SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110 and 111(c)(1) of the Clean Air Act as amended November 15, 1990, authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards (NSPS).

On May 20, 1977, the EPA initially delegated the authority for implementation and enforcement of the NSPS program to Knox County. This agency has subsequently requested a delegation of authority for implementation and enforcement of the previously adopted, undelegated part 60 NSPS categories listed below as well as future NSPS categories codified in 40 CFR part 60.

Delegation Requested on May 8, 1997:

40 CFR part 60, Subpart VV, as amended 6–12–96

40 CFR part 60, Subpart Dc, as amended 5–8–96

Delegation Requested on October 18, 1996:

40 CFR part 60, Subpart Ea, as amended 12–19–95

40 CFR part 60, Subpart Eb, as amended 12–19–95

40 CFR part 60, Subpart WWW, promulgated 3–12–96

All current NSPS categories are delegated with the exception of the following sections within those subparts that may not be delegated. Future NSPS regulations will contain a list of sections that will not be delegated for that subpart.

1. Subpart A—§ 60.8(b) (2) and (3), § 60.11(e) (7) and (8), § 60.13 (g), (i) and (j)(2).
2. Subpart B—§ 60.22, § 60.27, and § 60.29.
3. Subpart Da—§ 60.45a.
4. Subpart Db—§ 60.44b(f), § 60.44b(g), § 60.49b(a)(4).
5. Subpart Dc—§ 60.48c(a)(4).
6. Subpart Ec—§ 60.56(c)(i).
7. Subpart J—§ 60.105(a)(13)(iii), § 60.106(i)(12).
8. Subpart Ka—§ 60.114a.
9. Subpart Kb—§ 60.111b(f)(4), § 60.114b, § 60.116b(e)(3) (iii) and (iv), § 60.116b(f)(2)(iii).
10. Subpart O—§ 60.153(e).
11. Subpart EE—§ 60.316(d).
12. Subpart GG—§ 60.334(b)(2), § 60.335(f)(1).
13. Subpart RR—§ 60.446(c).
14. Subpart SS—§ 60.456(d).
15. Subpart TT—§ 60.466(d).
16. Subpart UU—§ 60.474(g).
17. Subpart VV—§ 60.482–1(c)(2) and § 60.484.
18. Subpart WW—§ 60.496(c).
19. Subpart XX—§ 60.502(e)(6).
20. Subpart AAA—§ 60.531, § 60.533, § 60.534, § 60.535, § 60.536(i)(2), § 60.537, § 60.538(e), § 60.539.
21. Subpart BBB—§ 60.543(c)(2)(ii)(B).
22. Subpart DDD—§ 60.562–2(c).
23. Subpart III—§ 60.613(e).
24. Subpart NNN—§ 60.663(e).
25. Subpart RRR—§ 60.703(e).
26. Subpart SSS—§ 60.711(a)(16), § 60.713(b)(1)(i), § 60.713(b)(1)(ii), § 60.713(b)(5)(i), § 60.713(d), § 60.715(a), § 60.716.
27. Subpart TTT—§ 60.723(b)(1), § 60.723(b)(2)(i)(C), § 60.723(b)(2)(iv), § 60.724(e), § 60.725(b).
28. Subpart VVV—§ 60.743(a)(3)(v)(A) and (B), § 60.743(e), § 60.745(a), § 60.746.
29. Subpart WWW—§ 60.754(a)(5).

After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for all source categories. All sources subject to the requirements of 40 CFR part 60 will now be under the jurisdiction of the appropriate above mentioned agency.

Since review of the pertinent laws, rules, and regulations for the local agency has shown them to be adequate for implementation and enforcement of existing, previously adopted, undelegated NSPS and future NSPS, EPA hereby notifies the public that it has delegated the authority for existing, previously adopted and undelegated NSPS as well as the mechanism for delegation (adopt-by-reference) of future NSPS source categories upon publication of this **Federal Register** document.

Administrative Requirements

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

The Congressional Review Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), 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. However, Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 1, 2001. 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Authority: This document is issued under the authority of sections 101, 110, 111, 112 and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: January 16, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–4977 Filed 2–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 70 and 71

[FRL–6934–5]

RIN 2060–AJ04

State and Federal Operating Permits Programs: Amendments Compliance Certification Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We, the EPA, are taking direct final action to amend the State Operating Permits Program and the Federal Operating Permits Program. The amendments are in response to the United States Circuit Court of Appeals October 29, 1999, decision to remand to us part of the October 22, 1997, Compliance Assurance Monitoring rulemaking that included revisions describing the ongoing compliance certification content requirements. In particular, the Court ruled that the compliance certification must address whether the affected facility or source has been in continuous or intermittent compliance. This action will revise only certain sections to carry through the revisions to the compliance certification requirements.

