Rule 301 of Regulation S–T also is being amended to provide for the incorporation by reference of the Filer Manual into the Code of Federal Regulations, which incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The revised Filer Manual and the amendment to Rule 301 will be effective on March 10, 1997.

Paper copies of the updated Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1–2, 450 Fifth Street, N.W., Washington D.C. 20549. Electronic format copies will be available on the EDGAR electronic bulletin board. Copies also may be obtained from Disclosure Incorporated, the paper and microfiche contractor for the Commission, at (800) 638–8241.

Since the Filer Manual relates solely to agency procedure or practice, publication for notice and comment is not required under the Administrative Procedure Act.[10] It follows that the requirements of the Regulatory Flexibility Act [11] do not apply.

The effective date for the updated Filer Manual and the rule amendment is March 10, 1997. In accordance with the Administrative Procedure Act 5 U.S.C. 553(d)(3), the Commission finds that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system is scheduled to be upgraded to Release 5.20 on March 8, 1997. The Commission believes that it is necessary to coordinate the effectiveness of the updated Filer Manual with the scheduled system upgrade in order to avoid confusion to EDGAR filers.

Statutory Basis

The amendment to Regulation S–T is being adopted under Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,[12] Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,[13] Section 20 of the Public Utility Holding Company Act of 1935,[14] Section 319 of the Trust Indenture Act of 1939,[15] and Sections 8, 30, 31, and 38 of the Investment Company Act.[16]

239.34). All other submission types used for Rule 462(b) filings were added to the EDGAR system in November 1995. See Release No. 33–7241 (November 13, 1995) (60 FR 57682).

[10] 5 U.S.C. 553(b)

[11] 5 U.S.C. 601–612.

[12] 15 U.S.C. 77f, 77g, 77h, 77j and 77s(a).

[13] 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w and 78*ll*.

[14] 15 U.S.C. 79t.

[15] 15 U.S.C. 77sss.

[16] 15 U.S.C. 80a–8, 80a–29, 80a–30 and 80a–37.

List of Subjects in 17 CFR Part 232

Incorporation by reference; Investment companies; Registration requirements; Reporting and recordkeeping requirements; Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Electronic filings shall be prepared in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The March 1997 edition of the EDGAR Filer Manual: Guide for Electronic Filing with the U.S. Securities and Exchange Commission (Release 5.20) is incorporated into the Code of Federal Regulations by reference, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Compliance with the requirements found therein is essential to the timely receipt and acceptance of documents filed with or otherwise submitted to the Commission in electronic format. Paper copies of the EDGAR Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1–2, 450 5th Street, N.W., Washington, D.C. 20549. They also may be obtained from Disclosure Incorporated by calling (800) 638–8241. Electronic format copies are available through the EDGAR electronic bulletin board. Information on becoming an EDGAR E-mail/electronic bulletin board subscriber is available by contacting CompuServe Inc. at (800) 848–8199.

Dated: February 21, 1997.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–4797 Filed 2–26–97; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5691–3]

Clean Air Act Final Interim Approval of Operating Permits Program; South Coast Air Quality Management District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the California Air Resources Board on behalf of the South Coast Air Quality Management District (South Coast or District), for the purpose of complying with federal requirements for an approvable state program to issue operating permits to all major stationary sources, and to certain other sources.

DATES: The final interim approval of the South Coast program is effective on March 31, 1997.

ADDRESSES: Copies of the District's submittals and other supporting information used in developing the final interim approval and direct final interim approval are available for inspection (docket number CA–SC–96–1–OPS) during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas (telephone 415–744–1252), Mail Code AIR–3, U.S. Environmental Protection Agency, Region IX, Air Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (the Act), and implementing regulations at 40 Code of Federal Regulations (CFR) Part 70 require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not

fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program. On July 1, 1996, EPA promulgated the part 71 regulations that govern EPA's implementation of a federal operating permits program in a state or tribal jurisdiction. See 61 FR 34202. On July 31, 1996, EPA published a notice at 61 FR 39877 listing those states whose part 70 operating permits programs had not been approved by EPA and where a part 71 federal operating permit program was therefore effective. In that notice EPA stated that part 71 is effective in the South Coast. The EPA also stated its belief that it would promulgate interim approval of the South Coast part 70 program prior to the deadline for sources to submit permit applications under part 71. Today's action cancels the applicability of a part 71 federal operating permits program in the District. The part 71 application deadline contained in the July 31, 1996 notice is now superseded by the South Coast part 70 application deadlines.

