

Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-103039-05), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS-REG-103039-05).

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Kelly Banks at (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG-103039-05) that was published in the **Federal Register** on Thursday, November 2, 2006 (71 FR 64496). The notice also announced that a hearing will be scheduled if requested by the public in writing by January 31, 2007.

The rules of 26 CFR 601.601 apply to the hearing. A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline has passed, persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight copies) by March 6, 2007.

The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E7-2634 Filed 2-14-07; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 301**

[REG-103043-05]

RIN 1545-BE28

**AJCA Modifications to the Section 6112 Regulations**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on proposed rulemaking relating to the obligation of material advisors to prepare and maintain lists with respect to reportable transactions under section 6112.

**DATES:** The public hearing is being held on Tuesday, March 20, 2007, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by March 6, 2007.

**ADDRESSES:** The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to CC:PA:LPD:PR (REG-103043-05), room 5205, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-103043-05), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS-REG-103043-05).

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Kelly Banks at (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG-103043-05) that was published in the **Federal Register** on Thursday, November 2, 2006 (71 FR 64501). The notice also announced that a hearing will be scheduled if requested by the public in writing by January 31, 2007.

The rules of 26 CFR 601.601 apply to the hearing. A period of 10 minutes is

allotted to each person for presenting oral comments. After the deadline has passed, persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight copies) by March 6, 2007.

The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge, at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E7-2615 Filed 2-14-07; 8:45 am]

**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R06-OAR-2006-0568; FRL-8278-3]

**Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Prevention of Significant Deterioration (PSD) and New Source Review**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve revisions to the State Implementation Plan (SIP) for the Albuquerque/Bernalillo County, New Mexico, area that were submitted to EPA by the Governor of New Mexico on May 24, 2006. The proposed revisions modify the Prevention of Significant Deterioration and Nonattainment New Source Review (NNSR) regulations in the SIP. They were submitted to make the area's PSD and NNSR rules consistent with Federal NNSR and PSD revised regulations, which were promulgated by EPA on December 31, 2002 (67 **Federal Register** (FR) 80186) and reconsidered with minor changes on November 7, 2003 (68 FR 63021) (collectively, these Federal actions are called the "2002 New Source Review

(NSR) Reform Rules"). The revisions include provisions for baseline emissions calculations, an actual-to-projected-actual methodology for calculating emissions changes, options for plantwide applicability limits (PALs), and recordkeeping and reporting requirements. We are proposing to approve these revisions pursuant to section 110, part C, and part D of the Federal Clean Air Act (Act).

**DATES:** Comments must be received on or before *March 19, 2007*.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R06-OAR-2006-0568, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6comment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- *E-mail:* Mr. Stanley M. Spruiell at [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

- *Fax:* Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), at fax number (214) 665-7263.

- *Mail:* Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID Number EPA-R06-OAR-2006-0568. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or e-mail if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>,

your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7212; fax number (214) 665-7263; e-mail address [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, any reference to "we," "us," or "our" shall mean EPA.

#### Outline:

- I. What Action Is EPA Proposing?
- II. What Is the Background for This Action?
- III. What Is EPA's Analysis of Albuquerque's NSR Rule Revisions?
- IV. Does Approval of the NNSR and PSD Revised Rules Interfere With Attainment, Reasonable Further Progress, or Any Other Applicable Requirement of the Act?
- V. What Action Is EPA Taking Today?
- VI. Statutory and Executive Order Reviews

#### I. What Action Is EPA Proposing?

On May 24, 2006, the Governor of the State of New Mexico submitted revisions to the SIP for Albuquerque/Bernalillo County. The submittal consists of revisions to two regulations that are already part of the Albuquerque/Bernalillo County SIP. The affected regulations are: 20.11.60 New Mexico Administrative Code (NMAC) (Permitting in Nonattainment Areas) and 20.11.61 NMAC (Prevention of Significant Deterioration). The revisions were made to update the Albuquerque/Bernalillo County Air Quality Control Board (AQCB) NNSR and PSD regulations to ensure that the regulations are consistent with changes to the Federal NSR regulations published on December 31, 2002 (67 FR 80186) and November 7, 2003 (68 FR 63021). These EPA rulemakings are collectively referred to as the "2002 NSR Reform Rules."

This SIP revision also includes other non-substantive changes to AQCB's PSD and NNSR rules needed to update the regulatory citations, make clarifying revisions to the regulatory text, correct typographical errors, and ensure that the regulations are consistent with all current Federal requirements for PSD and NNSR. These non-substantive changes do not change the regulatory requirements. Please see the Technical Support Document (TSD) for further information.

