matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any new requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

G. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 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.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 14, 1999. 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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 1, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(117) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(117) Revisions to the Texas State Implementation Plan submitted to the EPA in a letter dated April 13, 1998. These revisions address Reasonably Available Control Technology for Wood Furniture coating operations and Ship Building and Repair. The revisions also address coating of oil and gas platforms at ship building and repair facilities.

(i) Incorporation by Reference.

(A) Revisions to Regulation V, as adopted by the Commission on March 18, 1998, effective April 7, 1998, sections 115.10. Definitions—Introductory Paragraph, 115.420 Surface Coating Definitions, 115.420(a) General Surface Coating Definitions, 114.420(a)(1)–115.420(a)(10), 115.420(b) Specific surface coating definitions—Introductory Paragraph, 115.420(b)(1), 115.420(b)(2), 115.420(b)(2)(A), 115.420(b)(2)(B), 115.420(b)(3)–115.420(b)(9), 115.420(b)(10), 115.420(b)(10)(A)–115.420(b)(10)(E), 115.420(b)(10)(F), 115.420(b)(10)(F)(i)–115.420(b)(10)(F)(vii), 115.420(b)(10)(G), 115.420(b)(11), 115.420(b)(12), 115.420(b)(12)(A)–115.420(b)(12)(FF), 115.420(b)(13), 115.420(b)(13)(A), 115.420(b)(13)(A)(i), 115.420(b)(13)(A)(ii), 115.420(b)(13)(B), 115.420(b)(13)(B)(i)–115.420(b)(13)(B)(ix), 115.420(b)(14), 115.420(b)(15), 115.420(15)(A), 115.420(15)(A)(i)–115.420(15)(A)(xi), 115.420(15)(B), 115.420(15)(B)(i)–115.420(15)(B)(xix), 115.421(a), 115.421(a)(8), 115.421(a)(8)(B), 115.421(a)(8)(B)(i)–115.421(a)(8)(B)(ix), 115.421(a)(13), 115.421(a)(13)(A), 115.421(a)(13)(A)(i)–115.421(a)(13)(A)(vii), 115.421(a)(13)(A)(viii), 115.421(a)(13)(A)(ix), 115.421(a)(14), 115.421(a)(14)(A), 115.421(a)(14)(A)(i), 115.421(a)(14)(A)(ii), 115.421(a)(14)(A)(iii), 115.421(a)(14)(A)(iii)(I)–115.421(a)(14)(A)(iii)(III), 115.421(a)(14)(A)(iv)–115.421(a)(14)(A)(vi), 115.421(a)(14)(B), 115.421(a)(15), 115.421(a)(15)(A),115.421(a)(15)(B), 115.421(a)(15)(B)(i), 115.421(a)(15)(B)(ii), 115.421(b), 115.422. Control Requirements—Introductory Paragraph, 115.422(2), 115.422(3), 115.422(3)(A), 115.422(3)(B), 115.422(3)(C), 115.422(3)(C)(i), 115.422(3)(C)(ii), 115.422(3)(C)(ii)(I), 115.422(3)(C)(ii)(II), 115.422(3)(C)(iii)–115.422(3)(C)(v), 115.422(3)(C)(vi), 115.422(3)(C)(vi)(I), 115.422(3)(vi)(II), 115.422(3)(D), 115.422(3)(E), 115.422(3)(E)(i), 115.422(3)(E)(ii), 115.422(4), 115.422(4)(A)–115.422(4)(C), 115.422(5), 115.422(5)(A), 115.422(5)(B), 115.423(a), 115.423(a)(1), 115.423(a)(2), 115.423(b), 115.423(b)(1), 115.423(b)(2), 115.426(a), 115.426(a)(1), 115.426(a)(1)(B), 115.426(a)(1)(B)(i), 115.426(a)(1)(B)(ii), 115.426(a)(2), 115.426(a)(2)(A), 115.426(a)(2)(A)(i), 115.426(b), 115.426(b)(1), 115.426(b)(1)(B), 115.426(b)(2), 115.426(b)(2)(A), 115.426(b)(2)(A)(i), 115.427(a), 115.427(a)(1), 115.427(a)(1)(B), 115.427(a)(1)(C), 115.427(a)(3), 115.427(a)(3)(A), 115.427(a)(3)(B), 115.427(a)(3)(D)–115.427(a)(3)(I), 115.427(b), 115.427(b)(4), 115.429(a), and 115.429(b).

