require to be submitted by an institution if it were permitted to apply for an additional FHLBank membership under the Bank Act? Specifically, in any case involving a merger of two institutions, should the eligibility of the surviving institution for the additional FHLBank membership be determined based on an analysis of the combined entity, *i.e.,* as it exists subsequent to the merger?

IV. Request for Comment

The Finance Board is interested in receiving comment on all aspects of the issues raised by the continued growth in inter-district activities of FHLBank members and the concept of multiple FHLBank memberships, in addition to the specific requests for comment made in this solicitation of comments.

Dated: September 26, 2001.

By the Board of Directors of the Federal Housing Finance Board.

J. Timothy O'Neill,

Chairman.

[FR Doc. 01–24588 Filed 10–2–01; 8:45 am]

BILLING CODE 6725–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA242–0291b; FRL–7059–1]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and Monterey Bay Unified Air Pollution Control District (MBUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from automotive refinishing operations, metal parts and products coating, and applications of nonarchitectural coatings. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 2, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243; and,

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (Air-4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

SUPPLEMENTARY INFORMATION: This proposal addresses the following rules: ICAPCD Rule 427, Automotive Refinishing Operations; MBUAPCD Rule 429, Applications of Nonarchitectural Coatings; and, MBUAPCD Rule 434, Coating of Metal Parts and Products. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. However, if we receive adverse comments, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Since we do not plan to open a second comment period, anyone interested in commenting should do so at this time. If we do not receive adverse comments, we are planning no further activity. For further information, please see the direct final action.

Dated: August 24, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–24484 Filed 10–2–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[VA–T5–2001–02a; FRL–7073–4]

Clean Air Act Approval of Operating Permit Program Revisions; Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the operating permit program of the Commonwealth of Virginia. Virginia's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of Virginia's operating permit program on June 10, 1997, as corrected on March 19, 1998. Virginia has revised its operating permit program since receiving interim approval and this action proposes to approve those revisions. Any parties interested in commenting on this action proposing to approve discretionary revisions to Virginia's program should do so at this time. A more detailed description of Virginia's submittal and EPA's evaluation are included in a Technical Support Document (TSD) in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

DATES: Written comments must be received on or before November 2, 2001.

ADDRESSES: Written comments may be mailed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: David Campbell, Permits and Technical Assessment Branch at (215) 814–2196 or by e-mail at campbell.dave@.epa.gov.

SUPPLEMENTARY INFORMATION: On November 20, 2000, the Commonwealth of Virginia submitted revisions to its State operating permit program. These revisions are the subject of this document and this section provides additional information on the revisions by addressing the following questions:

What is the State operating permit program?

What is being addressed in this document?

What is not being addressed in this document?

What changes to Virginia's operating permit program is EPA approving?

How does Virginia's Voluntary Environmental Assessment Privilege Law affect its operating permit program?

What action is being taken by EPA?

What Is the State Operating Permit Program?

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand 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 operating 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, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in the counties and cities in northern Virginia that are part of the metropolitan Washington, D.C. serious ozone nonattainment area, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

What Is Being Addressed in This Document?

On November 20, 2000, Virginia submitted revisions to its currently approved program regulations intended to clarify and improve its existing operating permit program. Virginia made revisions to its existing program to correct definitions; to incorporate EPA guidance and regulatory changes; and, to clarify minor procedural matters. In the November 20, 2000 submittal, Virginia also provided amendments to its existing program to address deficiencies identified when its program received interim approval. These amendments are the subject of a separate rulemaking action as more fully discussed below.

What Is Not Being Addressed in This Document?

As part of its November 20, 2000 submittal, Virginia also provided amendments to its operating permit program regulations to address deficiencies identified by EPA when it granted final interim approval of Virginia's program in 1997. Since these program amendments are not directly relevant to this rulemaking action proposing to approve revisions to Virginia's operating permit program, they will be considered in a separate rulemaking action.