EFFECTIVE DATE: This final rule amendment is effective on April 30, 2001 without further notice, unless we receive adverse comments on this direct final rule by April 2, 2001 or we receive a request for a hearing by March 16, 2001. If we receive timely adverse comment or a timely hearing request, we will publish a withdrawal in the **Federal Register** informing you, the public, that this direct final rule will not take effect.

ADDRESSES: *Comments.* You may submit comments on this rulemaking in writing

(original and two copies, if possible) to Docket No. A–91–52 to the following address: Air and Radiation Docket and Information Center (6102), US Environmental Protection Agency, 401 M Street, SW., Room 1500, Washington, DC 20460.

Docket. A docket containing supporting information used in developing this direct final rule amendment is available for public inspection and copying at our docket office located at the above address in Room M–1500, Waerside Mall (ground floor). You are encouraged to phone in advance to review docket materials or schedule an appointment by phoning the Air Docket Office at (202) 260–7548. Refer to Docket No. A–91–52. The Docket Office may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Peter Westlin, Environmental Protection Agency, Office Air Quality Planning and Standards, at 919/541–1058, e-mail: *westlin. peter@epa.gov,* facsimile 919/541–1039.

SUPPLEMENTARY INFORMATION: We are publishing these rule amendments without a prior proposal because we consider this to be noncontroversial amendment, given the Court's decision, and we do not expect to receive any adverse comment. We believe that this change to the previously promulgated rule adequately addresses the Court's direction expressed in the remand. In the event we receive adverse comment or a hearing request and this direct final rule is subsequently withdrawn, we are also publishing a separate document that will serve as the proposal of this amendment in the ''Proposed Rules'' section of this **Federal Register** publication. This final rule amendment will be effective on April 30, 2001 without further notice, unless we receive adverse comment on this rulemaking by April 2, 2001 or we receive a request for a hearing by March 11, 2001. If we receive timely adverse comment or a timely hearing request, we will publish a withdrawal in the **Federal Register** informing you that this direct final rule will not take effect. In that event, we will address all public comments in a subsequent final rule, based on the proposed rule amendment published in the ''Proposed Rules'' section of this **Federal Register** document. Because we will not provide further opportunity for public comment on this action, you must comment on this amendment at this time if you wish to do so.

Regulated entities. The requirements in this regulation may apply to you if you own or operate any facility subject to the compliance certification requirements of part 70 to 71. These regulations apply to, but are not limited to, owners or operators of all sources who must have operating permits under either of these programs. State, local, and tribal governments are potentially affected tot he extent that those governments must revise existing compliance certification requirements in implementing the part 70 operating permits program to make consistent with these revisions.

Internet. The text of this **Federal Register** document is also available on our web site on the Internet under the Recently Signed Rules category at the following address: *http://www.epa.gov/ttn/oarpg/rules.html* and the OAQPS, Emissions Measurement Center website at *http://www.epa.gov/ttn/emc/*. Our Office of Air and Radiation (OAR) homepage on the Internet also contains a wide range of information on the air toxics program and many other air pollution programs and issues. The OAR's homepage address is: *http://www.epa.gov/oar*.

Electronic Access and Filing Addresses. The official record for this rulemaking, as well as the public version, has been established for this rulemaking under Docket No. A–91–52 (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address listed in the **ADDRESSES** section at the beginning of this preamble. You may submit comments on this rulemaking electronically to the EPA's Air and Radiation Docket and Information Center at their address: *A-and-R-Docket@epa.gov.* Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 6.1 file format or ASCII file format. You must identify all comments and data in electronic form by the docket number (A–91–52). You should not submit CBI through electronic mail. You may file electronic comments online at any Federal Depository Library.

Outline. The information in this preamble is organized as follows:

I. Authority

The statutory authority for this action is provided by sections 114 and 501 through 507 of the Clean Air Act, as amended (42 U.S.C. 7414a and 7661–7661f).

II. Background

A. Regulatory and Litigation Background

On October 22, 1997 (62 FR 54900), we published the final part 64, Compliance Assurance Monitoring (CAM) rule, and revisions to parts 70 and 71, the State and Federal Operating Permits Programs. Part 64 included procedures, design specifications, and performance criteria intended to satisfy, in part, the enhanced monitoring requirements of the Clean Air Act (''the Act''). The revisions to parts 70 and 71 included language to §§ 70.6(c)(5)(iii)(B) and 71.6(c)(5)(iii)(B) specifying the minimum information necessary for the compliance certification required of responsible officials.