On August 29, 1996, EPA published a notice of direct final rulemaking (NDFR) in which it promulgated direct final interim approval of the operating permits program for the South Coast Air Quality Manangement District. See 61 FR 45330. The notice stated that if EPA recieved adverse comment, it would withdraw the final action. On the same date, EPA published a notice of proposed rulemaking (NPR) that would serve as a proposal for interim approval, if EPA were to receive adverse comments on the direct final rule. See 61 FR 45379. The NDFR identified several deficiencies in the District program and proposed that the South Coast make specified changes to correct those deficiencies as a condition of full approval.

EPA received four letters addressing the NDFR, three of which contained adverse comments. The Agency published a notice on November 4, 1996, withdrawing its direct final rule. See 61 FR 56631.

The majority of comments received by EPA were directed toward questions of program implementation, rather than the action EPA proposed to take on the District program. In this document, EPA is responding to those comments that relate to the interim approval action, along with certain other issues raised during the public comment period. The EPA has addressed all of the comments received on the proposal in a separate ''Response to Comments'' document contained in the docket at the Regional Office. After considering the comments, EPA has affirmed that the changes proposed in the NDFR are necessary. In this final interim approval, EPA has not therefore modified the list of changes (''interim approval issues'') that was set forth in section II.B. of the NDFR.

The EPA's NDFR also proposed approval, under section 112(l), of South Coast's mechanism for accepting delegation of section 112 standards as promulgated. The EPA did not receive public comment on this proposed action for the District program.

II. Final Action and Implications

A. Analysis of State Submission

South Coast's title V program was submitted by the California Air Resources Board (CARB) on December 27, 1993. The South Coast submittal included the following implementing and supporting regulations: Regulation XXX—Title V Permits; Rule 204—Permit Conditions; Rule 206—Posting of Permit to Operate; Rule 210—Applications; Rule 301—Permit Fees; Rule 518—Hearing Board Procedures for Title V Facilities; and Rule 219—Equipment not Requiring a Written Permit Pursuant to Regulation II. The EPA found the program to be incomplete on March 4, 1994 because it lacked permit application forms. On March 6, 1995, the District submitted its forms and EPA deemed the program complete on March 30, 1995. On February 10, 1995, the District adopted a rule to implement title IV. EPA deemed the South Coast acid rain program acceptable on March 29, 1995 (see 60 FR 16127) and on April 11, 1995, it was submitted to EPA as part of the District's title V program. On August 11, 1995, the District amended the regulatory portion of its submittal. On September 26, 1995, EPA received from CARB, on behalf of the District, the revised Regulation XXX, revised Rule 518—Variance Procedures for Title V Facilities, and a new rule, Rule 518.1—Permit Appeal Procedures for Title V Facilities. Additional materials were received on April 24, 1996, including draft revised application forms, a demonstration of adequacy of the District's group processing provisions, and several additional rules, including the following, which are relied upon to implement the title V program: Rule 219—Equipment not Requiring a Written Permit Pursuant to Regulation II, adopted August 12, 1994 (supersedes previously submitted version); Rule 301—Permit Fees, adopted October 13, 1995 (supersedes previously submitted version); and Rule 441—Research Operations, adopted May 5, 1976. In conjunction with its evaluation of the South Coast's title V operating permits program, EPA reviewed all of the rules, including Regulations XX and XIII, submitted by the District. While EPA is not specifically approving rules not directly relied upon to implement part 70 as part of the District's operating permits program, changes to these rules will be reviewed by EPA to ensure implementation of the part 70 program is not compromised. See the technical support document (TSD) for a complete listing of rules submitted by the District.

On May 6, 1996 application completeness criteria were received and on June 5, 1996 revised application forms were received. The District submitted a demonstration that shows South Coast will permit 60% of its title V sources and 80% of emissions attributable to title V sources within three years of program approval along with a sample of facility permit application on May 23, 1996. Finally, on July 29, 1996, the District submitted revised application forms and completeness criteria.