On December 11, 2000, EPA announced a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs. [See 65 FR 77376.] The public was able to comment on all currently-approved operating permit programs, regardless of whether they have been granted full or interim approval. The December 11, 2000 notice instructed the public to identify deficiencies in either the substance of the approved program or in how a permitting authority is implementing its approved program.

The EPA stated that it will consider information received from the public pursuant to the December 11, 2000 notice and determine whether it agrees or disagrees with the purported deficiencies. Where EPA agrees there is a deficiency, it will publish a notice of deficiency consistent with 40 CFR 70.4(i) and 40 CFR 70.10(b). The Agency will at the same time publish a notice identifying any alleged problems that we do not agree are deficiencies. For programs that have not yet received full approval, such as Virginia's program, EPA will publish these notices by December 1, 2001.

The EPA received numerous comments in response to the December 11, 2000 notice announcing the start of the 90-day public comment period. As part of those comments, EPA Region III received comments germane to Virginia's currently-approved operating permit program. The Agency will respond to those comments in a separate notice(s) by December 1, 2001 as required by the December 11, 2000 notice.

The EPA is not addressing any comments received pursuant to the December 11, 2000 notice in this document. As mentioned above, comments provided in accordance with the December 11, 2000 notice were to address the substance or implementation of currently-approved programs. This action proposes to approve revisions to Virginia's currently-approved operating permit program. The program revisions that are the subject of this document were not federally approved as part of Virginia's operating permit program before the close of the 90-day public comment period announced in the December 11, 2000 notice. Therefore, any persons wishing to comment on this action proposing to approve revisions to Virginia's currently-approved program should do so at this time.

What Changes to Virginia's Program is EPA Approving?

The EPA has reviewed Virginia's November 20, 2000 program revisions in conjunction with the portion of Virginia's program that was earlier approved by EPA. Based on this review, EPA is proposing to approve revisions to Virginia's operating permit program. The EPA has determined that the revisions to Virginia's operating permit program appropriately clarify and improve the currently approved version of its program. The revisions fully meet the minimum requirements of 40 CFR part 70.

In general, Virginia revised its permit program regulations in order to support commitments it made to EPA in a February 27, 1997 letter; to incorporate relevant EPA guidance; to clarify certain definitions; to bring its acid rain operating permit program into conformity with federal regulations; to incorporate provisions relating to EPA's compliance assurance monitoring rule; and, to clarify certain other definitions and minor procedural matters. The following describes the revisions made to Virginia's operating permit program.

Changes to Virginia's Operating Permit Program

A. Changes To Support Commitments Made by Virginia

On February 27, 1997, the Commonwealth of Virginia submitted the final portions of its original operating permit program for EPA review. In its transmittal letter to EPA, Virginia committed to interpret and implement certain provisions of its operating permit program in a manner consistent with 40 CFR part 70. Such commitments were thought necessary at

the time because Virginia's permit program did not speak directly to the matters in question or could be subject to varied interpretation. In its November 20, 2000 program revisions, Virginia has clarified these matters to EPA's satisfaction.

1. Applicability of Title V to Sources Subject to Standards Promulgated under Sections 111 or 112 of the Clean Air Act

Virginia revised 9 VAC 5–80–50 D 1 b to indicate that where EPA has failed to declare whether a given source or source category covered by a standard promulgated under sections 111 or 112 of the Clean Air Act after July 21, 1992 is subject to the title V program, the source or source category is subject to Virginia's title V operating permit program.

2. Definition of ''Malfunction''

Virginia revised the definition of ''malfunction'' at 9 VAC 5–80–60 C and 9 VAC 5–80–370 to clarify that failures due to improperly designed equipment, lack of maintenance, improper maintenance, or operator error shall not be considered malfunctions.

3. Definition of ''Research and Development Facility''

Virginia revised the definition of ''research and development facility'' at 9 VAC 5–80–60 C and 9 VAC 5–80–320 C to clarify that such facilities shall not be engaged in the manufacture of products for sale or exchange for commercial profit in any manner.