#### II. What Is the Background for This Action?

On December 31, 2002, EPA published final rule changes to 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the Clean Air Act's PSD and NNSR programs. See 67 FR 80186. On November 7, 2003, EPA published a notice of final action on the reconsideration of the December 31, 2002, final rule changes. See 68 FR 63021. In the November 7th final action, EPA added the definition of "replacement unit," and clarified issues regarding PALs. The purpose of today's

action is to propose approval of the State's SIP submittal for Albuquerque/Bernalillo County that includes revisions to the NNSR and PSD SIP rules.

The 2002 NSR Reform Rules are part of EPA's implementation of parts C and D of Title I of the Act, 42 U.S.C. 7470–7515, addressing major sources and major modifications. Part C of Title I of the Act, 42 U.S.C. 7470–7492, is the PSD program, which applies in areas that meet the National Ambient Air Quality Standards (NAAQS)—“attainment areas”—as well as in areas for which there is insufficient information to determine whether the area meets the NAAQS—“unclassifiable” areas. Part D of Title I of the Act, 42 U.S.C. 7501–7515, is the NNSR program, which applies in areas that are not in attainment of one or more of the NAAQS—“nonattainment areas.” There also is the section 110 requirement for a minor NSR preconstruction permit program SIP. EPA regulations implementing the NNSR and PSD programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and appendix S of part 51.

The Act's NSR programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the Act. These programs include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the Act, 42 U.S.C. 7409, requires EPA to promulgate primary NAAQS to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, each State must develop, adopt, and submit to EPA for approval, a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Each SIP is required to contain a preconstruction review program for the construction and modification of stationary sources of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision.

The 2002 NSR Reform Rules made changes to five areas of the NSR programs. In summary, these rules: (1) Provide a new method for determining

baseline actual emissions in the NNSR and PSD programs; (2) adopt for the NNSR and PSD programs an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with PALs to avoid having a significant emissions increase that triggers the requirements of the NNSR and PSD programs; (4) provide a new applicability provision in the NNSR and PSD programs for emissions units that are designated clean units; and (5) exclude pollution control projects from the NNSR and PSD program definitions of “physical change or change in the method of operation.” For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002) and <http://www.epa.gov/nsr>.

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), various petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules (45 FR 5276, August 7, 1980). On June 24, 2005, the D.C. Circuit Court of Appeals issued a decision on the challenges to the 2002 NSR Reform Rules. See *New York v. United States*, 413 F.3d 3 (D.C. Cir. 2005) *rehearing en banc denied* (December 9, 2005). In summary, the Court vacated portions of the Rules pertaining to clean units and pollution control projects; remanded a portion of the Rules regarding recordkeeping, e.g., 40 CFR 51.165(a)(6) and 40 CFR 51.166(r)(6); and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. The EPA has not yet responded to the Court's remand regarding the recordkeeping provisions. Today's action is consistent with the decision of the D.C. Circuit Court of Appeals because Albuquerque's submittal does not include any portions of the 2002 NSR Reform Rules that were vacated as part of the June 2005 decision.

The 2002 NSR Reform Rules require that State agencies adopt and submit revisions to their SIP permitting programs implementing the minimum program elements of the 2002 NSR Reform Rules no later than January 2, 2006. See 40 CFR 51.166(a)(6)(i) (requiring State agencies to adopt and submit PSD SIP revisions within three years after new amendments are published in the **Federal Register**). State agencies may meet the requirements of 40 CFR Part 51 and the 2002 NSR Reform Rules with regulations that are different than but equivalent to the Federal regulations. If, however, a State decides not to implement any of the

new applicability provisions, that State must demonstrate that its existing program is at least as stringent as the Federal program.

On May 24, 2006, the Governor of New Mexico submitted a SIP revision for the purpose of revising AQCB's NNSR and PSD permitting regulations. These changes were made primarily to adopt EPA's 2002 NSR Reform Rules. As discussed in further detail below, EPA believes the revisions contained in the submittal are approvable for inclusion into the SIP for Albuquerque/Bernalillo County.

### III. What Is EPA's Analysis of the Albuquerque NSR Rule Revisions?

The AQCB currently has an EPA-approved NSR program for new and modified sources, including a minor NSR preconstruction permit program, an NNSR preconstruction permit program, and a PSD preconstruction permit program. Today, EPA is proposing to approve revisions to the AQCB's existing NNSR and PSD regulations in the SIP. These proposed revisions were submitted to EPA on May 24, 2006. Copies of the revised rules, as well as the TSD, can be obtained from the Docket, as discussed in the “Docket” section above. A discussion of the specific AQCB rule changes that are proposed for inclusion in the SIP is included in the TSD and summarized below.