(B) Certification Dated March 18, 1998 that these are true and correct copies of revisions to 30 TAC Chapter 115 and the SIP.

[FR Doc. 99–6254 Filed 3–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6236–9]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The California Air Resources Board (CARB) requested approval, under Section 112(l) of the Clean Air Act (the Act), to implement and enforce California's ''Hexavalent Chromium Airborne Toxic Control Measure for Chrome Plating and Chromic Acid Anodizing Operations'' (Chrome ATCM) in place of the ''National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks'' (Chrome NESHAP). EPA has reviewed this request and has found that it satisfies all of the

requirements necessary to qualify for approval. Thus, EPA is hereby granting California the authority to implement and enforce its Chrome ATCM in place of the Chrome NESHAP.

DATES: This action is effective on April 14, 1999.

ADDRESSES: Copies of CARB's request for approval are available for public inspection at the following locations:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, California 94105–3901. (docket #A–96–25)

California Air Resources Board, Emissions Assessment Branch, Stationary Source Division, 2020 ''L'' Street, P.O. Box 2815, Sacramento, California 95812–2815.

FOR FURTHER INFORMATION CONTACT: Ken Bigos, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1240.

SUPPLEMENTARY INFORMATION:

I. Background

On January 25, 1995, EPA promulgated the National Emission Standard for Hazardous Air Pollutants (NESHAP) for chromium electroplating facilities (*see* 60 FR 4963), which was codified in 40 CFR Part 63, Subpart N, ''National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks'' (Chrome NESHAP). On July 17, 1998, EPA received the California Air Resources Board's (CARB's) request for approval to implement and enforce Section 93102 of Title 17 of the California Code of Regulations, ''Hexavalent Chromium Airborne Toxic Control Measure for Chrome Plating and Chromic Acid Anodizing Operations'' (Chrome ATCM), in place of the Chrome NESHAP as the Federally-enforceable standard in California.

On December 16, 1998, EPA proposed approval of CARB's request in the **Federal Register** (see 63 FR 69251) and announced the availability for the public to comment on CARB's application. EPA received no comments on the proposed approval.

II. EPA Action

A. California's Chrome ATCM

California's Chrome ATCM differs in many ways from the Federal Chrome NESHAP. Several differences were discussed in the December 16, 1998, proposed rulemaking and the public was afforded an opportunity to comment on the significance of these differences. By today's action, the Chrome ATCM will be fully approved as a substitute for the Chrome NESHAP. The following discussions, however, are being provided for the purpose of clarifying potentially ambiguous or unclear requirements.

1. Title V Requirements

The Chrome ATCM requires the owner or operator of a major source subject to the Chrome ATCM to obtain a Title V permit (*see* § 93102(a)(5)). While the Chrome NESHAP includes this requirement, it also provides that all nonmajor sources, except for those sources referred to in 40 CFR 63.340(e)(1), are subject to Title V permitting requirements. While the applicable Title V permitting authority may defer certain qualifying nonmajor sources from the Title V permitting requirements until December 9, 1999, currently all sources receiving such deferrals are required to submit Title V permit applications by December 9, 2000 (*see* 40 CFR 63.340(e)(2) and 61 FR 27785).

In addition, both the Chrome NESHAP and the Chrome ATCM require major sources to submit ongoing compliance status reports (*see* § 93102(i)(3) and 40 CFR 63.347(g)). However, the Chrome ATCM requires these reports to be submitted annually, while the Chrome NESHAP requires these reports to be submitted semi-annually (quarterly where the applicable emission limit is being exceeded). Because Section 504(a) of the Act requires major sources that have Title V permits to submit such reports no less often than every six months, EPA cannot approve this provision of the Chrome ATCM to operate in lieu of the comparable provision of the Chrome NESHAP. Major sources must comply with the Title V semi-annual reporting requirement as stated in 40 CFR 63.347(g).