Subsequent to that publication, the Natural Resources Defense Council, Inc. (NRDC) and the Appalachian Power Company et al. (industry) filed petitions with the United States Court of Appeals for the District of Columbia Circuit (Court) challenging several aspects of the CAM rule. Industry challenged our authority to promulgate the parts 70 and 71 language requiring that compliance certifications be based on any other material information including credible evidence.

The NRDC argued that the monitoring in part 64 failed to meet Clean Air Act requirements regarding enhanced monitoring and that the parts 70 and 71 revisions were inconsistent with the Act's explicit requirement that compliance certifications indicate

whether compliance is continuous or intermittent.

B. Direction From Court

On October 29, 1999, the Court issued its decision (see docket A–91–52, item VIII–A–1) *Natural Resources Defense Council* v. *EPA,* 194 F.3d 130 (D.C. Cir. 1999), on these challenges. Most importantly, the court held that ''EPA's adoption of CAM as ''enhanced monitoring'' meets the requirements of the Clean Air Act.'' *Id.* at 137. The court also dismissed the industry's challenge as unripe relying on its earlier decision involving EPA's Credible Evidence Rule. *See Clean Air Implementation Project* v. *EPA,* 150 F.3d 1200 (D.C. Cir. 1998). The court did, however, agree with NRDC that EPA's removal from parts 70 and 71 of the explicit requirement that compliance certifications address whether compliance is continuous or intermittent revisions ran contrary to the statutory requirement that each source must certify ''whether compliance is continuous or intermittent * * *'' *See* section 114(a)(3)(D), 42 U.S.C. 7414(a)(3)(D). Our rationale for revising the compliance certification language had been that so long as the compliance certification addressed the substance of whether compliance had been continuous or intermittent there was no need to require responsible officials to use the terms ''continuous'' or ''intermittent.'' The court disagreed finding Congress'' intent to be ''express and unambiguous.'' 194 F.3d at 138. Accordingly, the court remanded that portion of the CAM rule ''pertaining to 'continuous or intermittent' compliance certification'' to us for revision consistent with the court's decision.

III. Regulatory Revisions and Effects

A. What Are the Regulatory Revisions?

In response to the court's remand, we have added text to sections, §§ 70.6(c)(5)(iii)(B) and 71.6(c)(5)(iii)(B), to require that the responsible official for the affected facility include in the annual (or more frequent) compliance certification whether compliance during the period was continuous or intermittent. Specifically, the revised text, including the introductory language for both sections reads: ''Permits shall include each of the following * * *: A requirement that the compliance certification include all of the following * * *: The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (c)(5)(iii)(B) of this section.'' The italicized text indicates the revisions made in response to the Court decision. Other text within both of these sections remains as promulgated in 1997. Under this revised language, the responsible official must include in the compliance certification a statement as to whether compliance during the period was continuous or intermittent. We believe these revisions respond directly and adequately to the Court's decision to remand the compliance certification requirements to us and are consistent with the requirements of the Act.

The Court's decision and this amendment to our regulations also necessitate a change to a guidance document issued in connection with the CAM rulemaking. In ''Compliance Assurance Monitoring Rule Implementation Questions and Responses'' (from Steve Hitte, OPG–ITPID to APMs, Regions I–X (January 8, 1998)), we advised permitting authorities that they could require sources to certify compliance using either existing state regulations that tracked the statute (e.g., certify to whether compliance was continuous or intermittent) or the certification language in the CAM revisions to Part 70. *See* at Question 10. This guidance was based on our interpretation that (1) the statutory requirement to certify whether compliance is continuous or intermittent had sufficient flexibility to allow the approach taken in the revisions to Part 70 and (2) the state regulations on compliance certification generally tracked exactly the statutory language on certification of continuous or intermittent compliance. The Court, however, disagreed with our interpretation of the statutory language and remanded the revisions to Part 70 to us. As a result, the guidance above is no longer justified. Accordingly, we withdraw the guidance provided to permitting authorities in Question and Response 10 in the above-mentioned guidance to the extent it states that permitting authorities may allow certifications based on the Part 70 revisions set aside by the Court. We are aware that most if not all approved state program regulations continue to require responsible officials to certify whether compliance was intermittent or continuous. Accordingly, any state programs that followed the interpretation in Question 10 above should be able to expeditiously require certifications to be based upon the proper statutory certification language.

B. What Must I Include in the Compliance Certification?

The compliance certification is your assessment, signed by your facility's responsible official, as to whether your facility complied with the terms and conditions of the permit. The compliance certification includes three main elements. The first is identification of all the permit terms and conditions to which your facility is subject. These include applicable design provisions, work practice elements, required operating conditions, and emissions limitations in addition to general and specific monitoring, reporting, and record keeping requirements.

