ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve the Operating Permits Program for the State of Maine (program) for the purpose of complying with Federal requirements. The program requires the state to issue operating permits to all major stationary sources and certain other sources. In the Final Rules Section of this **Federal Register**, EPA is approving the state's program submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no relevant adverse comments in response to this action, the Agency contemplates no further activity. If EPA receives adverse comments, EPA will withdraw the direct final rule and the Agency will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before November 19, 2001.

ADDRESSES: Comments may be mailed to Steven A. Rapp, Unit Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the state submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England Regional Office, One Congress Street, 11th floor, Boston, MA.

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

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 6, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 01–26100 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ056–OPP; FRL–7086–6]

Clean Air Act Proposed Full Approval of Operating Permit Programs; Maricopa County Environmental Services Department, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Maricopa County Environmental Services Department (Maricopa or District) operating permit program. The Maricopa operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the Maricopa operating permit program on October 30, 1996 (61 FR 55910). The District has revised its program to satisfy the conditions of the interim approval and this action proposes approval of those revisions and certain other revisions made since interim approval was granted. EPA is proposing full approval of the Maricopa operating permits program based on the revisions submitted on September 7, 2001.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of Maricopa's submittal and other supporting documentation relevant to this action during normal business hours at the Air Division of EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V program at the following location:

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, Arizona 85004.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252 or *vagenas.ginger@epa.gov.*

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

I. What is the operating permit program?
II. What is EPA's proposed action?
III. What are the program changes that EPA is approving?
IV. What is the effect of this proposed action?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all District and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus 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 EPA's Proposed Action?

Because the operating permit program originally submitted by Maricopa 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 to the program in a rulemaking published on October 30, 1996 (61 FR 55910). The interim approval notice described the conditions that had to be met in order for the Maricopa program to receive full approval. Today's **Federal Register** notice describes the changes Maricopa has made to its operating permit program to correct conditions and obtain full approval.

EPA is proposing full approval of the operating permits program submitted by Maricopa based on the revisions submitted on September 7, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's October 30, 1996 rulemaking. *See* 61 FR 55910. EPA is also proposing to approve, as a title V operating permit program revision, certain additional changes to the rules that have been made since Maricopa was granted interim approval. The interim approval issues, Maricopa's corrections, and the additional changes EPA is proposing to approve are described below under the section entitled, ''What are the program changes that EPA is approving?''

III. What Are the Program Changes That EPA Is Approving?

A. Corrections to Interim Approval Issues

In its October 30, 1996 rulemaking, EPA made full approval of Maricopa's operating permit programs contingent upon the correction of a number of interim approval issues. Each issue, along with the District's correction, is described below.

1. Rule deficiency: Maricopa's definition of ''Building, Structure, Facility, or Installation'' includes the caveat that, ''[p]roperties shall not be considered contiguous if they are connected only by property upon which is located equipment utilized solely in transmission of electrical energy.'' This language, which is linked to the District's definition of stationary source, is not consistent with the stationary source definition in § 70.2. In order to correct this deficiency, EPA required that the district delete the language from Regulation I, Rule 100, section 224 (the definition of ''Building, Structure, Facility, or Installation'').

Rule change: The ''Building, Structure, Facility, or Installation'' definition has been revised to correct the deficiency. The definition now reads: ''All the pollutant-emitting equipment and activities that belong to the same industrial grouping, that are located on one or more contiguous or adjacent properties, and that are under the control of the same person or persons under common control, except the activities of any vessel. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same ''Major Group'' as described in the ''Standard Industrial Classification Manual, 1987.''

2. Rule deficiency: Regulation I, Rule 100, section 251.2 (part of the definition of ''major source'') did not clearly require that fugitive emissions of HAPs be included when determining a source's potential to emit. In order to correct the deficiency, the definition needed to be revised so that it would be clear that fugitive emissions of HAPs must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year HAP major source thresholds. See 40 CFR 70.2.

Rule change: The definition of major source has been revised to correct the deficiency. It now defines a major source under section 112 of the CAA to include, ''for pollutants other than radionuclides, any stationary source that emits, or has the potential to emit, in the aggregate *and including fugitive emissions,* 10 tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the CAA, 25 tons per year of any combination of such hazardous air pollutants * * *. '' (Emphasis added.)

3. Rule deficiency: Part 70 requires that certain records must be retained for five years. See § 70.6(a)(3)(ii)(B). In order to ensure this provision is implemented, EPA required that Regulation I, Rule 100, section 505 be revised to clarify that for title V sources, records of all required monitoring data and support information must be retained for a period of five years, as provided in Regulation II, Rule 210, section 302.1(d)(2).

