Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: April 2, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(167) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(167) On August 31, 1998, Illinois submitted revisions to its major stationary sources construction and modification rules (NSR Rules) as a State Implementation Plan revision request. These revisions apply only in areas in Illinois that have been designated as being in serious or severe nonattainment with the national ambient air quality standards for ozone.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter A: Permits and General Provisions, Part 203 Major Stationary Sources Construction and Modification, Subpart B: Major Stationary Sources in Nonattainment Areas, Section 203.206 Major Stationary Source and Section 203.207 Major Modification of a Source; and, Subpart C: Requirements for Major Stationary Sources in Nonattainment Areas, Section 203.301 Lowest Achievable Emissions Rate. Amended in R98–10 at 22 Ill. Reg. 5674, effective March 10, 1998.

[FR Doc. 03–11749 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[FRL–7497–4]

Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the Federal Operating Permits Program under title V of the Clean Air Act (Act) to extend the date by which State-exempt major agricultural sources in California must pay fees and to allow their permit applications to be considered complete even though fees may not have been paid on or before the date that applications are due. This action allows EPA to process the applications and issue permits while the Agency computes a fee amount based on the cost of administering the permits program for these sources. The amendments extend the due date for submitting operating permit fees to EPA until May 14, 2004, for agricultural sources that are major sources subject to title V but are not being permitted by 35 local air districts in the State of California. We are issuing the amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments.

DATES: This direct final rule will be effective on June 27, 2003 unless significant adverse comments are received by June 12, 2003. If significant adverse comments are received, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be submitted by mail to: EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR–2003–0047. By hand delivery/courier, comments may be submitted to EPA Docket Center, Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW., Washington, DC, 20460, Attention Docket ID No. OAR–2003–00047.

FOR FURTHER INFORMATION CONTACT: For further information, contact Ms. Candace Carraway, U.S. EPA, Information Transfer and Program

Implementation Division, C304–04, Research Triangle Park, North Carolina 27711, telephone number (919) 541–3189, facsimile number (919) 541–5509, electronic mail address: *carraway.candace@epa.gov*.

SUPPLEMENTARY INFORMATION:

Throughout this document, ''we,'' ''us,'' or ''our'' means EPA.

Regulated Entities

Categories and entities potentially affected by this action include agricultural sources that are major sources subject to title V but are not being permitted by any of the following 35 local air districts in the State of California: Amador County Air Pollution Control District (APCD), Antelope Valley APCD, Bay Area Air Quality Management District (AQMD), Butte County 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, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD.

Direct Final Rule

We are publishing this direct final rule without prior proposal because we view this as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rule section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket

EPA has established an official public docket for this action under Docket ID No. OAR–2003–0047. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include confidential business information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document. Once in the system, select ''search,'' then key in the appropriate docket identification number.

World Wide Web (WWW)

After signature, the final rule will be posted on the policy and guidance page for newly proposed or final rules of EPA's Technology Transfer Network (TTN) at *http://www.epa.gov/ttn/oarpg/t5.html*. For more information, call the TTN Help line at (919) 541–5384.

Outline

The contents of the preamble are listed in the following outline:

I. Background

Title V of the Clean Air Act (Act) requires all State permitting authorities to develop operating permits programs that meet certain Federal criteria codified at 40 CFR part 70. Pursuant to title V, EPA promulgated final regulations at 40 CFR part 71 to establish EPA's program for issuing Federal operating permits to sources located in areas lacking an EPA-approved or adequately administered operating permits program. See 61 FR 34202 (July 1, 1996).

On November 30, 2001, we promulgated final full approval of 34 California districts' title V operating permits programs. See 66 FR 63503 (December 7, 2001).[1] Our final rulemaking was challenged by several environmental and community groups alleging that the full approval was unlawful based, in part, on an exemption in section 42310(e) of the California Health and Safety Code which precluded local districts from requiring title V permits for major agricultural sources. EPA entered into a settlement of this litigation which required, in part, that the Agency propose to partially withdraw approval of the 34 fully approved title V programs in California.