Second, you must identify the method(s) and any other material information used to determine compliance status of each term and condition. The method(s) includes at a minimum any testing and monitoring methods required by Parts 70 or 71 that were conducted during the period for the certification. You must describe whether the data collection using the methods referenced for the compliance certification provide continuous or intermittent data.

Third, you must certify as to the status of compliance including whether compliance was continuous or intermittent. You must base this status on the results of the identified methods and other material information. You must note as possible exceptions to compliance any deviations from the permit requirements and any excursions, or exceedances as defined in part 64, or other underlying applicable requirements, during which compliance is required.

You can find additional explanation on our interpretation of a certification of continuous or intermittent compliance in the preamble to the final CAM rule. *62 FR 54937*

IV. Administrative Requirements

A. Executive Order 12866: ''Significant Regulatory Action Determination''

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the

economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this final rule amendment would be significantly less than $100 million and would not meet any of the other criteria specified in the Executive Order, we have determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review. Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. However, in consideration of the very limited scope of this amendment, we consider 30 days to be sufficient in providing a meaningful public comment period for this rulemaking.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) requires us 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 small governmental jurisdictions. We determined that these amendments to the parts 70 and 71 do not have a significant impact on a substantial number of small entities. We intended that compliance with the CAM rule would provide monitoring information sufficient to demonstrate whether compliance was continuous or intermittent. Even though we did not require that the responsible official use those terms in the revisions to the compliance certification, we did require that the responsible rely on the monitoring information in making that certification. That the court held that the responsible official must address explicitly whether compliance was continuous or intermittent does not substantively change the monitoring responsibilities or economic impact. The revisions to parts 70 and 71 in this action add no burden on responsible officials other than to categorize their compliance status as continuous or intermittent. We have determined that a regulatory flexibility analysis is not necessary in connection with this action.

C. Paperwork Reduction Act

This amendment does not include or create any information collection activities subject to the Paperwork Reduction Act, and therefore we will submit no information collection request (ICR) to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, et seq.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before we promulgate a rule for which a written statement is needed, section 205 of the UMRA requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed under section 203 of the UMRA a small government agency plan. That plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this amendment is of very narrow scope, and provides a compliance alternative very similar to one already available in the promulgated part 70 compliance certification requirements. We have determined that this action contains no regulatory requirements that might significantly or uniquely affect small governments. We have also determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's action is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Docket

The docket includes an organized and complete file of all the information upon which we relied in taking this direct final action. The docketing system is intended to allow you to identify and locate documents readily so that you can participate effectively in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record for judicial review. (See CAA section 307(d)(7)(A).)

F. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

Under Section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts State law, unless we consult with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. The 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. Today's action does not create a mandate on State, local or tribal governments. The amendments to the rule do not impose any new or additional enforceable duties on these entities. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that the EPA determines (1) economically significant as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has 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. These amendments to the State and Federal operating permits program are not subject to E.O. 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it is not an economically significant regulatory action as defined by E.O. 12866, and the amendments do not address an environmental health or safety risk that would have a disproportionate effect on children.

H. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, we may not issue a regulation that is not required by statute, that significantly 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, or EPA consults with those governments. If we comply by consulting, Executive Order 13084 requires us to provide to the Office of Management and Budget, in a separate identified section of the preamble to the rule, a description of the extent of our 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, Executive Order 13084 requires us 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.'' These amendments to parts 70 and 71 do not significantly or uniquely affect the communities of Indian tribal governments. The amendments to the rule do not impose any new or additional enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

I. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 et seq., 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 Congress and to the Comptroller General of the United States. We 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 this final rule in the **Federal Register**.

J. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Public Law 104–113 (March 7, 1996), we are required to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) which are adopted by voluntary consensus standard bodies. Where we do not use available and potentially applicable voluntary consensus standards, the NTTA requires us to provide Congress, through OMB, an explanation of the reasons for not using such standards. This action does not involve technical standards. Therefore, we did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Parts 70 and 71

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

Dated: January 12, 2001.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, we amend title 40, chapter I, parts 70 and 71 of the Code of Federal Regulations to read as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

1. The authority citation for part 70 continues to read as follows:

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

2. Section 70.6 is amended by revising paragraph (c)(5)(iii)(C) to read as follows:

§ 70.6 Permit content.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred; and

* * * * *

PART 71—FEDERAL OPERATING PERMITS PROGRAMS

1. The authority citation for part 71 continues to read as follows:

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

2. Section 71.6 is amended by revising paragraph (c)(5)(iii)(C) to read as follows:

§ 71.6 Permit content.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or

intermittent. The certification shall be based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification; and

* * * * *

[FR Doc. 01–4975 Filed 2–28–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; FCC 00–255 and FCC 01–67]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules proposed in the Second Report and Order and Further Notice of Proposed Rulemaking to implement the slamming provisions of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Telecommunications carriers are prohibited from carrier from submitting or executing an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service. This practice, known as ''slamming,'' enables those companies who engage in fraudulent activity to increase their customer and revenue bases at the expense of consumers and law-abiding companies. The rules adopted in this document will improve the carrier change process for consumers and carriers alike, while making it more difficult for unscrupulous carriers to perpetrate slams.

