Federal Operating Permit Program	4/17/01 and 8/24/95	5/4/01
Shasta County APCD	Rule 5–0—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	5/8/01	5/18/01
Siskiyou County APCD	Rule 2.13—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	9/25/01	9/28/01
Tehama County APCD	Rule 7:1—Federal Operating Permit Program	5/22/01	6/4/01
Tuolumne County APCD	Rule 500—Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the 1990 Federal Clean Air Act Amendments.	6/19/01	7/18/01
Yolo-Solano AQMD	Rule 3.8—Federal Operating Permits Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990.	4/11/01 and renumbered on 2/23/94 (from 3.19 to 3.8).	5/9/01

This document describes changes that have been made to the twenty-four operating permit programs since EPA granted interim approval. These changes include those made by the districts to resolve interim approval deficiencies, as well as other rule and program changes submitted to EPA for approval.

III. 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 comment letter from one organization on what they believe to be deficiencies with respect to title V programs in California. EPA takes no action 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. 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.

IV. What Are the Program Changes That EPA Proposes To Approve?

A. Changes Made for Full Approval

As discussed earlier, the title V programs for the twenty-four districts included in today's rulemaking were given interim approval on May 3, 1995 (60 FR 21720) for nineteen of the twenty-four Districts; on July 13, 1995 (60 FR 36065) for Glenn County APCD, Tehama County APCD, Lake County AQMD, and Shasta County APCD; and on December 7, 1995 (60 FR 62758) for Mariposa County APCD. As stipulated in each of those rulemakings, full approval of the specific district operating permit program was made contingent upon satisfaction of certain conditions. We have included below a discussion of these conditions and a summary of how the twenty-four districts revised their part 70 programs and rules to meet the conditions required for full program approval. We have structured this section by categorizing each of the required changes into either Group 1 or Group 2. Group 1 consists of the eleven (11) conditions that are common to all twenty-four districts,[1] unless otherwise noted. Group 2 consists of all other conditions that are specific to each district and may or may not apply to more than one district. The district's rule (or program) correction follows the description of the required changes.

1. Group 1—Changes Required of All Districts

Unless otherwise noted, the following eleven conditions are common to all twenty-four districts that are the subject of today's proposed action.

Issue (1): Each district needed to provide a demonstration that activities that are exempt from part 70 permitting are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, districts could restrict the exemptions (including any director's discretion provisions) to activities that are not likely to be subject to an applicable requirement and emit less than district-established emission levels. Districts needed to establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that

[1] The reason for the similarity among the title V programs included in today's proposed action is that all twenty-four districts originally replicated a model title V rule developed by the California Air Resources Board (CARB). EPA Region 9 worked with the CARB to develop language to correct the deficiencies in the model rule that EPA identified as interim approval issues. In most cases, the language changes agreed to by EPA and CARB were adopted verbatim by the local Air District Boards. Please see the Technical Support Documents, included in the docket for this rulemaking, for more information.

are required to be permitted or subject to applicable requirements. This was a condition for full approval for all districts except for Mendocino County AQMD and Northern Sonoma County APCD.

Districts' Response: Districts addressed this requirement by implementing one of two options for defining insignificant activities in their part 70 (title V) programs. Option 1 involved adopting the Model List of Insignificant Activities for Title V Permit Programs developed by EPA and CARB. The Model List includes criteria for 24 specific source categories that are presumptively insignificant, as well as general criteria that define an insignificant activity as any activity that is not subject to a source-specific requirement *and* that emits no more than 0.5 tons per year (tpy) of a federal hazardous air pollutant (HAP) and no more than two tpy of a regulated pollutant that is not a HAP. Option 2 allowed districts to adopt the general criteria from Option 1 (*i.e.*, any activities that are not subject to a source-specific requirement and emit below the 0.5 and 2 tpy emission thresholds) into their part 70 program rules. Of the districts for which this was a condition of full approval, only Amador, El Dorado, Feather River, Imperial, North Coast, Placer and Shasta elected Option 1; the remainder elected Option 2.

Issue (2): Districts were required to revise the exemption list to remove the general exemption for agricultural production sources or to restrict the exemptions to non-title V sources. This was a condition for full approval for all district programs except for Great Basin Unified APCD and Lassen County APCD which did not have general exemptions for agricultural operations in their exemption lists and for Mendocino County which did not provide a list of exempted activities.

Districts' Response: In general, districts addressed this requirement by revising their title V rules and/or programs, where necessary, to delete the reference to the previously submitted permit exemption list. Further, districts added the following language to their part 70 programs: ''Upon amendment of the California Health and Safety Code to allow the issuance of title V permits to agricultural production sources, such sources shall be subject to evaluation for applicability to the requirements of title V.''

In addition, 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.

Issue (3): Districts needed to revise their rules' application content requirements so that any compliance schedule required by the rule for a source not in compliance resembles and is at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the hearing board to which the source is subject as required by 40 CFR 70.5(c)(8)(iii)(C), rather than simply a schedule of compliance approved by the district's hearing board.

Districts' Response: Districts addressed this requirement by revising the application content portion of their part 70 program rules to include the specific language from part 70 regarding the stringency of a schedule of compliance for sources that are not in compliance with all applicable

requirements at the time of permit issuance.

Issue (4): Districts were required to revise their rules' application content requirements to clarify that all reports and other documents submitted in the permit application must be certified by the responsible official as required by 40 CFR 70.5(d) and to provide the full text of the responsible official's certification in § 70.5(d). This was an interim approval issue for all twenty-four district programs except Yolo-Solano AQMD whose part 70 program rule already required this.

Districts' Response: Districts addressed this requirement by revising the application content portion of their part 70 program rules to require that all reports and documents submitted in the permit application be certified by a responsible official and to further require that the certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

Issue (5): Districts needed to provide in their rules a permit application deadline for sources that become subject to the district's part 70 rule after the rule's effectiveness date for reasons other than commencing operation. This deadline cannot be any later than 12 months after the source becomes subject to the rule as required by 40 CFR 70.5(a)(1). This was a condition for full approval for all twenty-four district programs except for Northern Sierra AQMD and Yolo-Solano AQMD whose rules already contained this deadline.

Districts' Response: Districts addressed this requirement by revising their part 70 program rules to require a source to submit a permit application within 12 months of the source commencing operation ''or of otherwise becoming subject to'' the district's part 70 program rule.

Issue (6): Districts needed to revise their rules' permit issuance procedures to provide for notifying the EPA and affected States in writing of any refusal by the district to accept all recommendations for the proposed permit that the affected State submitted during the public/affected State review period as required by 40 CFR 70.8(b)(2).

Districts' Response: Districts addressed this requirement by revising their part 70 program rules to require such written notification to EPA and to affected States as part of their permit issuance procedures.

Issue (7): Districts were required to incorporate into their rules provisions citing the right of the public to petition EPA under 40 CFR 70.8(d) after the expiration of the EPA's 45-day review period and prohibiting the district from issuing a permit, if it has not already done so, until the EPA's objections in response to the petition are resolved as required by § 70.8(d).

Districts' Response: Districts addressed this requirement by incorporating the public petition provision and the post-petition permit issuance prohibition into their part 70 program rules.

Issue (8): Districts had to revise their rules to provide for public notice of permitting actions by other means if necessary to assure adequate notice to the affected public as required by 40 CFR 70.7(h)(1).

Districts' Response: Districts addressed this requirement by modifying their part 70 programs' public notice procedures. In addition to publication in a newspaper of general circulation, districts added the requirement to provide notice by other means if necessary to assure adequate notice to the affected public.

Issue (9): Districts were required to revise their rules' permit content requirements to clarify that all reports and other documents required by the permit must be certified by a responsible official as required by 40 CFR 70.6(c)(1) and to provide the full text of the responsible official's certification in § 70.5(d). This condition is very similar to issue #4 above, except that it applies to the district rules' permit content requirements instead of the permit application requirements.

Districts' Response: Districts addressed this requirement by revising the permit content requirements of their part 70 program rules to require that any such reports or documents are certified by a responsible official and to further require that the certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the documents are true, accurate, and complete.