Enabling legislation for the State of California and the Attorney General's legal opinion were submitted by CARB for all districts in California and therefore were not included separately in South Coast's submittal. The South Coast submission now contains a Governor's letter requesting source category-limited interim approval, District implementing and supporting regulations, and all other program documentation required by § 70.4.

On August 29, 1996, EPA proposed interim approval of the South Coast title V operating permits program in accordance with § 70.4(d), on the basis that the program ''substantially meets'' part 70 requirements.

The analysis of the District submittal given in the August 29th action is supplemented by the discussion of public comments made on the NDFR. The analysis in the NDFR document remains unchanged and will not be repeated in this final document. The program deficiencies that were identified in the NDFR must be corrected for the South Coast to have a fully approvable program. These program deficiencies, or interim approval issues, are enumerated in II.B. of the August 29, 1996 NDFR.

B. Public Comments and Responses

The EPA received comments on the NDFR for the South Coast program from four interested parties. Many of the comments are discussed below. Comments that are not addressed in this notice are addressed in a separate ''Response to Comments'' document

contained in the docket (CA–SC–96–1–OPS).

1. Insignificant Activities

Under part 70, if an activity has been classified as ''insignificant,'' an applicant need not include it in its application, except that activities that are insignificant based upon size or production rate must be listed. In order to be considered insignificant, an activity should have relatively low emissions. Such activities may not be subject to any applicable requirement under the Act, with the exception of certain generically applicable requirements, which, by their nature, need not always be addressed in a permit on a unit specific basis. The most common of such requirements are the broadly applicable opacity standards. In addition, as specified by 70.5(c), applications may not omit information needed to determine the applicability of, or to impose, any applicable requirement. The applicant is required to certify its compliance status with respect to any requirements that apply to insignificant activities, and the permit must contain terms and conditions that will ensure compliance with any requirements that apply to insignificant activities. The South Coast program meets these criteria, with the exception that some of the listed activities do not appear to qualify as ''insignificant.''

One commenter urged EPA to accept the submittal of Rule 219 as sufficient documentation of insignificant activities and asked that EPA not impose new requirements on the District. A second commenter disagreed that part 70 requires the District to provide supporting criteria to justify its list of insignificant activities. This commenter interprets § 70.4(b)(2) as requiring the submittal of criteria only to the extent that such criteria are available. The commenter believes that the development of criteria to justify the inclusion of each and every activity on the list submitted by the permitting authority is not required.

As noted in the proposal, EPA believes that many of the activities on the South Coast list appear to be appropriately treated as ''insignificant.'' The Agency does not anticipate that sweeping changes to the list will be necessary. However, EPA does believe that there are items on South Coast's list that could emit significant amounts of pollutants and/or could be subject to unit-specific (non-general) applicable requirements and are therefore not appropriately treated as insignificant. EPA is requiring that for full approval, South Coast must demonstrate that the activities on its list are insignificant. EPA agrees that such a demonstration would not necessarily entail the development of criteria to justify each and every activity on the list. However, EPA disagrees with the assertion that criteria need only be submitted ''where available.'' This qualifier is not in the rule. The rule simply requires the submittal of criteria to justify insignificant activities lists. EPA is interpreting this reasonably to require the submittal of criteria only where there is a question about the appropriateness of a listed activity. EPA will work with the District to identify these areas and thereby reduce the justification burden that would be imposed by a literal reading of § 70.4(b)(2).

The District must revise the list to ensure that no activity on the list emits significant amounts of pollutants or will be subject to a unit-specific requirement. In some cases, this may require removing some items from the list completely. Another option is to add emissions cutoffs or size limitations to items on the list to ensure that the listed activities emit relatively low quantities of pollutants and that the listed activities are below any applicability thresholds for non-general applicable requirements.

2. De Minimis Significant Permit Revisions

Two commenters expressed their support for the District's provisions for the de minimis significant permit revision track, which can be used to process NSPS and NESHAP modifications, establishment of or changes to case-by-case emissions limitations, and changes to permit conditions that the source has assumed to avoid an applicable requirement, providing the change does not result in emissions increases greater than 5.5 tons per year (tpy) of VOC, HAPs, or PM10; 7.3 tpy of NO_X; 11 tpy of SO_X; and 40 tpy of CO. EPA identified these provisions as interim approval issues.