2. Emission Limits for Hard Chromium Electroplating

Both the Chrome NESHAP and the Chrome ATCM allow facilities with a maximum cumulative potential rectifier capacity of greater than 60 million ampere-hours per year to be considered small (or medium in the case of the Chrome ATCM) by accepting a limit on the maximum cumulative potential rectifier usage (*see* § 93102(h)(7)(B) and 40 CFR 63.342(c)(2)). EPA wishes to clarify that it considers all such usage limits in non-Title V operating permits as Federally-enforceable for purpose of this substitution of the Chrome ATCM for the Chrome NESHAP.

3. Malfunctions

Both the Chrome NESHAP and the Chrome ATCM provide that the emission limits apply during tank operations, including periods of startup and shutdown, but do not apply during periods of malfunction, which the Chrome ATCM refers to as periods of ''breakdown'' (*see* § 93102(a)(4) and (b)(7), and 40 CFR 63.2 and 63.342(b)(1)). The Chrome ATCM both defines the term ''breakdown'' and states that the emission limits ''do not apply during periods of equipment breakdown, provided the provisions of the permitting agency's breakdown rule are met.* * *'' This means that an event does not constitute a breakdown unless both of the following conditions are met: (1) the event meets the characteristics of a breakdown as defined in the Chrome ATCM, and (2) the provisions of the applicable permitting agency's (i.e., district's) breakdown rule are met. This two-step analysis is important because it is the Chrome ATCM definition of ''breakdown'' that first determines what constitutes a breakdown, not the provisions of the applicable district's breakdown rule.

Under the Chrome ATCM, the districts' breakdown rules serve only one function: to establish the reporting requirements that must be followed when a breakdown occurs (*see* § 93102(i)(4)). These rules do not override or supplant the other breakdown or excess emission requirements of the Chrome ATCM, including the requirements to revise the operation and maintenance plan to minimize breakdowns (*see* § 93102(g)(4)), to maintain the specified records of all breakdowns and excess emissions (*see* § 93102(h)(5) and (6)), and to include as part of the ongoing compliance status report a summary of any excess emissions (*see* § 93102(h)(6), (i)(3)(B), and Appendix 3). And, the districts' breakdown rules neither expand the scope nor extend the time-frame of a breakdown beyond the definition in Section 93102(b)(7) of the Chrome ATCM. In other words, while the emission limits do not apply during a breakdown, what constitutes a breakdown is determined by the Chrome ATCM's, not a particular district's, definition of ''breakdown.''

As a supplement to its application, CARB submitted copies of the districts' breakdown rules, which are referenced in Appendix 6 of the Chrome ATCM. EPA is making several points of clarification regarding these breakdown rules. First, only those district breakdown rules that were submitted to

EPA as part of CARB's Chrome ATCM application are approved as a matter of Federal law. A source cannot rely on revisions to a district's breakdown rule until such revisions receive EPA's approval under Section 112(l) of the Act.

Second, the approval of the districts' breakdown rules, which are incorporated by reference into the Chrome ATCM, is strictly limited to the context of approval of the Chrome ATCM under Section 112(l) of the Act. While the use of these rules may be appropriate in lieu of the Chrome NESHAP reporting requirements, the use of these rules in other contexts may be inappropriate (e.g., with regard to other NESHAPs or State Implementation Plans). Thus, it is possible that a district's breakdown rule can be Federally-approved as part of the Chrome ATCM but not Federally-approved as part of the California State Implementation Plan.

Third, some of the districts' breakdown rules use the term ''malfunction'' rather than ''breakdown.'' For the purpose of the Chrome ATCM, EPA interprets these terms as interchangeable, provided that it is understood that the Chrome ATCM definition of ''breakdown'' is controlling, not the districts' definitions of ''breakdown'' or ''malfunction.''

Fourth, some of the districts' breakdown rules include provisions regarding the district's authority to determine whether a breakdown has occurred, authority to grant emergency variances, or authority to decide to take no enforcement action. Like the districts' definitions of ''breakdown'' or ''malfunction,'' the above-listed provisions go beyond the function of the districts' breakdown rules in the context of the Chrome ATCM (such function being limited to establishing the reporting requirements that must be followed when a breakdown occurs). Thus, EPA's approval of the Chrome ATCM under Section 112(l) of the Act does not include such provisions of the districts' breakdown rules since these provisions go beyond the scope of the Chrome ATCM.

Fifth, some of the districts' breakdown rules require written breakdown reports only if requested by the district. However, for the purpose of approval of the Chrome ATCM, EPA will interpret such rules as requiring the submission of written breakdown reports to the district even if the district has not formally requested the source to provide such reports.