Issue (10): Districts needed to revise their rules' permit content requirements to require that any compliance schedule for a source not in compliance must resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the hearing board to which the source is subject as required by 40 CFR 70.6(c)(3) and 70.5(c)(8)(iii)(C). This was an interim approval issue for all districts except Yolo-Solano AQMD whose rule already provided for this. This condition is very similar to issue #3 above, except that it applies to the district rules' permit content requirements instead of the permit application requirements.

Districts' Response: Districts addressed this requirement by revising their part 70 program rules to include the specific language from part 70 regarding the stringency of a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance.

Issue (11): Districts were required to revise their rules' permit content requirements to require the submission of compliance certifications more frequently than annually if a more frequent period is specified in the applicable requirement or by the district as required by 40 CFR 70.6(c)(5)(i). This was an interim approval issue for all districts except Yolo-Solano AQMD whose rule already provided for this.

Districts' Response: Districts addressed this requirement by revising their part 70 programs' permit content requirements to require more frequent submission of compliance certifications as stipulated by 40 CFR 70.6(c)(5)(i).

Group 2—District-Specific Changes

In addition to the interim approval conditions noted above for all districts, numerous district-specific changes were also identified by EPA as conditions for full approval of districts' operating permit programs. These conditions are discussed below:

(1) *Amador County APCD:* (a) Amador County APCD (ACAPCD) was required to revise all deadlines for final permit action in Rule 500 V.C. (except for C.1. and C.5.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed to be complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

ACAPCD addressed this condition by revising Rule 500 to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) ACAPCD was required to revise the definition of ''potential to emit'' in Rule 500 II.AA. to clarify that only federally-enforceable limitations may be considered in determining a source's potential to emit under title V. Subsequent litigation has affected EPA's consideration of this issue. In *Clean Air Implementation Project vs. EPA,* No. 96–1224 (D.C. Cir. June 28, 1996), the court remanded and vacated the requirement forfederal enforceability for potential to emit limits under part 70. 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.'' [2]

ACAPCD revised the definition which now states that ''[p]hysical and operational limitations on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions or in rules or regulations that are legally and practicably enforceable by U.S. EPA and citizens or by the District.'' EPA proposes to approve this revision because ACAPCD's rule is consistent with the current meaning of potential to emit at 40 CFR 70.2. 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.[3] In particular, the memoranda reiterate the Agency's earlier requirements for practicable enforceability for purposes of effectively limiting a source's potential to emit.[4] 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 ACAPCD 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, Amador County's enforcement program still provides sufficient incentive for sources to comply with permit limits. This proposal provides notice to Amador 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 ACAPCD does not implement the new definition consistent with our guidance, and/or 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).

(c) ACAPCD was required to revise Rule 500 V.I.2 and 3 to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(12).

ACAPCD addressed this condition by revising both sections of Rule 500 to require that written notice be provided to both USEPA and the APCO as required by 40 CFR 70.4(b)(12).

(d) ACAPCD was required to revise the definition of ''affected state'' in Rule 500 II.C. to allow for the treatment of Tribal Authorities as affected states if the Authority request such treatment under the Tribal Air Regulations.

ACAPCD addressed this requirement by revising this definition, which now states that an affected State ''is any State that: (1) Is contiguous with California and whose air quality may be affected by a permit action, or (2) is within 50 miles of the source for which a permit action is being proposed.''

(2) *Butte County AQMD:* (a) Butte County AQMD (BCAQMD) was required to revise Rule 1101 V.C.6. to take final action on early reduction applications within nine months of receipt of the complete application rather than within nine months of the date the application was deemed complete as required by 40 CFR 70.4(b)(11)(iii).

BCAQMD addressed this condition by revising Rule 1101 Section 5.3.6 (please note that BCAQMD has renumbered its rule) to require final action no later than nine months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) BCAQMD was required to revise Rule 1101 IV.B.4. to incorporate the compliance provisions of 40 CFR 70.7(e)(2)(v). Rule 1101 did not state, as does § 70.7(e)(2)(v), that until the District takes final action to issue or deny the requested permit modification or determines that it is a significant modification, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions, but the source need not comply with the existing permit terms and conditions being modified. Rule 1101 also needed to be revised to state that if the source fails to comply with the permit terms and conditions in the requested modification, the existing permit terms and conditions being modified may be enforced against it.

BCAQMD addressed this requirement by revising Rule 1101 Section 4.2.4 to eliminate the ability for sources to commence operation of proposed modifications until the APCO takes final action to approve the permit. This revision corrects the deficiencies in Rule 1101 that EPA had identified as interim approval issues.

(c) BCAQMD was required to revise Rule 1101 IV.B.3. to limit the discretion of the APCO to authorize sources to commence operations of significant permit modifications prior to final permit action to when the changes meet the criteria of 40 CFR 70.5(a)(1)(ii). Rule 1101 IV.B.3. allowed the APCO to authorize sources to commence operations of significant permit modifications when the proposed permit revision is publicly noticed but prior to final permit action. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes are subject to preconstruction review under § 112(g) of the Act or preconstruction review programs approved into the SIP pursuant to part C or D of title I of the Act, and the changes are not otherwise prohibited by the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

BCAQMD addressed this requirement by revising Rule 1101 Section 4.2.3 to limit the discretion of the APCO to authorize sources to commence operations of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(3) *Calaveras County APCD* did not have to make any additional corrections.

(4) *Colusa County APCD:* (a) The District was required to revise Rule 3.17

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[2] See also, *National Mining Association (NMA) v. EPA,* 59 F.3d 1351 (D.C. Cir. July 21, 1995) and *Chemical Manufacturing Ass'n (CMA) v. EPA,* No. 89–1514 (D.C. Cir. Sept. 15, 1995) (regarding federal enforceability of potential to emit limits for Title III and Title I of the Act, respectively).

[3] *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 Subcomittee 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.

[4] *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.

d.2.D. to incorporate the compliance provisions of 40 CFR 70.7(e)(2)(v). Rule 3.17 did not state, as does § 70.7(e)(2)(v), that until the District takes final action to issue or deny the requested permit modification or determines that it is a significant modification, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions, but the source need not comply with the existing permit terms and conditions being modified. Rule 3.17 also needed to be revised to state that if the source fails to comply with the permit terms and conditions in the requested modification, the existing permit terms and conditions being modified may be enforced against it.

Colusa County APCD (CCAPCD) addressed this requirement by revising Rule 3.17 d.2.D to include the appropriate compliance provisions from 40 CFR 70.7(e)(2)(v).

(b) The District needed to revise Rule 3.17 d.2.C. to limit the discretion of the APCO to authorize sources to commence operations of significant permit modifications prior to final permit action to when the changes meet the criteria of 40 CFR 70.5(a)(1)(ii). At the time of interim approval, Rule 3.17 d.2.C. allowed the APCO to authorize sources to commence operations of significant permit modifications when the proposed permit revision was publicly noticed but prior to final permit action. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes are subject to preconstruction review under § 112(g) of the Act or preconstruction review programs approved into the SIP pursuant to part C or D of title I of the Act and the changes are not otherwise prohibited by the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

CCAPCD addressed this requirement by revising Rule 317 d.2.C to limit the discretion of the APCO to authorize sources to commence operations of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(5) *El Dorado County APCD:* (a) The District needed to revise Rule 522 to restrict the use of minor permit modification procedures to be consistent with 40 CFR 70.7(e)(2)(i)(B). Rule 522, by default, allowed minor permit modification procedures to be used for those permit modifications that involve the use of economic incentives, marketable permits, emissions trading, and other similar approaches. 40 CFR 70.7(e)(2)(i)(B) constrains the use of the minor permit modification procedures for these approaches to situations where minor permit modification procedures are explicitly provided for in the applicable implementation plan or in the applicable requirements promulgated by the EPA.

El Dorado County APCD (EDCAPCD) addressed this requirement by revising its definition of minor modification in Rule 522.2(U) to include the constraining language from 40 CFR 70.7(e)(2)(i)(B) regarding minor permit modification procedures.

(b) EDCAPCD was required to revise Rule 522's permit content requirements to provide that every permit contain a 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 as required by 40 CFR 70.6(a)(8). EDCAPCD addressed this requirement by modifying Rule 522.6(B)(21) to add this provision from § 70.6(a)(8).