Part 70 requires that title I modifications (including NSPS and NESHAP modifications), establishment of or changes to case-by-case emissions limitations, and changes to permit conditions that the source has assumed to avoid an applicable requirement be treated as significant permit revisions. (See §§ 70.7(e)(2)(I)(*3*),(*4*), and (*4*)(*A*)). As such, these changes are subject to EPA and public review. In the latter two cases, this requirement is independent of any changes in emissions. By defining ''de minimis significant permit revisions'' to include these changes, the District has excluded them from public review. EPA does not believe there is any basis for an interpretation of the regulation that would allow for the exclusion of public review of these changes.

In expressing its support for the South Coast de minimis significant permit revisions provisions, one commenter paraphrased EPA's discussion of a different aspect of the District's regulation. The commenter said ''[a]s EPA points out in the preamble, requiring full public participation procedures for modifications that result in emissions increases below the levels specified in Regulation XXX would be unworkable and would dilute attention that should be focused on more significant changes.''

Part 70 requires all title I modifications, including modifications subject to major new source review (NSR), to be processed as significant permit revisions. Under the Clean Air Act, the size of the emissions increase that triggers NSR varies with the attainment status of the area. For example, a 40 ton per year increase of VOC would trigger major NSR in a moderate ozone nonattainment area. Because the South Coast is an extreme ozone non-attainment area (the only one in the country), any increase of NO_X or VOC is subject to major NSR.

The South Coast included in its rule provisions allowing modifications that result in cumulative (over the 5 year term of the permit) emissions increases of up to 40 pounds per day (about 7.3 tons per year) of NO_X and 30 pounds per day (about 5.5 tons per year) of increases of VOC to be processed without a public comment period. EPA proposed to approve this provision of the South Coast program because it believes that requiring full participation for major NSR modifications that result in emissions increases below the District's cut-off levels would be unworkable. EPA did not receive adverse comment on this aspect of the proposal.

In paraphrasing EPA's discussion regarding major NSR, the commenter attempts to extend EPA's reasoning on the NSR question to the other ''gatekeepers'' (NSPS and NESHAP modifications, establishment of or changes to case-by-case emissions limitations, and changes to permit conditions that the source has assumed to avoid an applicable requirement) in the rule. EPA notes that, unlike the NSR major modification triggers, the other gatekeepers are implemented in the same way throughout the country. Every other permitting authority in the United States and every other title V source in the United States is subject to these

requirements. EPA finds no basis for applying a different standard to the South Coast.

3. Reporting and Periodic Monitoring

One commenter stated that where reporting requirements are not specified or are specified as less frequently than every six months, those requirements should be deemed sufficient for title V purposes. Another said that existing monitoring and reporting requirements are sufficient to assure compliance with applicable requirements. Both of these commenters stated that where District rules or permits do not impose specific monitoring requirements this was done based on a determination that monitoring was not necessary, and that no new monitoring should be imposed.

Part 70 requires the submittal of reports of required monitoring at least every six months. (See § 70.6(a)(3)(iii)(A).) This requirement is in addition to the reporting requirements in existing rules and regulations. However, where this is redundant with reports required by applicable rules and regulations, it may be possible for one report to satisfy more than one reporting requirement. In order to meet the minimum part 70 requirements, the report would have to be submitted at least every 6 months, it would have to include clear identification of deviations from permit requirements and it would have to be certified by the responsible official. If these requirements are met by existing reporting requirements, there is no need to require a facility to submit the same report twice.

The periodic monitoring requirements of part 70 are set forth at § 70.6(a)(3)(i). This provision requires that the permit contain ''periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit. * * *'' If the applicable requirement does not require periodic monitoring, the permitting authority must add it to the title V permit. EPA has previously explained that periodic monitoring need not be added where doing so would not make an appreciable difference in the ability of the permit to assure compliance. An example of this would be where a boiler is subject to an SO2 limit and is required to fire only on natural gas. In this case, a requirement that the source keep records of fuel use would meet the source's obligation to do periodic monitoring. Another example is the case of insignificant activities subject to generally applicable SIP limits, as discussed in White Paper #2.[1]

4. Compliance Certification Language

South Coast Rule 3003(c) requires that the responsible official certify that, based on information and belief formed after reasonable inquiry, the statements and information contained in the submitted document are true, accurate, and complete. The District's application forms include the following certification language: ''* * * I have personally examined and am familiar with the statements and information submitted in this document and all of its attachments. * * * Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the following statements and information are to the best of my knowledge true, accurate and complete.''