Sixth, some of the districts' breakdown rules do not specify the reporting time period, but merely state that notification shall be ''immediate'' or the written breakdown report shall be filed ''subsequently.'' With respect to such rules, EPA will interpret such terms by reference to the comparable Chrome NESHAP reporting deadlines in 40 CFR 63.342(f)(3)(iv).

4. Performance Test Requirements

The Chrome ATCM allows the use of CARB Method 425, dated July 28, 1997, and South Coast Air Quality Management District (SCAQMD) Method 205.1, dated August 1991, for determining chromium emissions. By approving the Chrome ATCM, these methods are approved only as prescribed by the Chrome ATCM and only to determine compliance with the Chrome ATCM. EPA approval of the Chrome ATCM does not result in approval of these methods as general alternatives to EPA Method 306.

In addition, the owner or operator of an affected source cannot rely on provisions in CARB Method 425 or SCAQMD Method 205.1 allowing for approval of alternatives, modifications, or variations from the test method. Any such alternatives, modifications, or variations to the test methods must be approved under the procedures in § 93102(k) of the Chrome ATCM.

5. HEPA Filters, Chrome Tank Covers, and Polyballs

Unlike the Chrome NESHAP, the Chrome ATCM specifically includes requirements for the following alternative emission control technologies: high efficiency particulate air (HEPA) filters, chrome tank covers, and polyballs. In approving the Chrome ATCM under Section 112(l) of the Act, EPA is approving these alternative technologies for use in California according to the requirements of the Chrome ATCM. However, affected sources using these alternative technologies would still be required to demonstrate, through compliance testing and ongoing compliance monitoring, that the emission standards in § 93102(c) are being achieved.

6. Compliance With the Chrome NESHAP

Under Federal law, until EPA approves the Chrome ATCM (i.e., the approval becomes effective), all sources subject to the Chrome NESHAP and located in California must be in compliance with the applicable requirements of the Chrome NESHAP. Even after such approval becomes effective, sources remain subject to Federal enforcement for violation of any Chrome NESHAP provision that the source was required to be in compliance with prior to the effective date of the Chrome ATCM approval. Such Chrome NESHAP provisions include, but are not limited to, the requirements to prepare operation and maintenance plans under 40 CFR 63.342(f)(3), to comply with initial notification deadlines under 40 CFR 63.347(c) and (i)(1), and to comply with the new and reconstructed source provisions under 40 CFR 63.5 and 63.345.

7. Changes in Source Status

Unlike the Chrome NESHAP, the Chrome ATCM is not as explicit regarding compliance deadlines relating to certain changes to a source's status, such as (1) a change from an area source to a major source; (2) a change from either a very small, small, medium, or less than 60 million ampere-hours hard chrome plater to a different size category; and (3) a change from a decorative chrome plater using a trivalent chrome bath that incorporates a wetting agent to one that ceases to use this process. Since the Chrome ATCM does not explicitly state the compliance deadlines for the changes, EPA interprets the Chrome ATCM to require immediate compliance with the standard that applies to the source's new status.

8. Circumvention

Under the Chrome NESHAP, no owner or operator shall build, erect, install, or use any article, machine, equipment, or process to conceal an emission that would otherwise constitute noncompliance with a relevant standard (see 40 CFR 63.4(b)). CARB believes that this provision is not necessary, presumably because CARB interprets the Chrome ATCM as implicitly not allowing such activities.

9. Notification of New and Modified Sources

Section 93102(j)(2) of the Chrome ATCM allows facilities to fulfill the notification of construction or modification requirements in § 93102(j)(1) by complying with the applicable district's new source review rule or policy, provided similar information is obtained. Thus, the district's new source review rules or policy merely serve the purpose of obviating the need for duplicative reporting. Such rules or policies, however, do not change the underlying requirement that such notification must exist and must be generated at least within the time frame established by § 93102(j)(1). Furthermore, the burden of proof of compliance rests upon the source to prove that it provided notice of construction or reconstruction on

time and that such notice includes at least all of the information included in Appendix 4 of the Chrome ATCM.