(6) *Feather River AQMD:* (a) The District needed to revise Rule 10.3 to restrict the use of minor permit modification procedures to be consistent with 40 CFR 70.7(e)(2)(i)(B). Rule 10.3, by default, allowed minor permit modification procedures to be used for those permit modifications that involve the use of economic incentives, marketable permits, emissions trading, and other similar approaches. 40 CFR 70.7(e)(2)(i)(B) constrains the use of minor permit modification procedures for these approaches to situations where minor permit modification procedures are explicitly provided for in the applicable implementation plan or in the applicable requirements promulgated by the EPA.

Feather River AQMD (FRAQMD) addressed this requirement by revising their definition of minor permit modification in Rule 10.3 B.21 to include the constraining language from 40 CFR 70.7(e)(2)(i)(B) regarding minor permit modification procedures.

(b) Feather River AQMD needed to revise Rule 10.3's permit content requirements to provide that every permit contain a 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 as required by 40 CFR 70.6(a)(8).

FRAQMD addressed this requirement by modifying Rule 10.3 F.2.u to add this provision from § 70.6(a)(8).

(c) The District was required to revise Rule 10.3 D.2.c. to limit the discretion of the APCO to authorize sources to commence operation of significant permit modifications prior to final permit action to when such changes meet the criteria of 40 CFR 70.5(a)(1)(ii). At the time of interim approval, Rule 10.3 D.2.c. allowed the APCO to authorize sources to commence operations of significant permit modifications when the proposed permit revision was publicly noticed but prior to final permit action. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes are subject to preconstruction review under § 112(g) of the Act or preconstruction review programs approved into the SIP pursuant to part C or D of title I of the Act and the changes are not otherwise prohibited by the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

FRAQMD addressed this requirement by revising Rule 10.3 D.2.c. to limit the discretion of the APCO to authorize sources to commence operation of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(7) *Glenn County APCD:* (a) Glenn County APCD (GCAPCD) needed to revise the rule's operational flexibility provisions to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(12).

GCAPCD addressed this requirement by revising Article VIII Section V.I.3.e to require that written notice be provided to both USEPA and the APCO as required by 40 CFR 70.4(b)(12).

(b) GCAPCD was required to revise Article VIII V.C.6.3. to take final action on early reduction applications within nine months of receipt of the complete application rather than within nine months of the date the application was deemed complete as required by 40 CFR 70.4(b)(11)(iii).

GCAPCD addressed this condition by revising Article VIII V.C.6.3 to require final action no later than nine months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(8) *Great Basin Unified APCD:* (a) The District needed to revise Rule 217 IV.B.1.b. to delete the phrase ''or is discovered to be subject.'' When EPA granted the District interim approval, Rule 217 IV.B.1.b. established a 12-month deadline for applications from sources which are ''discovered to be subject to Rule 217 after the date the rule becomes effective.'' It is a source's obligation to determine if it is or is not subject to title V and Rule 217. A source that is subject but fails to apply for a permit in the appropriate timeframes is in violation of its Clean Air Act section

502(a) obligation to apply for a part 70 permit and is subject to appropriate enforcement action. Discovery of a source that should have applied for a part 70 permit at an earlier date should not automatically provide that source twelve additional months to apply for a permit. The period for permit application should be decided in the context of the enforcement action against the source for failing to apply for and/or have a valid part 70 permit.

Great Basin Unified APCD (GBUAPCD) addressed this requirement by deleting the phrase ''or is discovered to be subject'' from Rule 217 IV.B.1.b.

(b) The District was required to revise all deadlines for final permit action in Rule 217 V.C. (except for C.1. and C.5.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

GBUAPCD addressed this requirement by changing the deadlines in Rule 217 V.C.2, C.3, C.4, and C.6 to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(c) The District needed to revise Rule 217 V.I.2 and V.I.3.e. to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(12).

GBUAPCD addressed this requirement by modifying Rule 217 V.I.2 and V.I.3.e to require that written notice be provided to both USEPA and the APCO as required by 40 CFR 70.4(b)(12).

(9) *Imperial County APCD:* (a) Imperial County APCD (ICAPCD) was required to revise Rule 900 E.3.f. to take final action on early reduction applications within nine months of receipt of the complete application rather than the date the application was deemed complete as required by 40 CFR 70.4(b)(11)(iii).

ICAPCD addressed this condition by revising Rule 900 to require final action no later than nine months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) ICAPCD was required to submit a complete Acid Rain Program consistent with 40 CFR part 72 and title IV of the Act. ICAPCD submitted a complete Acid Rain program (Rule 901) that was determined to be acceptable to the EPA Administrator as part of the District's title V operating permits program. (*See* 60 FR 52911, October 11, 1995).

(c) ICAPCD was required to revise Rule 900 E.9.b. and c. to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

ICAPCD revised both sections of Rule 900 to require that written notice be provided to both USEPA and the APCO as required by § 70.4(b)(12).

(10) *Kern County APCD* did not have to make any additional corrections.

(11) *Lake County AQMD:* (a) Lake County AQMD (LCAQMD) was required to revise the rule's operational flexibility provisions to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(12).

LCAQMD addressed this condition by adding new Section 12.580(a)(5) to require that EPA and the District be notified by the source in writing of all operational flexibility changes at least 30 days prior to the change as required by 40 CFR 70.4(b)(12).

(b) The District's maintenance exemption in Section 500 did not prohibit sources from violating some types of permit terms (including those that limit emissions, such as a work practice standard or a requirement to continuously apply a control technology) while shutting down control equipment for maintenance and, therefore, the rule did not allow the District the authority to enforce against all types of violations, as required under 40 CFR 70.11. The District was required to narrow the maintenance exemption in Section 500 to state that violations of applicable federal requirements including part 70 permit terms may not be automatically exempted.

LCAQMD addressed this requirement by narrowing Section 500 to require that all applicable federal requirements be met during periods when maintenance and scheduled outages of abatement or control equipment occur.

(c) The District rule needed to be clarified to state that citizen enforcement, as well as EPA enforcement, of Clean Air Act requirements is not affected by APCO discretion, as expressed in Sections 500 and 510, to not pursue an enforcement action.

LCAQMD addressed this condition by revising Section 500 to clarify that any discretion exercised by the APCO shall not impede or otherwise interfere with the ability of the EPA, or citizens, to bring an enforcement action or suit under the CAA.

(d) The District was required to revise Section 510 to require the actions that are ''beyond the reasonable control of the source operator'' to also meet the criteria in the rule for qualifying for an exemption.

LCAQMD addressed this requirement by amending Section 510 to require that all the listed criteria must be met in order for the Air Pollution Control Officer to not pursue an enforcement action. Further, Lake County amended the rule to eliminate the phrase, ''are not a violation of an emission limitation contained in a permit or rule,'' and added a statement to clarify that any discretion exercised by the APCO shall not impede or otherwise interfere with the ability of the EPA, or citizens, to bring an enforcement action or suit under the CAA.

(e) Lake County was required to revise all deadlines for final permit action in Chapter VII, Section 12.520 (except for (a) and (e)) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

LCAQMD addressed this condition by revising Sections 12.520(b), (c), (d) and (f) to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(12) *Lassen County APCD:* (a) The District was required to revise all deadlines for final permit action in Rule 7:5 c. (except for c.1. and c.5.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete as required, by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

Lassen County APCD (LCAPCD) addressed this condition by revising Rule 7:6 c.2, 3, 4, and 6 to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) LCAPCD needed to revise Rule 7:5 b.4. to clarify that the APCO's approval of a minor permit modification prior to EPA's review is not a final permit action. Rule 7:5 b.4. allowed the APCO to approve minor permit modifications changes prior to EPA's review; however, 40 CFR 70.7(e)(2)(iv) precludes the District from issuing a final permit modification until after EPA's review period or until EPA has notified the District that EPA will not object, although the District may approve the permit modification prior to that time.

LCAQMD addressed this condition by revising Rule 7:5 b.4 to eliminate the ability for sources to commence

operation of proposed modifications until the APCO takes final action to approve the permit. This revision corrects the deficiencies in Rule 7:5 b.4 EPA had identified as interim approval issues.