Rule change: Maricopa has resolved this issue by amending Regulation I, Rule 100, section 505 to require that ''[i]nformation and records required by applicable requirements and copies of summarizing reports recorded by the owner and/or operator and submitted to the Control Officer shall be retained by the owner and/or operator for 5 years after the date on which the information is recorded or the report is submitted. Non-title V sources may retain such information, records, and reports for less than 5 years, if otherwise allowed by these rules.''

4. Rule deficiency: In order to ensure that the permits are available to the public, EPA required that Maricopa revise Regulation I, Rule 100, section 506 to clarify that for title V sources, all permits, including all elements of permit content specified in Rule 210, section 302, shall be available to the public, as provided in Regulation II, Rule 200, section 411.1. See § 70.4(b)(3)(viii).

Rule change: Regulation I, Rule 100 now specifies under section 402.1 that ''[t]he Control Officer shall make all permits, including all elements required to be in the permit under rule 210 (Title V Permit Provisions) of these rules and Rule 220 (Non-Title V Permit Provisions) of these rules, available to the public.''

5. Rule deficiency: In its interim approval, EPA noted that Maricopa's provisions regarding applicability needed to be clarified. In order to correct these deficiencies, EPA required that Maricopa revise Regulation II, Rule 200, section 312.2 to define when sources become subject to the requirements of Title V. In addition, EPA required that the District revise section 312.5 to require existing sources that do not hold a valid installation or operating permit to submit an application within 12 months of becoming subject to the requirements of title V.

Rule change: Maricopa added a new section 312.2 to Regulation II, Rule 200. The rule now reads, ''[f]ollowing November 29, 1996, the effective date of the Environmental Protection Agency's (EPA's) final interim approval of Maricopa County's Title V permit program, a source becomes subject to the requirements of the Title V permit program, when the source meets the applicability requirements as provided in this rule.'' Regulation II, Rule 200, section 312.5(c) has been amended to require that ''[a]ll sources in existence on the date these rules become effective and not holding a valid installation permit and/or a valid operating permit issued by the Control Officer, which have not applied for a Title V permit pursuant to these rules, shall submit to the Control Officer a title V permit application no more than 12 months after becoming subject to title V permit requirements.''

6. Rule deficiency: In its initial program, Maricopa's Regulation II, Rule 210, section 301.5(g) allowed any emissions source, equipment, or item listed under Regulation II, Rule 200, section 303.4(c) to be treated as ''insignificant.'' That is, applicants were not required to provide emissions data regarding the items listed under 303.4(c). Part 70 does allow certain equipment to be treated in this manner, but requires that the list be part of the approved title V program (§ 70.5(c)) and

that the permitting authority submit a demonstration that the activities are truly insignificant. See § 70.4(b)(2). Maricopa's failure to provide a demonstration that the activities listed in Regulation II, Rule 200, section 303.4(c) are insignificant was identified by EPA as an interim approval issue. EPA noted that Maricopa could correct the deficiency by removing from the list any activities that are subject to a unit-specific applicable requirement or by adding emissions cut-offs or size limitations to ensure that the listed activities are below any applicability thresholds for applicable requirements.

Rule changes: To correct the deficiency, Maricopa has submitted a demonstration and made changes to the following rules: (1) Regulation I, Rule 100, section 200.58; (2) Regulation II, Rule 200, section 308.1; (3) Regulation II, Rule 210, section 301.4(h); and (4) appendix D.

The first change is the addition of a definition of insignificant activity at Regulation I, Rule 100 section 200.58. It specifies that in order to be treated as an insignificant activity, an activity, process, or emissions unit cannot emit more than two tons per year of a regulated air pollutant, one-half ton per year of a hazardous air pollutant, and may not be subject to a source-specific applicable requirement. In addition, the activity must either be listed in appendix D or approved by the District and EPA as meeting the criteria for treatment as an insignificant activity.

The second change, at Regulation II, Rule 200, section 308.1, sets out how insignificant activities may be addressed in applications. Insignificant activities may be listed and generally grouped, and detailed information about the activities need not be supplied. It also provides that in its application a source may request that certain activities be treated as insignificant. Finally, it includes a caveat that, notwithstanding the provisions of the rules regarding insignificant activities, the following types of information may not be omitted from any application: information needed to determine the applicability of or to impose any requirement; information needed to determine the compliance status of the source; or information needed to determine the amount of fees the source must pay.

The third change, at Regulation II, Rule 210, section 301.4(h), occurs in the District's provisions regarding permit application processing procedures. It requires that, to be complete, an application must include a listing of insignificant activities.

The fourth change is the inclusion of appendix D, which is a list of activities that the District has determined may be treated as insignificant in accordance with the criteria set out in the definition of insignificant activity in Regulation I, Rule 100. It also reiterates the provisions of Regulation II, Rule 200, section 308.1 that require the applicant provide all information necessary to determine the applicability of requirements, to determine compliance, and to impose fees. The District included in its submittal a demonstration that the listed activities qualify for treatment as insignificant.