B. EPA Action

After reviewing the request for approval of California's Chrome ATCM, EPA has determined that this request meets all the requirements necessary to qualify for approval under Section 112(l) of the Act and 40 CFR 63.91 and 63.93. Accordingly, EPA is hereby approving the Chrome ATCM as the Federally-enforceable standard for sources in California. Upon the effective date of this action, the Chrome ATCM will be enforceable by the EPA and citizens under the Act. Although the local air pollution control districts in California will have primary implementation and enforcement responsibility, EPA retains the right, pursuant to Section 112(l)(7) of the Act, to enforce any applicable emission standard or requirement under Section 112 of the Act.

C. California's Authorities To Implement and Enforce Section 112 Standards

1. Penalty Authorities

Previously, CARB submitted a finding by California's Attorney General stating that ''State law provides civil and criminal enforcement authority consistent with [40 CFR] 63.91(b)(1)(i), 63.91(b)(6)(i), and 70.11, including authority to recover penalties and fines in a maximum amount of not less than $10,000 per day *per violation* * * *'' (emphasis added) (*see* 61 FR 25397). In accordance with this finding, EPA understands that the California Attorney General interprets Section 39674 and the applicable sections of Division 26, Part 4, Chapter 4, Article 3 (''Penalties'') of the California Health and Safety Code as allowing the collection of penalties for multiple violations per day. In addition, EPA also understands that the California Attorney General interprets Section 42400(c)(2) of the California Health and Safety Code as allowing for, among other things, criminal penalties for knowingly rendering inaccurate any monitoring *method* required by a toxic air contaminant rule, regulation, or permit.

As stated in section II.B above, EPA retains the right, pursuant to Section 112(l)(7) of the Act, to enforce any applicable emission standard or requirement under Section 112 of the Act, including the authority to seek civil and criminal penalties up to the maximum amounts specified in Section 113 of the Act.

2. Variances

Division 26, Part 4, Chapter 4, Articles 2 and 2.5 of the California Health and Safety Code provide for the granting of variances under certain circumstances. EPA regards these provisions as wholly external to CARB's request for approval to implement and enforce a Section 112 program or rule and, consequently, is proposing to take no action on these provisions of state or local law. EPA does not recognize the ability of a state or local agency who has received delegation of a Section 112 program or rule to grant relief from the duty to comply with such Federally-enforceable program or rule, except where such relief is granted in accordance with procedures allowed under Section 112 of the Act. As stated above, EPA retains the right, pursuant to Section 112(l)(7) of the Act, and citizens retain the right, pursuant to Section 304 of the Act, to enforce any applicable emission standard or requirement under Section 112 of the Act.

Similarly, Section 39666(f) of the California Health and Safety Code allows local agencies to approve alternative methods from those required in the ATCMs, but only as long as such approvals are consistent with the Act. A source seeking permission to use an alternative means of emission limitation under Section 112 of the Act must also receive approval, after notice and opportunity for comment, from EPA before using such alternative means of emission limitation for the purpose of complying with Section 112 of the Act.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. Accordingly, the requirements of Section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 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.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal

governments. Accordingly, the requirements of Section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.93 do not create any new requirements, but simply approve requirements that the state or local agency is already imposing. Therefore, because this approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. 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 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 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.

G. Submission to Congress and the Comptroller General

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**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for 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 May 14, 1999. 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 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. Section 7412.

Dated: February 17, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(5)(ii)(E), to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(5) * * *

(ii) * * *

(E) The material incorporated in Chapter 5 of the *California Regulatory Requirements Applicable to the Air Toxics Program* (California Code of Regulations, Title 17, section 93102) pertains to the chromium electroplating and anodizing source category in the State of California, and has been approved under the procedures in § 63.93 to be implemented and enforced in place of subpart N—National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(1) Title V requirements. Subpart N affected sources remain subject to both the Title V permitting requirements of § 63.340(e)(2) and, for major sources, the semi-annual submission of the ongoing compliance status reports as required by § 63.347(g).

(2) Limits on maximum cumulative potential rectifier usage. Section 93102(h)(7)(B) of the California Airborne Toxic Control Measure allows facilities with a maximum cumulative potential rectifier capacity of greater than 60 million ampere-hours per year to be considered small or medium by accepting a limit on the maximum cumulative potential rectifier usage. All such usage limits in non-Title V operating permits are federally-enforceable for the purpose of this rule substitution.