We partially withdrew approval of the title V programs for the 34 local air districts listed above and began administering the part 71 program for the State-exempt agricultural sources (herein also referred to as ''agricultural sources'') located in the 34 local air districts on November 14, 2002.[2] See 67 FR 63551 (October 15, 2002). Consistent with the settlement agreement and our final rule for these 34 districts, State-

[1] Antelope Valley APCD was not included in our final action because its initial interim approval status, granted on December 19, 2000(65 FR 79314), had not yet expired. On January 21, 2003, however, Antelope Valley's interim approval status expired.

[2] ''State-exempt agricultural source'' refers to those stationary agricultural sources in California that are presently exempt from all air permitting requirements under California Health and Safety Code 42310(e).

exempt major agricultural sources subject to the part 71 program due to diesel engine emissions must submit their permit applications by May 14, 2003, while all other major stationary agricultural sources must submit part 71 applications to EPA no later than August 1, 2003. On January 21, 2003, EPA began implementation of the part 71 program for major stationary sources in the Antelope Valley APCD as a result of the expiration of the program's interim approval.

II. Revisions to the Fee Payment Requirements

Part 71 requires that permit applicants submit permit fees with their applications in order for the application to be deemed complete. See § 71.5(a)(2). If a source fails to submit a timely and complete application, it may be subject to an enforcement action for operating without a permit. See § 71.7(b). Also, a source that fails to submit fees within 30 days of the due date is subject to a 50 percent penalty. See § 71.9(l)(2).

We are deferring the fee payment due date for State-exempt agricultural sources in California that are subject to the part 71 program because we believe the standard part 71 fee may significantly exceed the actual cost of administering a program for agricultural sources, and we do not have the information to complete a rulemaking to establish a different fee prior to the May 14, 2003, application deadline. The part 71 fee schedule in § 71.9(c) is designed to cover the cost of permitting more complex, industrial sources. We need additional time to evaluate the likely costs of permitting the State-exempt agricultural sources. Also, as we gain experience with the program, we will be in a better position to establish a cost-based fee. For these reasons, we are amending § 71.9(f) to extend the due date for permit fees for State-exempt agricultural sources until May 14, 2004. Unless we set a different fee amount through rulemaking before that extended date, the fee schedule in § 71.9(c)(1) would apply.

At this time the Agency has no experience with or data on the cost of permitting agricultural sources, but we expect that agricultural sources will have fewer applicable requirements and associated monitoring requirements, and they will require simpler permits than do most industrial sources. One key difference, for example, is that no State-exempt agricultural source has been issued a permit to construct emission sources associated with its agricultural operation, whereas most, if not all, nonagricultural major stationary sources of air pollution in the State have been issued preconstruction permits. Requirements and conditions in preconstruction permits are applicable requirements that must be folded into a title V permit. In addition, State implementation plan-approved stationary source prohibitory rule requirements are mostly directed at nonagricultural operations. Similarly, few, if any, State-exempt agricultural sources would be subject to maximum achievable control technology standards. For an example of the type and complexity of nonagricultural title V permits, please see certain district permits posted on the California Air Resources Board webpage at: *http://www.arb.ca.gov/fcaa/tv/tvinfo/permits/permits.htm.*

Based on this difference in the number of applicable requirements, we believe that at every stage of the permit process, permitting agricultural sources will on average be less complex and time consuming than permitting industrial sources. For agricultural sources, the technical review of the application will be less time consuming because it will be easier to determine if all the applicable requirements are referenced in the application. Similarly, it will be easier to determine whether the source is in compliance with all of its applicable requirements and whether a compliance schedule needs to be developed in the permit. Permits that have fewer applicable requirements will require less time to develop with respect to monitoring issues which typically involves a review of the monitoring proposed by the permit applicant for each applicable requirement and a justification in the permit's statement of basis for the monitoring required in the permit. There will be fewer recordkeeping and reporting requirements tied to applicable requirements to include in the permits. Finally, because there are fewer applicable requirements and reports required by the permit, these permits should be easier for EPA to implement and enforce compared to the typical industrial source permit.

EPA also expects to develop some general permits for some State-exempt agricultural sources which would be less resource intensive to develop and implement than permits that are issued on a case-by-case basis. Although EPA has not issued any general permits, we estimate that it takes on average 328 hours to develop and issue an individual permit and 80 hours to develop and issue a general permit that would apply to many sources. See Information Collection Request for Part 70 Operating Permit Regulations, EPA Number 1587.05. One reason for the difference in the estimates is that general permits are only appropriate for less complex sources with few applicable requirements.