One commenter stated that ''[i]t appears the current compliance certification language goes beyond the best efforts required by California (sic) White Paper 1.''[2] The commenter feels that it is unrealistic to expect this level of personal knowledge on the part of responsible officials at very large sources covered by title V. The commenter proposes that the following language be deleted from the first paragraph of the certification: ''and that I have personally examined, and am familiar with, the statements and information submitted in this document and all of its attachments.''

EPA's White Paper 1 addresses one narrow aspect of the compliance certification. The guidance provides that companies are not federally required to reconsider previous applicability determinations as part of their inquiry in preparing part 70 permit applications. Although it does not appear that the District's compliance certification language would require such reconsideration, EPA notes that nothing in EPA guidance or part 70 would constrain the District from doing so.

EPA finds the compliance certification provisions of the South Coast program to be consistent with the requirements of part 70 and EPA guidance.

5. Timing of EPA Action on District Program

Two commenters suggested that EPA defer any action to grant interim approval to the South Coast title V program. One of the commenters requested that EPA delay action until resolution of their issues is achieved. The other commenter noted that, given the District's plans to amend Regulation XXX in the near future, it may be appropriate for EPA to delay action on the South Coast title V program.

EPA has a statutory obligation to take action on title V programs within one year of the submittal of a complete title V program. The year has elapsed and part 71 is currently effective in the District. If EPA's approval of the District's program is further delayed, sources will be required to submit part 71 applications. EPA will continue to work with the District and with the regulated community to resolve implementation issues. When the District amends its part 70 program, EPA will take action on the submittal as quickly as possible.

C. Final Action

1. Title V Operating Permits Program

The EPA is promulgating interim approval of the operating permits program submitted by the California Air Resources Board on behalf of the South Coast Air Quality Management District on December 27, 1993 as supplemented by additional materials as referenced in II.A of this document. The areas in which the South Coast program is deficient and requires corrective action prior to full approval are set out in II.B. of the NDFR. See 61 FR 45333; August 29, 1996.

This interim approval, which may not be renewed, extends until March 29, 1999. During this interim approval period, the South Coast is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in the District. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If the District fails to submit a complete corrective program for full approval by September 28, 1998, EPA will start an 18-month clock for mandatory sanctions. If the South Coast then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA

[1] On March 5, 1996, EPA's Office of Air Quality Planning and Standards issued ''White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program.''

[2] On July 10, 1995, EPA's Office of Air Quality Planning and Standards issued ''White Paper for Streamlined Development of Part 70 Permit Applications.''

will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the District has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of the District, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the District has come into compliance. In any case, if, six months after application of the first sanction, the District still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

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

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the District has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the District program by the expiration of this interim approval, EPA must promulgate, administer and enforce a Federal permits program for the South Coast upon interim approval expiration.

The scope of the part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the South Coast Air Quality Manangement District, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

2. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that a state's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of South Coast's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated and that apply to sources covered by the part 70 program. California Health and Safety Code section 39658 provides for automatic adoption by CARB of section 112 standards upon promulgation by EPA. Section 39666 of the Health and Safety Code requires that districts then implement and enforce these standards. Thus, when section 112 standards are automatically adopted pursuant to section 39658, South Coast will have the authority necessary to accept delegation of these standards without further regulatory action by the District. The details of this mechanism and the means for finalizing delegation of standards will be set forth in an implementation agreement between South Coast and EPA. This program applies to both existing and future standards but is limited to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the South Coast Air Quality Management District's submittals and other information relied upon for the final interim approval, including public comments on the proposal from four different parties, are contained in docket number CA–SC–96–1–OPS maintained at the EPA Regional 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 final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Small Business Regulatory Enforcement Fairness Act

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

E. Executive Order 12866

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

List of Subjects in 40 CFR Part 70

Environmental protection, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements, Administrative practice and procedure, Air pollution control.

