

federal section 112(g) rule and adoption of implementing State regulations.

For this reason, EPA is approving the use of San Diego's preconstruction review program as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by San Diego of rules specifically designed to implement section 112(g). However, since the sole purpose of this approval is to confirm that the District has a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that there will be no transition period. The EPA is limiting the duration of this approval to 18 months following promulgation by EPA of the section 112(g) rule.

3. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR section 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 part 63.91 of San Diego's program for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated. 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, San Diego 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 San Diego 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 San Diego's submittal and other information relied upon for this direct final action is contained in docket

number CA-SD-95-1-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 direct final rulemaking. 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.

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. Executive Order 12866

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

List of Subjects in 40 CFR Part 70

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

Dated: November 8, 1995.  
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 (x) to the entry for California to read as follows:

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

\* \* \* \* \*

The following district program was submitted by the California Air Resources Board on behalf of:

(x) *San Diego Air Pollution Control District*: submitted on April 22, 1994 and amended on April 4, 1995 and October 10, 1995; approval effective on February 5, 1996, unless adverse or critical comments are received by January 8, 1996.

\* \* \* \* \*

[FR Doc. 95-29836 Filed 12-06-95; 8:45 am]  
BILLING CODE 6560-50-P

**40 CFR Part 70**

[AD-FRL-5341-9]

**Clean Air Act Interim Approval of Operating Permits Program; Mariposa Air Pollution Control District, California**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is promulgating direct final interim approval of the title V operating permits program submitted by the California Air Resources Board (CARB), on behalf of the Mariposa Air Pollution Control District (Mariposa 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. In addition, today's action promulgates direct final approval of Mariposa's mechanism for receiving delegation of section 112 standards as promulgated.

**DATES:** This direct final rule is effective on February 5, 1996 unless adverse or critical comments are received by January 8, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of the District's submittal and other supporting

information used in developing this direct final rule are available for public inspection (docket number CA-MA-95-1-OPS) during normal business hours at the following location: Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**FOR FURTHER INFORMATION CONTACT:** Sara Bartholomew (telephone 415/744-1170), Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**SUPPLEMENTARY INFORMATION:**

**I. Background and Purpose**

**A. Introduction**

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 (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.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing interim approval of the operating permit program submitted by Mariposa should adverse or critical comments be filed.

If EPA receives adverse or critical comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public

is advised that this action will be effective on February 5, 1996.

**B. Federal Oversight and Sanctions**

This interim approval, which may not be renewed, extends until February 9, 1998. During this interim approval period, Mariposa 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 Mariposa fails to submit a complete corrective program for full approval by August 7, 1997, EPA will start an 18-month clock for mandatory sanctions. If Mariposa then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA 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 Mariposa 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 Mariposa 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 Mariposa'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 Mariposa 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 the District, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that Mariposa 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 Mariposa 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's program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for Mariposa upon interim approval expiration.

**II. Direct Final Action and Implications**

**A. Analysis of State Submission**

The analysis contained in this notice focuses on specific elements of Mariposa's title V operating permits program that must be corrected to meet the minimum requirements of part 70. The full program submittal; the Technical Support Document (TSD), which contains a detailed analysis of the submittal; and other relevant materials are available for inspection as part of the public docket (CA-MA-95-1-OPS). The docket may be viewed during regular business hours at the address listed above.

**1. Support Materials**

Mariposa's title V program was submitted by the California Air Resources Board (CARB) on March 8, 1995 and found to be complete on May 25, 1995. 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 Mariposa's submittal. The Mariposa submission does contain a Governor's letter requesting source category-limited interim approval, District implementing and supporting regulations, and all other program documentation required by section 70.4. EPA will wait to develop an implementation agreement between Mariposa and EPA until the District has title V sources.

**2. Regulations and Program Implementation**

Mariposa's title V implementing regulation, District Regulation X, was adopted on February 28, 1995. The District used the CARB model rule, and Regulation X is almost identical to the other smaller districts in California. EPA has granted interim approval to 23 of these smaller districts to date, and a detailed discussion of the issues in these programs can be found in 60 FR 21720, published on May 3, 1995.

Mariposa's title V implementing regulations substantially meet the

requirements of 40 CFR part 70, sections 70.2 and 70.3 for applicability; sections 70.4, 70.5, and 70.6 for permit content, including operational flexibility; section 70.7 for public participation and permit modifications; section 70.5 for criteria that define insignificant activities and complete application forms; and section 70.11 for enforcement authority. Although the regulations substantially meet part 70 requirements, there are a few deficiencies in the program that are outlined under section II.B.1. below as interim approval issues and further described in the TSD.

### 3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permits program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed \$25 per ton per year (adjusted annually based on the Consumer Price Index ("CPI"), relative to 1989 CPI). The \$25 per ton amount is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the "presumptive minimum" (40 CFR 70.9(b)(2)(i)).

Mariposa does not currently have any title V sources. The District has adopted a fee rule that would charge the presumptive minimum to any title V source that locates in the District, or to any source to which title V becomes applicable.

