federally enforceable for criteria pollutants. The synthetic minor mechanism may also be used to create federally enforceable limits for emissions of hazardous air pollutants (HAP) if it is approved pursuant to section 112(l) of the Act.

In the November 29, 1994 **Federal Register** document, EPA also proposed approval of Bay Area's synthetic minor program for creating federally enforceable limits in District operating permits. In this notice, EPA is promulgating approval of the synthetic minor program for the Bay Area as a revision to Bay Area's SIP and pursuant to section 112(l) of the Act.

II. Final Action and Implications

A. Analysis of State Submission and Response to Public Comments

On November 29, 1994, EPA proposed interim approval of Bay Area's title V operating permits program as it was submitted on November 16, 1993 and amended on October 27, 1994. Since the time that EPA proposed interim approval, Bay Area adopted regulations to implement title IV of the Act. On September 21, 1994, Bay Area incorporated part 72 by reference into District Regulation 2, Rule 7. Regulation 2, Rule 7 was submitted to EPA on December 29, 1994, and it corrects the first program deficiency (i.e., acid rain definitions) identified in the proposed interim approval notice by incorporating the federal acid rain definitions by reference and by stating that ''if the provisions or requirements of 40 CFR Part 72 are determined to conflict with Regulation 2, Rule 6, the provisions and requirements of Part 72 shall apply and take precedence.''

EPA recently became aware that the November 29, 1994 proposal incorrectly identified District Regulation 1, sections 431–433. Those regulations are SIP-approved District breakdown provisions (September 2, 1981, 46 FR 43968) and are recognized by EPA.

EPA received comments on the proposed interim approval of the Bay Area program from three public commenters: New United Motor Manufacturing Inc. (NUMMI), BAAQMD, and the National Stone Association (NSA). Several interim approval issues set forth in the November 29, 1994 proposal were modified as a result of public comment. These changes are discussed below along with other issues raised during the public comment period. EPA's final action, as set forth in section II.B. below, is being revised from the proposed notice in response to public comment. EPA received no adverse public comment on the proposed approval of Bay Area's synthetic minor program or program for receiving section 112(l) standards as promulgated.

1. Section 112(g) Implementation

One commenter stated that in the absence of a final section 112(g) regulation, Bay Area should be allowed to use its existing air toxics program and de minimis levels to determine case-by-case Maximum Achievable Control Technology (MACT) for new, reconstructed, and modified sources. The commenter further stated that the broad statutory requirements of section 112(g) should not supersede Bay Area's existing toxics program.

EPA has received many comments on various state part 70 programs concerning this issue and agrees that it is not reasonable to expect the states and districts to implement section 112(g) before a rule is issued. EPA has therefore published an interpretive notice in the **Federal Register** regarding section 112(g) of the Act: 60 FR 8333 (February 14, 1995). This notice outlines EPA's revised interpretation of section 112(g) applicability prior to EPA's issuing the final section 112(g) rule. The notice states that major source modifications, constructions, and reconstructions will not be subject to section 112(g) requirements until the final rule is promulgated. EPA expects to issue the final section 112(g) rule in September 1995.

The interpretative notice further 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), Bay Area must be able to implement section 112(g) during the period between promulgation of the federal section 112(g) rule and adoption of implementing District regulations.

In the November 29, 1994 **Federal Register** notice proposing interim approval for the Bay Area's title V program, EPA also proposed to approve the use of Bay Area'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 the Bay Area of rules specifically designed to implement section 112(g). Since approval is intended solely 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.

Bay Area commented that EPA should allow California districts 18 months, rather than 12 months, to develop section 112(g) regulations following EPA's promulgation of the federal section 112(g) rule. Bay Area stated that 12 months is not sufficient time to both undergo the regulatory development process and prepare a section 112(l) equivalency package for approval of the District's regulation to be used in lieu of the federal section 112(g) rule.

EPA has approved an 18-month transition period in other states and does not see a unique reason to limit the Bay Area to 12 months. Therefore, EPA will allow Bay Area 18 months from the date of EPA's final section 112(g) rule to develop and submit district regulations for the implementation of section 112(g). If the final section 112(g) rule, however, eliminates the transition period, Bay Area must follow the implementation time lines set out in that rulemaking.

2. Certification by a Responsible Official

One commenter objected to EPA's statement, under program deficiencies, that any document submitted in conjunction with a title V permit must be certified by a responsible official. The commenter stated that part 70 specifies which documents must be certified and that requiring ''any document'' to be certified represents an overly strict interpretation of section 70.6(c)(1).

EPA disagrees that the requirement to certify ''any document'' required by the permit is either redundant or unwarranted. The use of the term ''any document'' is necessary to ensure that all documents required to be certified under part 70 will be certified. Including the language in section 70.6(c)(1) should not create any additional burden than if the documents were all specifically listed. As the Bay Area's program is currently written, only semiannual reports and annual compliance certifications need to be certified by a responsible official. The Bay Area's program fails to specify certification of other required documents such as progress reports associated with a compliance schedule (section 70.6(c)(4)) or prompt reports of permit deviations (section 70.6(a)(3)(iii)(B)). Adding a requirement consistent with section 70.6(c)(1) would correct such omissions.

On a related note, EPA believes that, in one respect, the language suggested