Dated: February 7, 1997.

Felicia Marcus,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

2. Appendix A to part 70 is amended by adding paragraph (dd) to the entry for California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

California

* * * * *

(dd) *South Coast Air Quality Management District:* submitted on December 27, 1993 and amended on March 6, 1995, April 11, 1995, September 26, 1995, April 24, 1996, May 6, 1996, May 23, 1996, June 5, 1996 and July 29, 1996; approval effective on March 31, 1997.

* * * * *

[FR Doc. 97–4887 Filed 2–26–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–72; Notice 2]

RIN 2127–AF75

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration, (NHTSA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: This document terminates rulemaking under which NHTSA had asked for comments on whether the performance and installation of front and rear fog lamps should be regulated by Motor Vehicle Safety Standard No. 108. Although commenters supported a rule in principle, they pointed out the lack of an acceptable and harmonized reference upon which Federal requirements could be based. In response to these comments, the SAE has established a Fog Lamp Task Force to develop an internationally-acceptable fog lamp standard, on which a Federal standard could be based. NHTSA is terminating rulemaking so that the agency can actively participate in a cooperative effort to develop a fog lamp standard.

FOR FURTHER INFORMATION CONTACT: Rich Van Iderstine, Office of Safety Performance Standards, NHTSA, (Phone: 202–366–5275; FAX 202–366–4329).

SUPPLEMENTARY INFORMATION: On October 26, 1995, NHTSA proposed amendments to Standard No. 108, the Federal motor vehicle safety standard on lighting, which were intended to harmonize the Standard's geometric visibility requirements for signal lamps and rear side marker color with those of the United Nation's Economic Commission for Europe (ECE) (60 FR 54833). With the international harmonization of standards in mind, the agency also sought comments on whether the performance and installation of front and rear fog lamps ought to be regulated by Standard No. 108.

Twenty-four comments were received in response to the notice, 12 of which commented specifically on the issue of fog lamps. These commenters were Truck Safety Equipment Institute, Chrysler Corporation, Advocates for Highway and Auto Safety, Mercedes-Benz of North America, Porsche Cars North America, Ichikoh Industries, Groupe de Travail Bruxelles (GTB), Hella, Volvo Cars of North America, Volkswagen of America, Wisconsin Department of Transportation, and American Automobile Manufacturers Association. All supported Federal regulation of fog lamps. Some American commenters pointed out the existence of vastly differing State laws, and the benefit of simplicity that a Federal pre-emptive standard would bring. Several European commenters recommended that NHTSA adopt the provisions of ECE R48 governing fog lamps. However, others cautioned that there is no generally satisfactory industry standard nor government regulation anywhere that could form the basis of a suitable Federal motor vehicle safety standard.

Many urged that any Federal standard for fog lamps should be one that is harmonized with the standards of Japan and the ECE. Vehicle and lighting manufacturers, concerned about the lack of an acceptable standard, recommended that the Society of Automotive Engineers (SAE), in conjunction with GTB and interested participants from around the world, develop a harmonized standard that could be used by national governments. In the aftermath of these comments, in April 1996, SAE established a Fog Lamp Task Force that will undertake this effort, recognizing that its existing requirements need to be modified to adequately address all fog lamp issues.

NHTSA has decided to terminate its rulemaking on fog lamps. The agency believes that it is appropriate for it to actively participate in the cooperative effort to develop fog lamp standards. Future agency rulemaking in this area will be based on NHTSA's assessment of the success of this cooperative effort.

The agency's termination covers fog lamps only. NHTSA is continuing its analysis of the comments on geometric visibility and rear side marker lamp color.

Issued on: February 24, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 022197A]

Fisheries of the Exclusive Economic Zone Off Alaska; Offshore Component Pollock in the Aleutian Islands Subarea

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This adjustment is necessary to prevent the underharvest of pollock by vessels catching pollock for processing by the offshore component in the AI of the BSAI.

DATES: 2400 hrs, Alaska local time (A.l.t.), February 23, 1997, until 2400 hrs, A.l.t., December 31, 1997. Comments must be received at the