Once a general permit is developed, EPA would not make individual judgements relative to the permit terms for the sources covered by the permit. The monitoring, recordkeeping, and reporting requirements of the general permit would not vary from source to source. Once the general permit has been issued after an opportunity for public participation and affected State review, EPA may grant or deny a source's request to be covered by a general permit without further public participation or affected State review. Thus, EPA would bear the cost of one public hearing at most on the permit, as opposed to the individual public hearings that can be requested for permits that are developed individually.

Once we have determined where it is appropriate to develop general permits, we will be in a position to add those costs to other data on the cost of implementing the program for agricultural sources.

In order to implement the later fee payment due date, we are also amending § 71.9(f) to remove the requirement that fees be paid at the time of the permit application in order for the applications from State-exempt agricultural sources to be considered complete.

Absent these amendments, State-exempt agricultural sources would have been required to pay fees that may substantially exceed the cost of administering the part 71 program or become subject to enforcement actions for operating without a title V permit and for failure to pay fees.

III. Direct Final Rule

EPA believes this direct final rule is necessary because the standard part 71 fee that is based on costs of permitting industrial sources may substantially exceed the cost of permitting the simpler agricultural sources, and many of these sources must submit applications and fees by May 14, 2003. Even with a direct final rulemaking, this rule will not be effective by the date permit applications are due for certain agricultural sources. Thus, applications submitted on May 14, 2003, without a payment of fees will be temporarily incomplete while this rulemaking is conducted. Once this rulemaking is completed and effective, however, applications otherwise meeting the requirements of part 71 that are submitted without fees can be deemed complete without further action by the applicant.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of $100 million or more, adversely affecting in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Under Executive Order 12866, EPA has determined that this direct final rule is not a ''significant regulatory action'' because it simply defers, rather than imposes, one regulatory requirement and raises no novel legal or policy issues. Therefore, this action is not subject to OMB review.

B. Paperwork Reduction Act

This direct final rule does not impose any new information collection burden. The action merely defers the fee payment deadline for certain agricultural sources that are subject to the action. However, OMB has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 71, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0336 (EPA ICR No. 1713.04). Burden means the total time, effort, or financial resources expended by person to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as (1) a small business that meets the Small Business Administration size standards for small businesses found in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, country, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is a not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities'' (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The amendments in today's final rule would merely defer the deadline for paying permit fees for sources affected by the final rule, thereby giving them more flexibility and reducing the burden on these sources. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply where they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA)for State, local, or tribal governments, or the private sector. Today's direct final rule imposes no enforceable duty on any State, local, or tribal governments and merely defers the payment of permit fees for certain permit applicants. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Thus, today's action is not

subject to sections 202 and 205 of the UMRA.

In addition, EPA has determined that this direct final contains no regulatory requirements that might significantly or uniquely affect small governments because it imposes no new requirements and imposes no additional obligations beyond those of existing regulations. Therefore, today's direct final rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government.''

This direct final rule does not have federalism implications. 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. Today's rule will not impose any new requirements but rather will defer payment of fees for certain permit applicants. Accordingly, it will not alter the overall relationship or distribution of powers between governments for part 71 operating permits programs. Thus, Executive Order 13132 does not apply to this direct final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

This direct final rule 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 in Executive Order 13175. Today's action does not significantly or uniquely affect the communities of Indian tribal governments. As discussed above, today's action imposes no new requirements and merely defers fee payment for certain permit applicants. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines is (1) ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risk such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This direct final rule is not subject to Executive Order 13045 because it is not ''economically significant'' under Executive Order 12866, and it does not establish an environmental standard intended to mitigate health and safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not subject to 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 significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The NTTAA does not apply to this direct final rule because it does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This direct final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on June 27, 2003 unless significant adverse comments are received by June 12, 2003.

K. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 71

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

Dated: May 7, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 71.9 is amended by adding paragraph (f)(5) to read as follows:

§ 71.9 Permit fees.

* * * * *

(f) * * *

(5) Notwithstanding the above and § 71.5(a)(2), initial fee payments for sources that are subject to the part 71 program for State-exempt agricultural sources in California local air districts are due on May 14, 2004. Before May 14, 2004, initial applications from these sources that are timely and otherwise complete shall not be deemed incomplete due to the fact that fees are not submitted with the applications.