7. Rule deficiency: Section 70.6(a)(8) requires that title V permits contain a provision 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.'' Regulation II, Rule 210, section 302.1(j) included this exact provision but also included a sentence that negated this provision. EPA required that Maricopa either delete or revise the negating sentence to make the rule consistent with part 70.

Rule change: The problematic sentence has been deleted from the District's rule.

8. Rule deficiency: Section 70.4(b)(12) allows sources to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. The District's rules provided for such permit conditions but did not restrict the allowable changes to those that are not modifications under title I of the Act and those that do not exceed the emissions allowable under the permit. Maricopa was required to revise Regulation II, Rule 210, section 302.1(n) to add these conditions. In addition, EPA required that Maricopa revise this provision to specify that the notice required by sections 403.4 and 403.5 will also describe how the increases and decreases in emissions will comply with the terms and conditions of the permit. See § 70.4(b)(12).

Rule change: Regulation II, Rule 210, section 302.1(n) has been revised to correct the deficiency by including the following language: ''Changes made under this subsection shall not include modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. The terms and conditions shall include notice that (1) conforms to subsection 403.4 and subsection 403.5 of this rule and (2) describes how the increases or decreases in emission will comply with the terms and conditions of the permit.''

9. Rule deficiency: Maricopa's Regulation II, Rule 210, section 404.1(e) provided that equipment removal that does not result in an increase in emissions could be processed as an administrative permit amendment. Equipment removal, even if it does not result in an increase in emissions, is not similar to the types of changes that EPA has included in the part 70 definition of ''administrative permit amendment.'' In some cases removal of equipment, such as monitoring equipment, will require processing as a significant permit revision. In other situations removal of equipment may qualify for processing as a minor permit revision or possibly for treatment under the operational flexibility provisions. See §§ 70.7(d) and 70.7(e)(4). In order to correct the deficiency, EPA required that Maricopa remove this provision from the list of changes that may be processed as administrative amendments.

Rule change: Section 404.1(e) of Regulation II, Rule 210 has been deleted.

10. Rule deficiency: The following language was included in Maricopa's Regulation II, Rule 210, section 405.1(c) as an exception to the prohibition against allowing case-by-case determinations to be processed as minor permit revisions:

''* * * other than a determination of RACT pursuant to Rule 241, Section 302 of these rules * * *.''

The definition of RACT in section 272 of Rule 100 states that, ''RACT for a particular facility, other than a facility subject to Regulation III, is determined on a case-by-case basis * * *'' Rule 241 is not in Regulation III, so RACT determinations made pursuant to this rule are done so on a case-by-case basis. Excepting RACT determinations from the prohibition against processing case-by-case determinations through the minor permit revision process violates the requirement of § 70.7(e)(2)(i)(A)(3). To correct this deficiency, EPA required that exception for case-by-case RACT determinations be deleted from the rule.

Rule change: The specified language has been deleted.

11. Rule deficiency: Section 70.7(h)(1) requires that permitting authorities provide public notice of certain types of permit actions. In addition to requiring newspaper notices and mailing list notification, part 70 includes a requirement that notice be provided ''by other means if necessary to assure adequate notice to the affected public.'' Because Maricopa's rules lacked such a provision, EPA required that the District revise Regulation II, Rule 210, section 408 to include it.

Rule change: Section 408.3(c) has been added. It requires that ''[t]he Control Officer shall give notice by any other means if necessary to assure adequate notice to the affected public.''

B. Other Changes

The rules the District has submitted for EPA approval incorporate extensive changes other than those necessary to correct interim approval deficiencies. Because of time constraints, we have limited our review to those sections that include interim approval issues. In this action EPA is, where possible, proposing to approve as a title V operating permit program revision additional program changes that are included in sections that were revised to correct interim approval issues or are relied upon or cross-referenced by those sections. EPA is not taking action on rules or sections that are not listed in Table 1, below.

One of these changes requires special explanation. Paragraph (c) of Maricopa's definition of major source lists source categories that must count fugitives. Maricopa revised subparagraph xxvii to read: ''All other stationary source categories regulated by a standard promulgated as of August 7, 1980 under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.'' Emphasis added. The addition of this 1980 cutoff date restricts the types of sources that are required to count fugitives towards the major source threshold, which is inconsistent with the current version of part 70. EPA has, however, proposed a revision to part 70's major source definition that will incorporate the 1980 cutoff date. See 60 FR 45530 (August 31, 1995). We are therefore proposing to approve the District's definition of major source contingent upon EPA finalization of revisions to 40 CFR part 70 that will make the change approvable. If EPA does not finalize the changes to part 70 described above, Maricopa's major source definition will conflict with the operative version of part 70 and we will be unable to approve it. The remedy to one of Maricopa's interim approval issues (described above under III.A.2) resides within that same definition, so if we are barred from approving Maricopa's new major source definition because of the 1980 date, we will be unable to grant full approval to Maricopa's title V program. As a result, Maricopa would lose its authority to implement its title V operating permits program on December 1, 2001, and part 71 would be in effect.