DATES: Effective April 2, 2001 except for §§ 64.1130(a) through (c), 64.1130(i), 64.1130(j), 64.1180, 64.1190(d)(2), 64.1190(d)(3), 64.1190(e), and 64.1195, which contain information collection requirements that have not yet been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

FOR FURTHER INFORMATION CONTACT: Dana Walton-Bradford, Attorney, Accounting Policy Division, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Report and Order and Second Order on Reconsideration (*Third Report and Order*) in CC Docket No. 94–129, which was released on August 15, 2000. This summary also contains amendments and modifications to the *Third Report and Order* that were adopted in an Order released on February 22, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction and Background

1. In this Third Report and Order and Second Order on Reconsideration (Order), we adopt rules proposed in the Second Report and Order and Further Notice of Proposed Rulemaking (*Section 258 Order* or *FNPRM*, 64 FR 07745 (2/16/1999) to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act). Section 258 prohibits any telecommunications carrier from submitting or executing an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service. This practice, known as ''slamming,'' enables those companies who engage in fraudulent activity to increase their customer and revenue bases at the expense of consumers and law-abiding companies. The rules we adopt in this Order will improve the carrier change process for consumers and carriers alike, while making it more difficult for unscrupulous carriers to perpetrate slams.

2. In the *Section 258 Order,* we established a comprehensive framework designed to close loopholes used by carriers who slam consumers and to bolster certain aspects of our slamming rules to increase their deterrent effect. In particular, we adopted aggressive new liability rules designed to take the profit out of slamming. We also broadened the scope of our slamming rules to encompass all carriers and imposed more rigorous verification measures. In our *First Reconsideration Order,* we amended certain aspects of the slamming liability rules, granting in part petitions for reconsideration of our *Section 258 Order.* Although the petitions raised a broad range of issues relating to the slamming rules, the *First Reconsideration Order* addressed only those issues relating to our liability rules, which had been stayed by the D.C. Circuit. We chose to resolve those issues separately, and on an expedited basis, because of the overriding public interest in reinstating the liability rules in order to deter slamming.

3. When the Commission released the *Section 258 Order,* it recognized that additional revisions to the slamming rules could further improve the preferred carrier change process and prevent unauthorized changes. Thus, concurrent with the release of the *Section 258 Order,* the Commission issued a Further Notice of Proposed Rulemaking and sought comment on the following proposals: (1) Permitting the authorization and verification of preferred carrier changes over the Internet; (2) requiring resellers to obtain their own carrier identification codes (CICs), or, in the alternative, some type of pseudo-CIC that would provide underlying facilities-based carriers and subscribers of resellers with a way to identify the service provider; (3) modifying the independent third party verification method; (4) defining the term ''subscriber'' for purposes of authorizing preferred carrier changes; (5) requiring carriers to submit reports on the number of slamming complaints they receive; (6) creating a registration requirement for all providers of interstate telecommunications services; and (7) requiring unauthorized carriers to remit to authorized carriers certain amounts in addition to the amount paid by slammed subscribers.

4. On June 30, 2000, the President signed into law a piece of legislation that is relevant to our slamming rules and some of the issues pending in this proceeding, particularly our proposal in the *FNPRM* to allow the authorization and verification of preferred carrier changes using the Internet. The *Electronic Signatures in Global and National Commerce Act,* S. 761 (E-Sign Act) is intended to foster the development of e-commerce, or commerce conducted electronically over the Internet. To accomplish this goal, the E-Sign Act establishes a framework governing the use of electronic signatures and records in transactions in or affecting interstate and foreign commerce. With certain exceptions not relevant here, the provisions of the E-Sign Act took effect on October 1, 2000.

5. In this Order, we adopt a number of the proposals discussed in the *FNPRM,* and we also address the remaining issues that were raised on reconsideration of the *Section 258 Order.* Specifically, in this Order, we amend the current carrier change authorization and verification rules to expressly permit the use of Internet Letters of Agency (Internet LOAs) in a