(c) LCAPCD was required to revise Rule 7.5 b.4. to incorporate the compliance provisions of 40 CFR 70.7(e)(2)(v). Regulation VII did not state, as does § 70.7(e)(2)(v), that until the District takes final action to issue or deny the requested permit modification or determines that it is a significant modification, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions, but the source need not comply with the existing permit terms and conditions being modified. Regulation VII also needed to be revised to state that if the source fails to comply with the permit terms and conditions in the requested modification, the existing permit terms and conditions being modified may be enforced against it.

LCAQMD addressed this condition by revising Rule 7:5.b.4 to eliminate the ability for sources to commence operation of proposed modifications until the APCO takes final action to approve the permit. See above.

(d) LCAPCD needed to revise Rule 7:5 b.3. to limit the discretion of the APCO to authorize sources to commence operations of significant permit modifications prior to final permit action to when the changes meet the criteria of 40 CFR 70.5(a)(1)(ii). Rule 7:5 b.3. allowed the APCO to approve significant permit modifications and the source to commence operations of those modifications prior to the EPA's review and final permit action. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes are subject to preconstruction review under § 112(g) of the Act or preconstruction review programs approved into the SIP pursuant to part C or D of title I of the Act and the changes are not otherwise prohibited by the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

LCAQMD addressed this requirement by revising Rule 7:5 b.3 to limit the discretion of the APCO to authorize sources to commence operations of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(e) LCAPCD was required to revise Rule 7:6 i.2. and 3. to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

LCAQMD addressed this condition by revising Rule 7:6 i.2 and 3 to require that written notice be provided to both USEPA and the APCO as required by 40 CFR 70.4(b)(12).

(13) *Mariposa County APCD* did not have to make any additional corrections.

(14) *Mendocino County APCD:* (a) The District was required to revise all deadlines for final permit action in Regulation 5, Rule 5.520 (except for (a) and (e)) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

Mendocino County APCD (MCAPCD) addressed this requirement by revising the necessary portions of Rule 5.520 to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) MCAPCD was required to revise Regulation 5, Rule 5.580(b) and (c) to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

MCAPCD addressed this condition by revising Rule 5.580(b) and (c) to require that written notice be provided to both USEPA and the APCO as required by 40 CFR 70.4(b)(12).

(c) MCAPCD was required to restrict insignificant activities to those that are not likely to be subject to an applicable requirement and emit less than-District-established emission levels. EPA had recommended that the District establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from the type of units that are required to be permitted or subject to applicable requirements.

MCAPCD addressed this condition by adding a definition of insignificant activities at Rule 5.200(i2) to be any activity, or combination of similar activities, that generates less than 5 tons per year of carbon monoxide, or less than 2 tons per year of any other criteria pollutant (VOC, PM, NO_X, SO_X, O_3, Pb). Further, the definition states that an insignificant activity must generate less than 1000 pounds per year of a compound listed under the Federal Clean Air Act Amendment for 1990 § 112(b)(1) as amended, or less than the daily outputs listed in Regulation 1, Rule 130(s2), whichever is smaller. In addition, a section to Rule 5.415 was added to require that a permit application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount.

(15) *Modoc County APCD:* (a) MCAPCD was required to revise all deadlines for final permit action in Rule 2.13 IV.C. (except for C.1. and C.5.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed to be complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

MCAPCD revised Rule 2.13 to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) MCAPCD was required to revise Rule 2.13 IV.B.4. to clarify that the APCO's approval of a minor permit modification prior to EPA's review is not a final permit action. Rule 2.13 IV.B.4. allowed the APCO to approve minor permit modification changes prior to the EPA's review; however, 40 CFR 70.7(e)(2)(iv) precludes the District from issuing a final permit modification until after EPA's review period or until the EPA has notified the District that EPA will not object, although the District may approve the permit modification prior to that time.

MCAPCD addressed this requirement by adding language to Rule 2.13 that clarifies the conditions under which a source can implement a permit modification that has not yet been approved by the APCO and EPA. The new language includes the criteria that a source must satisfy in order to make a change prior to permit issuance, and states that ''[a]llowing a stationary source to make a change prior to permit issuance does not constitute final action and does not preclude the District from denying the change or requiring the change to be processed as a significant permit modification, nor does it preclude the U.S. EPA from objecting to the permit modification.''

(c) MCAPCD was required to revise Rule 2.13 IV.B.4. to incorporate the compliance provisions of 40 CFR 70.7(e)(2)(v). Rule 2.13 did not state, as does § 70.7(e)(2)(v), that until the District takes final action to issue or deny the requested permit modification or determines that it is a significant modification, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions, but the source need not comply with the existing permit terms and conditions being modified. Rule 2.13 also had to be revised to state that if the source fails to comply with the permit terms and

conditions in the requested modification, the existing permit terms and conditions being modified may be enforced against it.

MCAPCD addressed this requirement by revising Rule 2.13 to include the appropriate compliance provisions from 40 CFR 70.7(e)(2)(v).

(d) MCAPCD was required to revise Rule 2.13 IV.B.3. to limit the discretion of the APCO to authorize sources to commence operations of significant permit modifications prior to final permit action to when the changes meet the criteria of 40 CFR 70.5(a)(1)(ii). Rule 2.13 IV.B.3. allowed the APCO to approve significant permit modifications and the source to commence operations of those modifications prior to the EPA's review and final permit action. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes are subject to preconstruction review under § 112(g) of the Act or preconstruction review programs approved into the SIP pursuant to part C or D of title I of the Act and the changes are not otherwise prohibited by the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

MCAPCD addressed this condition by revising Rule 213 to limit the discretion of the APCO to authorize sources to commence operations of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(e) MCAPCD was required to revise Rule 2.13 V.I.2 and V.I.3. to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

MCAPCD revised both sections of Rule 2.13 to require that written notice be provided to both USEPA and the APCO as required by 40 CFR 70.4(b)(12).

(16) *North Coast Unified AQMD:* (a) North Coast Unified AQMD (NCUAQMD) was required to revise Regulation 5, Rule 520(f) to take final action on early reduction applications within nine months of receipt of the complete application rather than the date the application was deemed complete as required by 40 CFR 70.4(b)(11)(iii).

NCUAQMD addressed this condition by revising Rule 520 to require final action no later than nine months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) NCUAQMD was required to submit a complete Acid Rain Program consistent with 40 CFR part 72 and title IV of the Act.

NCUAQMD submitted a complete Acid Rain Program (Rules 300 and 690) that was determined to be acceptable to the EPA Administrator as part of the District's title V operating permits program. (*See* 60 FR 52911, October 11, 1995).

(c) NCUAQMD was required to revise Regulation 5, Rule 580(b) and (c) to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

NCUAQMD addressed this condition by revising both sections of Rule 580 to require that written notice be provided to both USEPA and the APCO as required by 40 CFR 70.4(b)(12).

(17) *Northern Sierra AQMD* was not required to make any additional corrections.

(18) *Northern Sonoma County APCD:* (a) Northern Sonoma County APCD (NSCAPCD) was required to revise all deadlines for final permit action in Rule 5.520 (except for (a) and (e)) to be no later than the appropriate number of months after the complete application is received rather than after the application is deemed complete as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

NSCAPCD addressed this requirement by changing the deadlines in Rule 5.520(b),(c),(d), and (f) to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) NSCAPCD needed to revise Rule 5.580(b) and (c) to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

NSCAPCD addressed this requirement by modifying Rule 5.580(b) and (c) to require sources to provide written notice to USEPA, in addition to the APCO, in advance of implementing the operational flexibility provisions of the District's Rule.

(c) The District needed to revise Policy A–33A (Small Emission Source Exemptions) to state that the APCO may not exempt from the requirement for permitting any process, article, machine, equipment, device or contrivance at a title V source if that process, etc. is subject to an applicable federal requirement. NSCAPCD also had to revise the Policy to restrict the exemptions (including any director's discretion provisions) to activities that emit less than District-established emission levels for HAPs. EPA also required the District to demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements.