### 4. Provisions Implementing the Requirements of Other Titles of the Act

#### a. Authority and Commitments for Section 112 Implementation

Mariposa has demonstrated in its title V program submittal adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in the State of California enabling legislation and in regulatory provisions defining federal "applicable requirements" and requiring each permit to incorporate conditions that assure compliance with all applicable requirements. EPA has determined that this legal authority is sufficient to allow Mariposa to issue permits that assure compliance with all section 112 requirements. For further discussion, please refer to the TSD accompanying this action and the April 13, 1993 guidance memorandum entitled, "Title V Program Approval Criteria for Section

112 Activities," signed by John Seitz and located in the docket.

#### b. Authority for Title IV Implementation

Mariposa has no title V sources at this time, and therefore has no Phase I or Phase II acid rain sources. The District has not submitted a complete acid rain program, due to its lack of sources. If, in the future, title V sources locate in the District, or if title V should become applicable to any existing sources, Mariposa will need to provide the same commitment that EPA is requiring of other Districts that do not have a complete acid rain program. This commitment will be to expeditiously adopt the appropriate regulatory authority, if and when it becomes necessary to issue a title IV permit to any new or existing source in the District that becomes subject to, or wants to opt into, the acid rain program.

### B. Proposed Interim Approval and Implications

#### 1. Title V Operating Permits Program

The EPA is promulgating direct final interim approval to the operating permits program submitted by the California Air Resources Board, on behalf of the Mariposa Air Pollution Control District, on March 8, 1995. Areas in which Mariposa's program is deficient and requires corrective action prior to full approval are as follows:

(1) Provide a demonstration that activities that are exempt from part 70 permitting are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, the District may restrict the exemptions to activities that are not likely to be subject to an applicable requirement and emit less than District-established emission levels. The District should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements.

(2) Revise the exemption list in Rule 402 (Exemptions to Rule 401) to remove the general exemption for agricultural production sources or to restrict the exemptions to non-title V sources.

(3) Revise the application content requirements in Rule 1006 so that any compliance schedule required by the rule for a source not in compliance must resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the hearing board to which the source is subject as required by § 70.5 (c)(4)(iii)(C) rather

than simply a schedule of compliance approved by the District's hearing board.

(4) Revise the application content requirements in Rule 1006 to clarify that all reports and other documents submitted in the permit application must be certified by the responsible official as required by § 70.5 (d) and to provide the full text of the responsible official's certification in § 70.5 (d).

(5) Provide in Rule 1004 a permit application deadline for sources that become subject to the District's part 70 rule after the rule's effectiveness date for reasons other than commencing operation. This deadline cannot be any later than 12 months after the source becomes subject to the rule as required by § 70.5 (a)(1).

(6) Revise the permit issuance procedures in Rule 1005 to provide for notifying the EPA and affected States in writing of any refusal by the District to accept all recommendations for the proposed permit that the Affected State submitted during the public/Affected State review period as required by § 70.8 (b)(2).

(7) Incorporate in Rule 1005 provisions citing the right of the public to petition EPA under § 70.8 (d) after the expiration of the EPA's 45-day review period and prohibiting the District from issuing a permit, if it has not already done so, until the EPA's objections in response to the petition are resolved as required by § 70.8 (d).

(8) Revise Rule 1005 to provide for public notice of permitting actions by other means if necessary to assure adequate notice to the affected public as required by § 70.7 (h)(1).

(9) Revise the permit content requirements in Rule 1006 to clarify that all reports and other documents required by the permit must be certified by a responsible official as required by § 70.6 (c)(1) and to provide the full text of the responsible official's certification in § 70.5 (d).

(10) Revise the permit content requirements in Rule 1006 to require that any compliance schedule for a source not in compliance must resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the hearing board to which the source is subject as required by §§ 70.6 (c)(3) and 70.5 (c)(8)(iii)(C).

(11) Revise the permit content requirements in Rule 1006 to require the submission of compliance certifications more frequently than annually if a more frequent period is specified in the applicable requirement or by the District as required by § 70.6 (c)(5)(i).

This interim approval, which may not be renewed, extends for a period of up to two years. During the interim approval period, Mariposa is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the three-year time period for processing the initial permit applications.

The scope of Mariposa's part 70 program that EPA is acting on in this notice applies to all part 70 sources (as defined in the approved program) within Mariposa's jurisdiction. The approved program does not apply to any part 70 sources 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. State Preconstruction Permit Program Implementing Section 112(g)

The EPA has published an interpretive notice in the Federal Register regarding section 112(g) of the Act (60 FR 8333; February 14, 1995) that postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The interpretive notice also explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the federal rule so as to allow states time to adopt rules implementing the federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Mariposa must be able to implement section 112(g) during the period between promulgation of the federal section 112(g) rule and adoption of implementing State regulations.

For this reason, EPA is approving the use of Mariposa's preconstruction review program as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by Mariposa of rules specifically designed to implement section 112(g).

However, since the sole purpose of this approval is to confirm that the District has a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that there will be no transition period. The EPA is limiting the duration of this approval to 18 months following promulgation by EPA of the section 112(g) rule.