* * * * *

[FR Doc. 03–11910 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 73, 74, 80, 90, and 97

[ET Docket No. 02–16; FCC 03–39]

Below 28 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its rules to implement domestically various allocation decisions from International Telecommunication Union (''ITU'') World Radiocommunication Conferences concerning the frequency bands below 28 MHz. The rules update the Commission's rules so they are more consistent with international regulations, update various rule parts to affect the allocation changes, and update rules that were not recently reviewed.

DATES: Effective June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Shameeka Parrott, Office of Engineering and Technology, (202) 418–2062, email: *sparrott@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket No. 02–16, FCC 03–39, adopted February 25, 2003, and released March 3, 2003. The full text of this Commission decision is available on the Commission's Internet site at *www.fcc.gov.* It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, Room CY–B402, 445 12th Street, SW., Washington, DC 20554. Alternate formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of the Report and Order

1. In the *Report and Order,* the Commission amended parts 2, 73, 74, 80, 90, and 97 of the Commission's rules to implement domestically various allocation decisions from ITU World Radiocommunication Conferences concerning the frequency bands below 28 MHz.

2. *International Broadcast Frequencies.* The Commission found that implementing allocation changes from World Administration Radiocommunication Conference (''WARC'') 1979 and WARC–92 concerning high frequency broadcast (''HFBC'') would significantly increase the amount of spectrum available for HFBC, and conform to international regulations. The Commission states that implementing these allocation changes would promote national interest around the world and increase the international communications provided by HFBC.

3. To provide more effective use of the WARC–79 HFBC bands, the Commission deleted the fixed service allocation from the WARC–79 bands to make these bands available exclusively to the broadcasting service. These bands are also added to the Commission's rules for international broadcast stations, which provide an additional 850 kilohertz of exclusive spectrum for international broadcasters. Federal government agencies are permitted to operate existing fixed stations in the bands 9775–9900 kHz, 11650–11700 kHz, and 11975–12050 kHz on a non-harmful interference basis to the international broadcast stations.

4. Until the transition of the WARC–92 HFBC bands to exclusive broadcasting service use becomes effective on April 1, 2007, the Commission allocated the 790 kilohertz of spectrum to the broadcasting service on a shared primary basis with existing fixed and mobile services. Consistent with changes being made to the allocation of the WARC–92 HFBC bands, the Commission ceased to issue licenses for new non-Federal government stations in the fixed and mobile services on April 1, 2001. The Commission added informational notes to part 80 (the maritime service rules) stating that radioprinter use of the bands 5900–5950 kHz and 7300–7350 kHz and Alaska private-fixed station use of the frequency 11601.5 kHz is on the condition that harmful interference is not caused to HFBC.

5. The Broadcasting Board of Governors (''BBG'') filed comment in reference to limiting WARC–92 HFBC bands to single-sideband (''SSB'') technology, which BBG believed would limit flexibility and increase costs. The Commission agreed with BBG that international broadcasters would not use SSB techniques because recent ITU studies demonstrated extremely limited availability of SSB receivers.

6. Finally, the Commission amended rules that would update the international broadcasting rules to reflect current practices and make them consistent with ITU *Radio Regulations.* The Commission revised the frequency tolerance of 0.0015 percent of the assigned frequency to the current ITU standard of 10 hertz in § 73.756(c). Given that there are few HFBC stations and many are non-profit, the Commission is grandfathering existing stations that do not meet this new standard. Also, the HFBC definitions in § 73.701 of the rules are revised to reflect international requirements as specified in the *WRC–97 Final Acts.* Currently, the band 25600–25670 kHz is used by radio astronomy service and not by HFBC stations. Therefore, the Commission deleted this band from the list of frequencies available to HFBC stations in part 73 of the rules. With the Commission's rules now agreeing with the ITU Table of Frequency Allocations, domestic radio astronomy observations are protected in this range. The Commission also clarified the manner in which the 7100–7300 kHz band is to be used by international broadcast stations by adding cross references to the rules, and replacing the target zone map in § 73.703 with the current ITU target zone map. Finally, the last sentence in § 73.766 is modified by changing the highest modulating frequency from 5 kilohertz to 4.5 kilohertz to reflect a long-standing international provision.

7. *AM Expanded Band.* The Commission found that the public interest would be served providing additional cleared spectrum in the band