NSCAPCD elected to address this requirement by eliminating the Small Emission Sources Exemptions Policy (A–33A) from their operating permits program.

(19) *Placer County APCD:* (a) Placer County APCD (PCAPCD) needed to revise the definition of ''major source,'' section 219 of Rule 507, to reference the ''major source'' definition in CAA § 112, rather than the CAA § 112 ''source'' definition. Also, since ''source'' is not defined in Rule 507, PCAPCD had to revise section 219.2 to refer to a ''stationary source'' with a potential to emit, rather than a ''source.''

PCAPCD addressed this requirement by revising Sections 219.1 and 219.2 of Rule 507 to make the required changes regarding the definition of ''major stationary source.''

(b) The District was required to revise Section 302.6 of Rule 507 to limit the discretion of the APCO to authorize sources to commence operations of significant permit modifications prior to final permit action to when the changes meet the criteria of 40 CFR 70.5(a)(1)(ii). At the time of interim approval, Section 302.6 of Rule 507 allowed the APCO to authorize sources to commence operation of significant permit modifications when the proposed permit was publicly noticed but prior to final permit modification. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes are subject to preconstruction review under § 112(g) of the Act or preconstruction review programs approved into the SIP pursuant to part C or D of title I of the Act and the changes are not otherwise prohibited by the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

PCAPCD addressed this requirement by revising Section 302.6 of Rule 507 to limit the discretion of the APCO to authorize sources to commence operation of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(c) Placer County APCD needed to revise Section 302.7 of Rule 507 to restrict the use of minor permit modification procedures consistent with 40 CFR 70.7(e)(2)(i)(B). Rule 507, by default, allowed minor permit modification procedures to be used for those permit modifications that involve the use of economic incentives, marketable permits, emissions trading,

and other similar approaches. 40 CFR 70.7(e)(2)(i)(B) constrains the use of the minor permit modification procedures for these approaches to situations where minor permit modification procedures are explicitly provided for in the applicable implementation plan or in the applicable requirements promulgated by EPA.

PCAPCD addressed this requirement by revising their definition of minor modification in Rule 507, Section 220, to include the constraining language from 40 CFR 70.7(e)(2)(i)(B) regarding minor permit modification procedures.

(d) The District was required to revise Rule 507's permit content requirements (Section 402) to provide that every permit contain a 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 as required by 40 CFR 70.6(a)(8).

PCAPCD addressed this requirement by modifying Rule 507, Section 402.2(u) to add this provision from 40 CFR 70.6(a)(8).

(e) The District needed to revise all deadlines for final permit action in section 401.3 of Rule 507 (except for a. and e.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

PCAPCD addressed this requirement by changing the deadlines in Rule 507, Sections 401.3(b), (c), (d), and (f) to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(f) Placer County APCD needed to revise Section 401.9 of Rule 507 to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

PCAPCD addressed this requirement by modifying Sections 401.9(b) and (c) of Rule 507 to require sources to provide written notice to USEPA, in addition to the APCO, in advance of implementing the operational flexibility provisions of the District's Rule.

(20) *Shasta County APCD:* (a) Shasta County APCD (SCAPCD) needed to revise the rule's operational flexibility provisions to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(12).

SCAPCD addressed this requirement by revising Rule 5, Section V.I.2.c to require this dual notification of operational flexibility changes, as required by part 70.

(b) SCAPCD was required to revise all deadlines for final permit action in Rule 5 IV.C. (except for C.1. and C.5.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

SCAPCD addressed this requirement by modifying Rule 5, Sections V.C(2), (C)(3), (C)(4), and (C)(6) to refer to the appropriate number of months ''after the complete application is received.''

(c) SCAPCD needed to revise Rule 3:10 (Excess Emissions) to remove the prohibition on the use of reports required by Rule 3:10 in enforcement/permitting actions.

SCAPCD addressed this requirement by removing this prohibition from Rule 3:10.

(d) SCAPCD was required to revise paragraph (g) of Rule 3:10 to include a provision that EPA, as well as the APCO, can request a demonstration that the excess emissions are unavoidable. In addition, the rule needed to clarify that the APCO will specify in the permit the amount, time, duration, and under what circumstances excess emissions are allowed during start-up and shut-down.

SCAPCD addressed this requirement by revising paragraph (g) of Rule 3:10 to allow EPA to request a demonstration that excess emissions are unavoidable, and clarified in Rule 3:10 that the APCO will specify certain limits and restrictions regarding excess emissions during start-up and shut-down in the permit.

(21) *Siskiyou County APCD:* (a) Siskiyou County APCD (SCAPCD) was required to revise all deadlines for final permit action in Rule 2.13 IV.C. (except for C.1. and C.5.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

SCAPCD addressed this requirement by revising rule 2.13 to require final action no later than nine months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) SCAPCD needed to revise Rule 2.13 IV.B.4. to clarify that the APCO's approval of a minor permit modification prior to EPA's review is not a final permit action. Rule 2.13 IV.B.4. allowed the APCO to approve minor permit modifications changes prior to the EPA's review; however, 40 CFR 70.7(e)(2)(iv) precludes the District from issuing a final permit modification until after EPA's review period or until EPA has notified the District that EPA will not object, although the District may approve the permit modification prior to that time.

SCAPCD addressed this requirement by revising Rule 2.13 IV.B.4. to state the following: ''allowing a stationary source to make a change prior to permit issuance does not constitute final action and does not preclude the District from denying the change or requiring the change to be processed as a significant permit modification, nor does it preclude the U.S. EPA from objecting to the permit modification.''

(c) SCAPCD was required to revise Rule 2.13 IV.B.4. to incorporate the compliance provisions of 40 CFR 70.7(e)(2)(v). Rule 2.13 IV.B.4 allowed the APCO to approve minor permit modifications prior to the EPA's review. While this is allowed under 40 CFR 70.7(e)(2)(v), Rule 2.13 did not state, as does § 70.7(e)(2)(v), that until the District takes final action to issue or deny the requested permit modification or determines that it is a significant modification, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions, but the source need not comply with the existing permit terms and conditions being modified. Rule 2.13 also needed to be revised to state that if the source fails to comply with the permit terms and conditions in the requested modification, the existing permit terms and conditions being modified may be enforced against it.

SCAPCD addressed this condition by revising Rule 2.13 IV.B.4 to include the appropriate compliance provisions from 40 CFR 70.7(e)(2)(v).

(d) SCAPCD was required to revise Rule 2.13 IV.B.3. to limit the discretion of the APCO to authorize sources to commence operations of significant permit modifications prior to final permit action to when the changes meet the criteria of 40 CFR 70.5(a)(1)(ii). Rule 2.13 IV.B.3. allowed the APCO to approve significant permit modifications and the source to commence operations of those modifications prior to the EPA's review and final permit action. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes are subject to preconstruction review under § 112(g) of the Act or preconstruction review programs approved into the SIP pursuant to part C or D of title I of the Act and the changes are not otherwise prohibited by

the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

SCAPCD addressed this requirement by revising Rule 2.13 IV.B.3 to limit the discretion of the APCO to authorize sources to commence operations of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(e) SCAPCD was required to revise Rule 2.13 V.I.2 and V.I.3. to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(11)(iii).

SCAPCD addressed this condition by revising Rule 2.13 V.I.2 and V.I.3 to require that EPA and the District be notified by the source in writing of all operational flexibility changes at least 30 days prior to the change.

(22) *Tehama County APCD:* (a) Tehama County APCD (TCAPCD) was required to revise the rule's operational flexibility provisions to require notification by the source of operational flexibility changes to both the EPA and the District as required by 40 CFR 70.4(b)(12).

TCAPCD addressed this condition by revising Rule 7:1 E.9.a.2.b. to require that USEPA and the District be notified by the source in writing of all operational flexibility changes at least 30 days prior to the change.

(b) TCAPCD was required to revise Rule 7:1 IV.B.4. to incorporate the compliance provisions of 40 CFR 70.7(e)(2)(v). Rule 7:1 did not state, as does § 70.7(e)(2)(v), that until the District takes final action to issue or deny the requested permit modification or determines that it is a significant modification, the source must comply with the applicable requirements governing the change and the proposed permit terms and conditions in lieu of complying with the existing permit terms and conditions being modified. Rule 7:1 also needed to be revised to state that if the source fails to comply with the permit terms and conditions in the requested modification, the existing permit terms and conditions may be enforced against it.