The AQCB's permitting requirements for major sources in or impacting upon non-attainment areas are set forth at 20.11.60 NMAC (Permitting in Nonattainment Areas). The current AQCB NNSR program applies to the construction of any new major stationary source or major modification of air pollution in a nonattainment area, as required by part D of Title I of the Act. To receive approval to construct, a source that is subject to this regulation must show that it will not cause a net increase in pollution or create a delay in meeting the NAAQS, and that it will install and use control technology that achieves the lowest achievable emission rate.

The AQCB's regulation 20.11.61 NMAC (Prevention of Significant Deterioration) contains the preconstruction review program that provides for the prevention of significant deterioration of ambient air quality as required under part C of Title I of the Act. The program applies to major stationary sources or modifications constructed or installed in areas designated as attainment or unclassifiable with respect to the NAAQS.

These revisions to 20.11.60 NMAC and 20.11.61 NMAC update the existing provisions to be consistent with the current Federal NNSR and PSD rules, including the effects of the 2002 NSR Reform Rules. These revisions address baseline actual emissions, actual-to-projected-actual applicability tests, and PALs. The revisions included in AQCB's NNSR and PSD programs are substantively the same as the 2002 NSR Reform Rules. As part of our review of AQCB's regulations, we performed a line-by-line review of the proposed revisions and have determined that they are consistent with the program requirements for the preparation, adoption and submittal of implementation plans for NSR set forth at 40 CFR 51.165 and 51.166. This review is contained in the TSD for this action. The AQCB rules that we are reviewing do not incorporate the portions of the Federal rules that were vacated by the D.C. Circuit Court of Appeals, such as the clean unit provisions and the pollution control projects exclusion.

The revised AQCB rules include the recordkeeping provisions set forth in the Federal rules at 40 CFR 51.165(a)(6) and 51.166(r)(6). However, AQCB chose to exclude the phrase "reasonable possibility." In the Federal rule, this phrase limits the recordkeeping provisions to modifications at facilities that use the actual-to-future-actual methodology to calculate emissions changes, where there is a "reasonable possibility" that the modifications will result in a significant emissions increase. Therefore, by leaving out the phrase "reasonable possibility" from Subsection F of 20.11.60.12 NMAC and Subsection E of 20.11.61.12 NMAC, the AQCB rules require all modifications that use the actual-to-future-actual methodology to meet the recordkeeping requirements. As noted earlier, EPA has not yet responded to the D.C. Circuit Court of Appeals remand of the recordkeeping provisions of EPA's 2002 NSR Reform Rules. As a result, EPA's final decision with regard to the remand may require EPA to take further action on this portion of AQCB's rules. At present, however, AQCB's recordkeeping provisions are at least as stringent as the Federal requirements, and are therefore approvable.

#### **IV. Does Approval of the NNSR and PSD Revised Rules Interfere With Attainment, Reasonable Further Progress, or Any Other Applicable Requirement of the Act?**

The Act provides in Section 110(l) that:

Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revisions would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

Because, as discussed above and in the TSD, the revisions to the AQCB NNSR and PSD programs are substantively the same as the 2002 NSR Reform Rules, without including any vacated provisions, we conclude that these rules do not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. See 67 FR 80186 and 68 FR 63021 for EPA's detailed explanation of the legal basis for the 2002 NSR Reform Rules.

#### **V. What Action Is EPA Taking Today?**

For the reasons discussed above, EPA is proposing to approve the changes made in the two rules, 20.11.60 NMAC (Permitting in Nonattainment Areas) and 20.11.61 NMAC (Prevention of Significant Deterioration) as submitted May 24, 2006, as revisions to the Albuquerque/Bernalillo County SIP.

#### **VI. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on: One or more Indian tribes, the relationship

between the Federal Government and Indian tribes, or the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. The EPA interprets Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it would approve a state program. Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice. Because this rule merely proposes to approve a state rule implementing a Federal standard, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide,

Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 5, 2007.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. E7-2671 Filed 2-14-07; 8:45 am]

**BILLING CODE 6560-50-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-B-7707]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a

newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically

excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This proposed rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This proposed rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
<b>Spartanburg County, South Carolina, and Incorporated Areas</b>				
Abners Creek .....	Confluence with Enoree River .....	None	+704	Spartanburg County (Unincorporated Areas) City of Greer.
	Approximately 150 feet upstream of Freeman Farm Road.	None	+870	
Alexander Creek .....	Confluence with South Pacolet River (William C. Bowen Lake).	None	+825	Spartanburg County (Unincorporated Areas).
	Approximately 2,010 feet upstream of Page Road.	None	+844	
Alexander Creek Tributary 1 .....	Confluence with Alexander Creek ....	None	+838	Spartanburg County (Unincorporated Areas).
	Approximately 1,620 feet upstream of Walnut Hill Church Road.	None	+855	
Beaverdam Creek (East) .....	Just upstream of Old Canaan Road	None	+619	Spartanburg County (Unincorporated Areas).