## 3. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR section 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 part 63.91 of Mariposa's program for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated. 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, Mariposa 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 Mariposa and EPA, which will be negotiated at the time when the District has title V sources. 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 Mariposa's submittal and other information relied upon for this direct final action is contained in docket number CA-MA-95-1-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 direct final rulemaking. 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.

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. Executive Order 12866

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

### List of Subjects in 40 CFR Part 70

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

Dated: November 13, 1995.  
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 (n) to the entry for California to read as follows:

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

\* \* \* \* \*

The following district program was submitted by the California Air Resources Board on behalf of:

(n) *Mariposa Air Pollution Control District*: submitted on March 8, 1995; approval effective on February 5, 1996 unless adverse or critical comments are received by January 8, 1996.

\* \* \* \* \*

[FR Doc. 95-29834 Filed 12-6-95; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**49 CFR Part 1**

[OST Docket No 1; Amdt. 1-274]

**Organization and Delegation of Powers and Duties; Transfer of Delegations from the Director of Commercial Space Transportation to the Administrator of the Federal Aviation Administration**

**AGENCY:** Office of the Secretary, DOT.  
**ACTION:** Final rule.

**SUMMARY:** The Office of Commercial Space Transportation (OCST) is being transferred from the Office of the Secretary to the Federal Aviation Administration. Accordingly, the Secretary's delegation of authority for the functions under the Department's commercial space transportation program is being transferred from the Director of Commercial Space Transportation to the Administrator of the Federal Aviation Administration. The rule is necessary to reflect the delegations in the Code of Federal Regulations.

**EFFECTIVE DATE:** This rule is effective November 16, 1995.

**FOR FURTHER INFORMATION CONTACT:** Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement (202) 366-9306, United States Department of Transportation, 400 7th Street SW, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** Responsibility for the Department's

commercial space transportation program is being transferred from the Office of the Secretary to the Federal Aviation Administration. This rule amends the delegations to reflect the transfer.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Because the date of the transfer of responsibility for the commercial space transportation program is November 16, 1995, that is the effective date of this rule.

**List of Subjects in 49 CFR Part 1**

Authority delegations (Government agencies), Organizations and functions (Government agencies).

**PART 1—[AMENDED]**

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

Authority: 49 U.S.C. 322; Pub. L. 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.4 is amended by removing "and" at the end of paragraph (c)(6), by removing the period at the end of paragraph (c)(7) and adding "; and" in its place, and by adding a new paragraph (c)(8) to read as follows:

**§ 1.4 General responsibilities.**

\* \* \* \* \*

(c) \* \* \*

(8) Promulgating and enforcing regulations on all safety matters relating to commercial launch activities.

\* \* \* \* \*

**§ 1.22 [Amended]**

3. Section 1.22(a) is amended by removing the words "the Office of Commercial Space Transportation;"

**§ 1.23 [Amended]**

4. Section 1.23(n) is removed and reserved.

5. Section 1.47 is amended by adding paragraphs (u), (v), and (w) to read as follows:

**§ 1.47 Delegations to Federal Aviation Administrator.**

\* \* \* \* \*

(u) Carry out the functions assigned to the Secretary by Executive Order 12465 (February 24, 1984) (3 CFR, 1984 Comp., p. 163) relating to commercial expendable launch vehicle activities.

(v) Carry out the functions vested in the Secretary by 49 U.S.C. Subtitle IX.

(w) Carry out the functions vested in the Secretary by the National

Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (Pub. L. 102-588, 106 Stat 5119, November 4, 1992).

**§ 1.68 [Removed and reserved]**

6. Section 1.68 is removed and reserved.

Issued at Washington, DC, this 23rd day of October, 1995.

Federico Peña,

*Secretary of Transportation.*

[FR Doc. 95-29867 Filed 12-6-95; 8:45 am]

BILLING CODE 4910-62-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 638**

[Docket No. 950725190-5257-02; I.D. 120195A]

**Coral and Coral Reefs of the Gulf of Mexico; Wild Live Rock Fishery**

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

**ACTION:** Closure.

**SUMMARY:** NMFS closes the fishery for wild live rock in the exclusive economic zone (EEZ) of the Gulf of Mexico. This action is necessary to prevent exceeding the quota for 1995.

**EFFECTIVE DATE:** Effective 12:01 a.m., December 5, 1995 through December 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Georgia Cranmore, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** Live rock in the EEZ is managed under the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented through regulations at 50 CFR part 638 under the authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Section 638.26(d)(1) established a quota of 500,000 lb (226,796 kg) for the fishing year that began January 1, 1995. Section 638.26(d)(2) requires the Assistant Administrator for Fisheries, NOAA (AA), to close the wild live rock fishery in the Gulf EEZ when the quota is reached, or is projected to be reached.

The AA has determined that the quota will be reached on December 4, 1995. Accordingly, the wild live rock fishery in the Gulf EEZ is closed effective 12:01 a.m., local time, December 5, 1995, and