TCAPCD addressed this condition by revising Rule 7:1 D.2.d (note that the rule has been renumbered) to include the appropriate compliance provisions from § 70.7(e)(2)(v).

(c) TCAPCD was required to revise Rule 7:1 IV.B.3. to limit the discretion of the APCO to authorize sources to commence operation of significant permit modifications prior to final permit action to when the changes meet the criteria of 40 CFR 70.5(a)(1)(ii). Rule 7:1 IV.B.3. allowed the APCO to authorize sources to commence operation of significant permit modifications when the proposed permit revision is publicly noticed but prior to final permit action. Part 70 prohibits sources from making significant permit modification changes prior to final permit issuance unless the changes have undergone preconstruction review pursuant to § 112(g) or a program approved into the SIP pursuant to part C or D of title I, and the changes are not otherwise prohibited by the source's existing part 70 permit. *See* 40 CFR 70.5(a)(1)(ii).

TCAPCD addressed this requirement by revising Rule 7:1 D.2.c to limit the discretion of the APCO to authorize sources to commence operations of a significant permit modification prior to final action only where the changes meet the criteria of 40 CFR 70.5(a)(1)(ii).

(23) *Tuolumne County APCD:* (a) Tuolumne County APCD (TCAPCD) was required to revise all deadlines for final permit action in Rule 500 V.C. (except for C.1. and C.5.) to be no later than the appropriate number of months after the complete application is received, rather than after the application is deemed complete, as required by 40 CFR 70.4(b)(11)(iii) and 70.7(a)(2).

TCAPCD addressed this condition by revising Rule 500 to require final action no later than the appropriate number of months ''after the complete application is received'' rather than ''after the application is deemed complete.''

(b) TCAPCD was required to revise the definition of ''potential to emit'' in Rule 500 II.Y. to clarify that only federally-enforceable limitations may be considered in determining a source's potential to emit under title V.

TCAPCD addressed this condition by revising this definition, which now states that ''physical and operational limitations on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions or in rules or regulations that are legally and practicably enforceable by U.S. EPA and citizens or by the District.'' For a discussion of how subsequent litigation has affected EPA's consideration of this issue, please refer to the Amador County portion of Section IV.A.2. of this **Federal Register**. EPA's description of the potential to emit issue for Amador County also applies to TCAPCD, which made the same rule change.

(24) *Yolo-Solano AQMD:* (a) The District was required to revise Rule 3.8 to restrict the use of minor permit modification procedures consistent with 40 CFR 70.7(e)(2)(i)(B). Rule 507, by default, allowed minor permit modification procedures to be used for those permit modifications that involve the use of economic incentives, marketable permits, emissions trading, and other similar approaches. 40 CFR 70.7(e)(2)(i)(B) constrains the use of the minor permit modification procedures for these approaches to situations where minor permit modification procedures are explicitly provided for in the applicable implementation plan or in the applicable requirements promulgated by the EPA.

Yolo-Solano AQMD (YSAQMD) addressed this requirement by revising its definition of minor modification in Rule 3.8, Section 222, to include the constraining language from 40 CFR 70.7(e)(2)(i)(B) regarding minor permit modification procedures.

(b) The District needed to Revise Rule 3.8's permit content requirements to provide that every permit contain a 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 as required by 40 CFR 70.6(a)(8).

YSAQMD addressed this requirement by modifying Rule 3.8 Section 302.22 to add this provision from § 70.6(a)(8).

A. Other District-Specific Changes Submitted Since EPA Granted Final Interim Approval

In addition to the changes each district made to correct interim approval issues, most districts also made other changes to their rule (or program) that go beyond those necessary to receive full approval. This section describes, in general terms, the additional rule or program changes that districts have made. EPA proposes approval of most of the additional changes described below. For one rule change, made by several of the districts, EPA is taking no action. For a complete description of the rule changes and the basis for our decision to propose approval, or to take no action, please see the Technical Support Documents.

Most of the districts made at least one of four changes recommended by the California Air Resources Board in its January 18, 2001 table entitled, ''Summary of Title V Interim Approval Issues.'' Because these changes are common to many districts, we will discuss them here and refer back to the changes, where necessary, in the discussion of district-specific changes below. For three of the common changes, EPA is proposing approval, and for the fourth change, EPA is taking no action today. The three common changes that EPA is proposing to approve are:

(a) *Definition of Potential to Emit:* Many districts changed the definition of ''potential to emit'' (PTE) to clarify wording and to add that the emissions limits be ''legally and practicably enforceable by U.S. EPA and citizens or by the District.'' Enforceability of PTE limits was an interim approval deficiency for Amador County APCD and Tuolumne County APCD and each has made the necessary change to resolve the deficiency (see Section IV.A.2). Ten other districts also made the same change to their definition of PTE, although the revision did not address an interim approval deficiency in these cases. EPA proposes to approve this rule revision for all of the districts that made the change, as identified below. For a discussion of why EPA is proposing to approve districts' revision to the definition of PTE, please refer to the Amador County portion of Section IV.A.2. of this **Federal Register** and to the TSD.

(b) *Owner/Operator Change:* Some districts changed the term ''owner/operator'' to ''responsible official'' in the permit content portion (and perhaps other sections) of their rule. It was not identified as an interim approval deficiency for any districts and it is an important change that EPA proposes to approve.

(c) *Applicability Section Clarification:* Many Districts revised the Applicability section of their rule to clarify wording regarding sources that are exempt from the title V program (e.g., residential wood heaters, asbestos NESHAP-regulated sources, and other sources in a source category that EPA has deferred). This wording clarification improves the programs and EPA proposes to approve the clarification.

The fourth common change that several districts made was a revision to the effective date of their rules. EPA is currently evaluating the approvability of the change to the effective date of the districts' operating permits rules. Because EPA has not yet determined whether this change is approvable under the requirements of 40 CFR part 70, and since this change was not required by EPA for any district to receive full program approval, the Agency is taking no action at this time.

The following changes beyond those necessary for full approval have been submitted to EPA since interim approval was granted. EPA proposes full approval of all the following changes, except for the effective date change, as noted above. Please refer to the TSD for details on the rule/program changes and the basis for our proposed approval or decision to take no action.

(1) *Amador County APCD.* Amador County APCD made all four of the common changes noted above. However, the revision of the definition of ''potential to emit'' was done to address an interim approval deficiency. This change is therefore described in Section IV.A.2. above. EPA is also proposing to approve the District's replacement of the term owner/operator at Section IV.C.K.1.a and Amador County APCD's clarification of its exempt sources list at Section III.B. EPA is taking no action on the District's change to the effective date of Rule 500 at Section I.

In addition to the changes noted above, EPA is proposing to approve revisions to sections I through VII Rule 500 adopted by ACAPCD on February 25, 1997. The purpose of the 1997 rule changes was to make Rule 500 consistent with EPA guidance on permit streamlining. See ''White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program'', March 5, 1996.

ACAPCD's definition of potential to emit in Section II.BB.2 of Rule 500 lists source categories that must count fugitives for the purposes of determining potential to emit. In the part of the definition that addresses stationary sources, subparagraph 3 has been modified to read: ''any other stationary source category regulated under section 111 or 112 of the CAA, and for which the U.S. EPA has made an affirmative determination by rule under section 302(j) of the CAA.'' (emphasis added) The addition of the 302(j) requirement restricts the types of sources that are required to count fugitives towards the major source threshold. This is inconsistent with the current version of part 70 and is not approvable.

EPA has, however, proposed to revise the major source definition to incorporate a 1980 cutoff date, consistent with EPA's New Source Review regulations. EPA final action would mean that Rule 500 would be consistent with part 70 with respect to which sources must count fugitives. We are therefore proposing to approve the District's definition of potential to emit provided that EPA finalizes revisions to the part 70 rule that will make the change approvable. Alternatively, if EPA does not finalize the changes to part 70 described above, a portion of ACAPCD's potential to emit definition will conflict with the operative version of the major source definition in part 70 and we will be unable to approve it.