(3) Permitting Agencies' breakdown/malfunction rules. Section 93102(i)(4) of the California Airborne Toxic Control Measure provides that the owner or operator shall report breakdowns as required by the permitting agency's breakdown rule. Under this rule substitution, the permitting agencies' breakdown rules do not override or supplant the requirements of section 93102(g)(4), (h)(5), (h)(6), (i)(3)(B), or Appendix 3; neither expand the scope nor extend the time-frame of a breakdown beyond the definition of section 93102(b)(7); and do not grant the permitting agencies the authority to determine whether a breakdown has occurred, to grant emergency variances, or to decide to take no enforcement action. Owners or operators must submit written breakdown reports even if the permitting agency has not formally requested such reports.

(4) Performance Test Requirements. Section 93102(d)(3)(A) of the California Airborne Toxic Control Measure allows the use of California Air Resources Board Method 425, dated July 28, 1997, and South Coast Air Quality

Management District Method 205.1, dated August 1991, for determining chromium emissions. Any alternatives, modifications, or variations to these test methods must be approved under the procedures in section 93102(k) of the California Airborne Toxic Control Measure.

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[FR Doc. 99–6258 Filed 3–12–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–134; RM–8817]

TV Broadcasting Services; Kansas City, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes UHF television Channel 29 for UHF Channel 32 at Kansas City, Missouri, and modifies the construction permit for Station KCWB–TV to specify operation on Channel 29 at Kansas City, Missouri. *See* 61 FR 34406, July 2, 1996. The reference coordinates for Channel 29 at Kansas City, Missouri, are 39–05–01 and 94–30–57. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM docket No. 96–134, adopted February 24, 1999, and released February 26, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc.,(202) 857–3805, 1231 M Street, NW, Washington, DC 30036.

List of Subjects in 47 CFR Part 73

TV Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Missouri, is amended by removing Channel 32 and adding Channel 29 at Kansas City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–6230 Filed 3–12–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 030899C]

Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing specified groundfish fisheries in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the directed fishing allowances specified for the 1999 total allowable catch (TAC) amounts for the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 8, 1999, through 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(d)(1)(i), if the Administrator, Alaska Region, NMFS (Regional Administrator), determines that the amount of a target species or ''other species'' category apportioned to a fishery or, with respect to pollock and Pacific cod, to an inshore or offshore component allocation, will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA Regulatory Area or district (§ 697.20(d)(1)(iii)).

NMFS will publish final 1999 harvest specifications for these groundfish fisheries in the **Federal Register**. The Regional Administrator has determined that the following TAC amounts are necessary as incidental catch to support other anticipated groundfish fisheries for the 1999 fishing year:

Thornyhead rockfish: entire GOA 1,990 mt

Atka mackerel: entire GOA 600 mt

Sablefish: trawl apportionment, entire GOA 1,747 mt

''Other rockfish'': Western Regulatory area 20 mt

Central Regulatory area 650 mt

Shortraker/rougheye rockfish: entire GOA 1,590 mt

Pollock: inshore component, Statistical Area 610 6,936 mt

inshore component, Statistical Area 620 11,652 mt

inshore component, Statistical Area 630 9,156 mt

Pollock: offshore component, entire GOA 0 mt

Pacific cod: offshore component

Western Regulatory Area 1,890 mt

Eastern Regulatory Area 102 mt

Deep-water flatfish: Western Regulatory Area 240 mt

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed allowances for the above species or species groups as 0 mt.

Therefore, in accordance with § 679.20(d)(1)(iii) NMFS is prohibiting directed fishing for these species in the specified areas. These closures will be in effect from the date of filing of the final 1999 harvest specifications with the Office of the Federal Register until 12 midnight, Alaska local time, December 31, 1999.

Under authority of the interim 1999 specifications (64 FR 46, January 4, 1999), pollock fishing opened on January 1, 1999, for amounts specified in that notice. NMFS has since closed Statistical Area 610 to directed fishing for pollock effective 1200 hrs, A.l.t., January 26, 1998 (64 FR 5198, February 3, 1999); Statistical Area 620 to directed fishing for pollock effective 1200 hrs, A.l.t., February 17, 1998 (64 FR 8529, February 22, 1999); Statistical Area 630 to directed fishing for pollock effective