Maricopa made a number of additional changes to the rules that implement their part 70 program, many of which were non-substantive (e.g., recodifications) or apply only to non-title V sources. A general description of the more substantive changes we are proposing to approve follows. For more detail on the all of the changes, refer to the technical support document.

Maricopa added new provisions to its rules that address the concept of trivial activities. EPA's title V implementation guidance document, ''White Paper for Streamlined Development of Part 70 Permit Applications,'' (July 10, 1995) explains that the inherent flexibility in § 70.5(c) ''encompasses the idea that certain activities are clearly trivial (i.e., emissions units and activities with specific applicable requirements and with extremely small emissions) can be omitted from the application even if they are not included on a list of insignificant activities approved in a State's part 70 program pursuant to § 70.5(c).'' Maricopa's treatment of trivial activities matches that of EPA's guidance. EPA is therefore proposing to approve the District's provisions regarding trivial activities.

In addition to the change that corrects an interim approval issue related to public availability of information (described above under II.A.4), Maricopa has made other changes to its provisions that pertain to the confidentiality of records and has amended the definition of trade secret. The revised confidentiality of information procedures, in conjunction with the revised definition of trade secret, include the following key elements: (1) The presumption is that information is public unless a source notifies the Control Officer in writing that it is making a claim of confidentiality; (2) information cannot be withheld from the Control Officer; and (3) emissions information cannot be considered confidential. EPA finds these additional changes to Maricopa's confidentiality provisions and to the definition of trade secret to be consistent with § 70.4(b)(3)(viii) and therefore approvable.

The emergency provisions that implement § 70.6(g) have been modified by the District to include a requirement that in the event of an emergency a source must notify the Control Officer by telephone as soon as possible. The rule did not previously require telephone notification, and this change ensures that the District will be notified more promptly than would have been the case under the older version of the rule.

Maricopa has also added language that clarifies that sources must obtain an air quality permit before beginning to construct. Because Maricopa's title V and preconstruction permitting programs are merged into a unitary permitting system, this approach is consistent with part 70.

IV. What Is the Effect of This Proposed Action?

Maricopa has adopted and submitted rule changes and requested program revisions that address the issues identified in EPA's interim approval and are described above. The rules proposed for approval today listed in Table 1.

TABLE 1

Rule No.	Rule title and specific sections proposed for approval	Adoption date
Regulation I, Rule 100	General Provisions and Definitions— • The following provisions from § 200 Definitions: § 200.26 ''Building, Structure, Facility, or Installation'' § 200.58 ''Insignificant Activity'' § 200.60 ''Major Source'' § 200.107 ''Trade Secret'' § 200.108 ''Trivial Activity'' • § 402, Confidentiality of Information • § 500 Monitoring of Records	8/22/01
Regulation I, Rule 130	Emergency Provisions	7/26/00
Regulation II Rule 200	Permit Requirements • § 308—Standards for Applications • § 312—Transition from Installation and Operating Permit Program to Unitary Permit Program	8/22/01

TABLE 1—Continued

Rule No.	Rule title and specific sections proposed for approval	Adoption date
Regulation II, Rule 210	Title V Permit Provisions • § 301.4(h) • § 302.1(j) • § 302.1(n) • § 404—Administrative Permit Amendments • § 405.1 • § 408—Public Participation	2/7/01
Appendix D	List of Insignificant Activities	8/22/01
Appendix E	List of Trivial Activities	8/22/01

As noted above, Maricopa has adopted and submitted the required changes and has fulfilled the conditions of the interim approval granted on October 30, 1996 (61 FR 55910). EPA is therefore proposing full approval of the Maricopa operating permit program, contingent on EPA finalizing its proposed change to the part 70 definition of major source.

Request for Public Comments

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Maricopa submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves District law as meeting federal requirements and imposes no additional requirements beyond those imposed by District 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 District law and does not impose any additional enforceable duties beyond that required by District 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 Districts, on the relationship between the national government and the Districts, 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 District law, and does not alter the relationship or the distribution of power and responsibilities between the District 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 District operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve District 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 District to use voluntary consensus standards (VCS), EPA has no authority to disapprove a District 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 District 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 5, 2001.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26264 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P