4. Permit Applications Must Include Applicable Requirements for Insignificant Activities

Virginia revised 9 VAC 5–80–90 E 1 and 9 VAC 5–80–440 E 1 to clarify that permit applications must cite and describe all applicable requirements, include those covering insignificant activities at the subject source.

5. Criteria for Administrative Amendments

Virginia revised 5–80–200 A 1 and 9 VAC 5–80–560 A 1 to clarify that administrative amendments are limited to typographical errors or any other similar error.

6. Notification Requirements for Malfunctions

Virginia revised 5–80–250 B 4 and 9 VAC 5–80–650 B 4 to clarify that notifications of malfunctions, regardless of their mode (e.g. telephone, facsimile, etc), shall include a description of the malfunction, any steps taken to mitigate emissions, and corrective actions taken.

B. Changes To Incorporate EPA Guidance

Virginia amended 9 VAC 5–80–720 A to expand the list of insignificant activities to include activities defined by EPA guidance to be ''trivial'' activities.

C. Changes To Clarify State Requirements

Virginia revised the definitions of ''applicable requirement'' and ''applicable state requirement'' at 9 VAC 5–80–60 C and 9 VAC 5–80–370 and other provisions that cite these definitions. Virginia revised these definitions to clarify what requirements are only enforceable by the Commonwealth.

D. Changes to Acid Rain Operating Permit Program To Conform With Federal Regulations

Virginia revised several sections of its acid rain operating permit program regulations to conform with EPA's acid rain program regulations at 40 CFR part 72. Virginia added or amended a number of definitions at 9 VAC 5–80–370 that are derived from 40 CFR 72.2. Virginia also made several programmatic modifications to be consistent with the federal acid rain program.

E. Changes To Incorporate Compliance Assurance Monitoring Requirements

Virginia amended 5–80–110 and 9 VAC 5–80–490 to include appropriate references to federal compliance assurance monitoring requirements at 40 CFR part 64 clarifying that its program is consistent with 40 CFR 70.6(a) and (c).

F. Changes To Clarify Definitions and Minor Procedural Matters

Virginia made several changes to the program to clarify certain definitions and to reflect minor procedural changes: at 9 VAC 5–80–60 C and 9 VAC 5–80–370, the definition of ''insignificant activity'' was added; at 9 VAC 5–80–60 C, the definition ''State enforceable'' was amended to conform to Virginia's general administration regulation; at 9 VAC 5–80–350 B and C, fee payment provisions were amended to clarify these procedures; and, at 9 VAC 5–80–720 B 5 and 6, citations to federal regulations were corrected.

How Does Virginia's Voluntary Environmental Assessment Privilege Law Affect its State Operating Permit Program?

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The

Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its operating permit program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

What Action Is Being Taken By EPA?

The operating permit program revisions submitted by Virginia on November 20, 2000 improve the currently approved program and meet the minimum requirements of 40 CFR part 70 and the Clean Air Act. Therefore, EPA is proposing to approve revisions to the Commonwealth of Virginia's title V operating permit program.

The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Administrative Requirements

Under Executive Order 12866 (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. This action merely proposes to approve State law as meeting federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule 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 (64 FR 43255, August 10, 1999), because it merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State operating permit program 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 State operating permit program submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State operating permit program submission, to use VCS in place of a State operating permit program 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule to approve revisions to Virginia's operating permit program does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 70

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

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

Dated: September 25, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–24714 Filed 10–2–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[DE–T5–2001–01b; FRL–7072–8]

Clean Air Act Full Approval of Operating Permit Program; Delaware

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit program of the State of Delaware. Delaware's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of Delaware's operating permit program on December 4, 1995. Delaware amended its operating permit program to address deficiencies identified in the interim approval action and this action proposes to approve those amendments. In the Final Rules section of this **Federal Register**, EPA is approving the State's operating permit program 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 no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be