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 San Diego 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If EPA receives adverse or critical comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action.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, San Diego 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 San Diego fails to submit a complete corrective program for full approval by August 7, 1997, EPA will start an 18month clock for mandatory sanctions. If San Diego 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 San Diego 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 San Diego 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 San Diego'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 San Diego 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 18month period until the Administrator determines that San Diego 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 San Diego 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 San Diego 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 San Diego'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-SD-95-1-OPS). The docket may be viewed during regular business hours at the address listed above.

## 1. Support Materials

San Diego's title V program was submitted by the California Air Resources Board (CARB) on April 22, 1994 and found to be complete on June 9, 1994. On April 4, 1995, the District amended the regulatory portion of its submittal. On October 10, 1995, EPA received from CARB, on behalf of the District, a revised fee program and an updated program description. 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 San Diego's submittal. The San Diego 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. An implementation agreement is currently being developed between San Diego and EPA.

# 2. Regulations and Program Implementation

San Diego's title V implementing regulation, District Regulation XIV, was first adopted on January 18, 1994. After preliminary review of Regulation XIV, EPA identified numerous regulatory deficiencies and communicated the potential disapproval issues to San Diego in letters dated September 6, 1994 and December 13, 1994. In response, San Diego revised Regulation XIV. The amended regulation was adopted on March 7, 1995 and submitted to EPA by CARB, on behalf of the District, on April 4, 1995. San Diego's program description was also revised to reflect the changes made to Regulation XIV. EPA is therefore evaluating and acting on the March 7, 1995 version of Regulation XIV

San Diego'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; section 70.5 for 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.

### a. Insignificant Activities

Section 70.5(c) states that EPA may approve, as part of a state program, a list of insignificant activities and emissions levels which need not be included in permit applications. Section 70.5(c) also states that an application for a part 70 permit may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. Section 70.4(b)(2) requires states to include in their part 70