The change that EPA will make to part 70 will make that rule consistent with EPA's New Source Review regulations in parts 51 and 52 with respect to the treatment of fugitives in major source determinations. The revised part 70 language will require that fugitives be counted for ''Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.'' This differs from the ACAPCD language cited above, which relies on 302(j) rulemaking instead of the 1980 cut-off date to determine which sources must count fugitives. However, at the present time, the 302(j) requirement in Rule 500 captures the same sources as the revised part 70 will, since EPA has not done any 302(j) rulemakings to expand the types of sources for which fugitive emissions are counted to determine title V applicability. If EPA does 302(j) rulemakings in the future, the Agency will have to revise part 70 to ensure that fugitives are counted for the new source category. The advantage of ACAPCD's language is that Rule 500 will not have to be revised if the universe of source categories for which fugitives are counted is expanded by EPA via 302(j) rulemakings.

In addition to the rule changes, ACAPCD's April 10, 2001 submittal of its amended title V program to EPA included one programmatic change. The District will use California Air Resource Board (CARB) model application forms instead of the forms initially approved by EPA for use in the District's title V program. EPA is also proposing to approve the use of these forms as part of ACAPCD's title V program. Copies of the forms are available in the docket for this rulemaking.

(2) *Butte County AQMD.* Butte County made all four of the common changes noted above to Rule 1101. EPA proposes to approve the modification of the definition of potential to emit at Section 2.23.1, the replacement of the term owner/operator at Section 6.5.14.1, and the District's clarification of its exempt sources list at Section 3.2. EPA is taking no action on Butte County AQMD's change to the effective date of Rule 1101 in Section I. In addition, on June 24, 1999, the District modified its title V rules to: (1) Create new Rule 505 ''Title V Fees'' which replaced section 7 of previous Regulation V, Rule 1101; and (2) to completely recodify rule 1101 including related references in the rule. EPA proposes to approve these changes.

(3) *Calaveras County APCD.* Calaveras County APCD made three of the four common changes noted above to Regulation X. They modified the definition of potential to emit, at Rule 1002, replaced the term owner/operator at rule 1006—section B.14.(a), and clarified its exempt sources list at Rule

1003—''Applicability'' subsections B.1, B.2, and B.3. EPA proposes to approve all of these changes.

(4) *Colusa County APCD.* Colusa County APCD made all four of the common changes noted above to Rule 3.17. EPA proposes to approve the modification of the definition of potential to emit at Section 3.17(b)(23)(A), the replacement of the term owner/operator at Sections 3.17(d)(2) and 3.17(f)(2), and the District's clarification of its exempt sources list at Section 3.17(c)(2). EPA is taking no action on Colusa County APCD's change to the effective date of Rule 3.17 at Sections 3.17(a)(3) and 3.17(b)(12).

(5) *El Dorado County APCD.* El Dorado County APCD made all four of the common changes noted above to Rule 522. EPA proposes to approve the modification of the definition of potential to emit at Section 522.2(W)(1), the replacement of the term owner/operator at Section 522.6(B)(14)(a), and the District's clarification of its exempt sources list at Section 522.3(B). EPA is taking no action on El Dorado County APCD's change to the effective date of Rule 522 at Sections 522.1 and 522.2(L). El Dorado County APCD also clarified their reporting requirements for permit deviations at Section 522.6(B)(7)(a), and corrected several regulatory citations at Sections 522.4(D) and 522.5(G). EPA proposes to approve these changes.

(6) *Feather River AQMD.* Feather River AQMD made all four of the common changes noted above to Rule 10.3. EPA proposes to approve the modification of the definition of potential to emit at Section 10.3(B)(23), the replacement of the term owner/operator at Sections 10.3(D)(2)(c)(1) and 10.3(F)(2)(n)(1), and the District's clarification of its exempt sources list at Section 10.3(C)(2). EPA is taking no action on Feather River AQMD's change to the effective date of Rule 10.3 at Section A. Feather River AQMD also clarified the federal regulatory citation for its definitions at Section 10.3(B), made a small correction to its definition of ''regulated air pollutant'' at Section 10.3(B)(25)(e), made a minor clarification to its application content requirements at Section 10.3(D)(3)(a)(6)(c), and changed the basis of its fee collection from actual to potential emissions in Section 10.3(G). EPA proposes to approve these changes.

(7) *Glenn County APCD.* Glenn County made two of the four common changes noted above to Article VII. The District modified its definition of potential to emit at Section II.W.I, and clarified its exempt sources list at Section III(B). EPA proposes to approve these two changes.

(8) *Great Basin Unified APCD.* Great Basin Unified APCD made two of the common changes noted above to Rule 217. The District modified its definition of potential to emit at Section 217.II(Z) and clarified its exempt sources list at Section 217.III(B). Great Basin Unified APCD also specified the timeframes for reporting permit deviations at Section 217.VI(B)(7)(a), added a definition for ''emissions allowable under the permit'' at Section 217.II(N), clarified the definitions of ''applicable federal requirement'' at section 217.II(E)(1)(c) and ''responsible official'' at Section 217.II(CC), revised Section 217.VI(B)(3) regarding the requirement to specify the origin and authority for every permit condition, and made a clarification to the requirement for sources to submit compliance reports at Section 217.VI(B)(7)(b). EPA proposes to approve all of the additional changes made by Great Basin Unified APCD.

(9) *Imperial County APCD.* Imperial County APCD made three of the four common changes noted above. EPA is proposing to approve the District's modification to its definition of potential to emit at Section B.24, the replacement of the term owner/operator at Sections D, E, F, and G, and the District's clarification of its exempt sources list at Section C.2. In addition to these changes, EPA is proposing to approve revisions to Rule 900 adopted by ICAPCD on April 4, 2000. These changes are the addition of a definition of permit shield at Section B.23, and the addition of a permit shield provision at Section D.2. EPA proposes to approve these changes.

(10) *Kern County APCD.* Kern County APCD (KCAPCD) made three of the four common changes noted above. EPA proposes to approve the replacement of the term owner/operator at Sections IV.C.k and VI.B and the District's clarification of its exempt sources list at Section III.B. EPA is taking no action on Kern County APCD's change to the effective date of 201.1 at Section II.M. In addition, EPA is proposing to approve revisions to Sections I through VI of Rule 201.1 adopted by the District on January 9, 1997. The purpose of the 1997 rule changes was to make Rule 201.1 consistent with EPA guidance on permit streamlining. *See* ''White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program'', March 5, 1996. The reader is referred to the Docket for this rulemaking for the exact text of these rule changes.

KCAPCD's definition of potential to emit in Section II.X of Rule 201.1 lists source categories that must count fugitives for the purposes of determining potential to emit. In subparagraph 2, which addresses stationary sources, the definition has been modified to read: ''any other stationary source category regulated under section 111 or 112 of the CAA, and for which the U.S. EPA has made an affirmative determination by rule under section 302(j) of the CAA.'' (emphasis added) The addition of the 302(j) requirement restricts the types of sources that are required to count fugitives towards the major source threshold. This is inconsistent with the current version of part 70 and is not approvable.

EPA has, however, proposed to revise the major source definition to incorporate a 1980 cutoff date, consistent with EPA's New Source Review regulations. We are therefore proposing to approve the District's definition of potential to emit provided that EPA finalizes revisions to the part 70 rule that will make the change approvable. Alternatively, if EPA does not finalize the changes to part 70 described above, a portion of KCAPCD's potential to emit definition will conflict with the operative version of the major source definition in part 70 and we will be unable to approve it.

The change that EPA will make to part 70 will make that rule consistent with EPA's New Source Review regulations in parts 51 and 52 with respect to the treatment of fugitives in major source determinations. The revised part 70 language will require that fugitives be counted for ''Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.'' This differs from the KCAPCD language cited above, which relies on 302(j) rulemaking instead of the 1980 cut-off date to determine which sources must count fugitives. However, at the present time, the 302(j) requirement in Rule 201.1 captures the same sources as the revised part 70 will, since EPA has not done any 302(j) rulemakings to expand the types of sources for which fugitive emissions are counted to determine title V applicability. If EPA does 302(j) rulemakings in the future, the Agency will have to revise part 70 to ensure that fugitives are counted for the new source category. The advantage of KCAPCD's language is that Rule 201.1 will not have to be revised if the universe of source categories for which fugitives are counted is expanded by EPA via 302(j) rulemakings.

(11) *Lake County AQMD.* Lake County made only one of the four common changes noted above to Chapter XII. The

District revised its definition of potential to emit at Rule 12.200 (p2). In addition, Lake County made two additions to its list of sources exempt from the requirements of Chapter XII: (1) ''Any insignificant source at a facility not requiring a title V permit;'' and (2) ''When EPA finalizes the underlying requirements in 40 CFR part 70, a source classified as a major source solely because it has the potential to emit major amounts of a pollutant listed at § 112(r)(3) of the CAA, and is not otherwise a major source as defined in 12.200.'' (*See* Rule 12.300 (b)(5)). EPA proposes to approve all of these additional changes made by Lake County AQMD. The second addition to the District's list of sources exempt from the requirements of Chapter XII is approvable because the exception is only allowed after EPA changes part 70.

(12) *Lassen County APCD.* Lassen County made three of the four common changes noted above to Rule 7. EPA proposes to approve the District's revision to its definition of potential to emit at Rule 7:4.w.1 and the clarification of its list of sources exempt from title V at Rule 7:3. EPA is taking no action on the District's change to the effective date at Rule 7:1.b. and Rule 7:4.l. Lassen County APCD made two other revisions that EPA is proposing to approve. The District added a definition of minor permit modification at Rule 7:4.u (consistent with 40 CFR 70.7(e)(2)(i)(B)) and added Rule subsection 7:6.d.1.b.4, a requirement that the public notice include, ''the location where the public may inspect the complete application, the District analysis, and the proposed permit.''

(13) *Mariposa County APCD.* Mariposa County APCD did not make any other changes.

(14) *Mendocino County APCD.* Mendocino County APCD made only one of the four changes noted above to Rule 5. The District revised its definition of potential to emit at Rule 5.200(p2). EPA proposes to approve this change.

(15) *Modoc County APCD.* Modoc County APCD made three of the four common changes noted above. EPA proposes to approve the District's modification to its definition of potential to emit at Section II.W and the clarification of its exempt sources list at Section III.B. EPA is taking no action on the District's change to the effective date of Rule 2.13 at Section II.L.

(16) *North Coast Unified AQMD.* North Coast Unified AQMD made two of the four changes noted above. The District modified its definition of potential to emit in Rule 200, and clarified its exempt sources list in Rule 300.b. EPA proposes to approve both of these changes.

(17) *Northern Sierra AQMD.* Northern Sierra made all four changes noted above to its Rule 522. EPA proposes to approve the District's modification to its definition of potential to emit at Section 2.24.1, the replacement of the term owner/operator at Section 6.2.14.a, and the clarification of its exempt sources list at Section 3.2. EPA is taking no action on the District's change to the effective date of Rule 522 at 522.2, Part 1.0.

(18) *Northern Sonoma County APCD.* Northern Sonoma County made three of the common changes noted above to Regulation 5. EPA is proposing to approve the District's modification to its definition of potential to emit at Section 5.200(p)(2) and the clarification of its exempt sources list at Section 5.300(b). EPA is taking no action on the District's change to the effective date of Regulation 5 at Section 5.200(e)(1).

(19) *Placer County APCD.* Placer County APCD made three of the common changes noted above to Rule 507. EPA is proposing to approve the District's modification to its definition of potential to emit at Section 223.1 and the clarification of its exempt sources list at Section 110. EPA is taking no action on the District's change to the effective date of Rule 507 at Section 101. Placer County also revised their definition of ''major source'' at Section 219 to lower the emission thresholds for nitrogen oxides and volatile organic compounds, made a minor language change to Rule 507's application requirements at Section 302.1, and clarified the specific dates by which certain permitting-related actions are required in Sections 302.2, 302.3, and 401.3. EPA proposes to approve these changes.

(20) *Shasta County APCD.* Shasta County APCD made three of the common changes noted above to Rule 5. EPA proposes to approve the District's modification to its definition of potential to emit at Section II.X.1 and the clarification of its exempt sources list at Section III.B. EPA is taking no action on the District's change to the effective date of Rule 5 at Section I. Shasta County also made some minor wording revisions to a few of their definitions in Sections II.E, II.L, and II.N, clarified the application requirements in Section IV.B(1)(a), added a requirement to Section IV.C(1)(q) for sources submitting compliance certifications, modified their procedures for operational flexibility in Section V.I(2), clarified the reporting requirements in Section VI.B(7), and added a condition to Section VI.B(18)(e) regarding voluntary emission caps. In addition to these rule changes, Shasta County made several program changes including adopting Rule 2.3 (Toxics New Source Review) to comply with CAA § 112(g) requirements, updating their title V staff description, their fee requirements and the expected operating permit program costs, revising their title V source list, and updating their permit application forms. With the exception of the effective date change, EPA proposes to approve all of the additional changes made by Shasta County APCD.

(21) *Siskiyou County APCD.* Siskiyou County APCD made three of the four changes noted above to rule 2.13. EPA proposes to approve the District's revision to its definition of potential to emit at Rule 2.13.II.W.1 and the clarification of its exempt sources list at 2.13.III.B. EPA is taking no action on the District's change to the effective date at Rule 2.13.I and 2.13.II.L.

(22) *Tehama County APCD.* Tehama County APCD made all four of the common changes noted above to Rule 7:1. EPA proposes to approve the District's modification to its definition of potential to emit at Section B.1.w.1, the replacement of the term owner/operator at Sections F.1.a.14.1, and the clarification of its exempt sources list at Section C.2.a. EPA is taking no action on the District's change to the effective date of Rule 7:1 at Sections A.1 and B.1.

(23) *Tuolumne County APCD.* Tuolumne County APCD made two of the four changes noted above. However, the revision of definition of ''potential to emit'' was done to address an interim approval deficiency. This change is therefore described in the Section IV.A.2. above. The other change that EPA is proposing to approve is the District's clarification of its exempt sources list at Section III.B.

(24) *Yolo-Solano AQMD.* Yolo-Solano AQMD made three of the common changes noted above to Rule 3.8. EPA proposes to approve the District's modification to its definition of potential to emit at Section 224 and the clarification of its exempt sources list at Section 110. EPA is taking no action on the District's change to the effective date of Rule 3.8 at Sections 101 and 213. In addition to these changes, Yolo-Solano also modified their definition of ''administrative permit amendment'' in Section 203, incorporated lower emission thresholds for nitrogen oxides and volatile organic compounds into their ''major source'' definition in Section 221, and corrected typographical errors in Sections 222 and 302. EPA proposes to approve these changes.

V. What Is Involved in This Proposed Action?

All twenty-four districts have fulfilled the conditions of the interim approval granted on May 3, 1995, July 13, 1995, or December 7, 1995, and EPA proposes full approval of their title V operating permit programs.

As discussed above, many of the twenty-four districts that are the subject of today's proposed action also made additional changes to their operating permits programs. These changes were not required by EPA to address conditions of the interim approval granted to the twenty-four districts on May 3, 1995, July 13, 1995, or December 7, 1995. However, EPA has reviewed all changes and proposes to approve all of them except the change to the effective date many districts made.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of these submittals 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 21, 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 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. 01–26529 Filed 10–19–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[IL; FRL–7088–6]

Clean Air Act Proposed Full Approval of Operating Permits Program; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes fully approving the Illinois Clean Air Act Permit Program (CAAPP), 415 ILCS 5/39.5, submitted by Illinois pursuant to subchapter V of the Clean Air Act, which requires states to develop and submit to EPA for approval, programs for issuing operating permits to all major stationary sources and to certain other sources.

DATES: EPA must receive comments on this proposed action on or before November 21, 2001.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the proposed approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Steve Marquardt at (312) 353–3214 to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Steve Marquardt, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Number: (312) 353–3214, E-Mail Address: marquardt.steve@epa.gov.