provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. 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 State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26421 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 047–OPP; FRL–7087–4]

Clean Air Act Proposed Full Approval of Operating Permit Program; Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to fully approve the operating permits program submitted by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) based on the revisions submitted on May 9, 2001, which satisfactorily address the program deficiencies identified in EPA's October 6, 1995 Interim Approval Rulemaking. In addition, EPA is proposing to approve, as a Title V operating permit program revision, changes to District Rule 218, Title V: Federal Operating Permits, adopted by MBUAPCD on February 21, 1996 and March 26, 1997. The MBUAPCD operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to MBUAPCD's operating permit program on October 6, 1995. MBUAPCD revised its program to satisfy the conditions of the interim approval and this action approves those revisions.

DATES: Written comments on today's proposal must be received by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the MBUAPCD submittal, and other supporting documentation relevant to this action, during normal business hours at EPA Region 9, Air Division, 75 Hawthorne Street, San Francisco, California, 94105.

You may also see copies of the submitted Title V program at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey CA 93940

A courtesy copy of MBUAPCD's title V rule, Rule 218, may be available via the Internet at *http://www.arb.ca.gov/drdb/mbu/cur.htm.* However, the version of District Rule 218 at the above internet address may be different from the version submitted to EPA for approval. Readers are cautioned to verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval (April 18, 2001). The official submittal is available only at the three addresses listed above.

FOR FURTHER INFORMATION CONTACT: Roger Kohn, EPA Region IX, at (415) 744–1238 or kohn.roger@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

What Is Being Addressed in This Document?

Where an operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct

the deficiencies. Because the MBUAPCD operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on October 6, 1995 (60 FR 52332). The interim approval notice described the conditions that had to be met in order for the MBUAPCD program to receive full approval. Since that time, MBUAPCD has submitted one revision of its interimly approved operating permit program, on May 9, 2001. This **Federal Register** document describes the changes that have been made to the MBUAPCD operating permit program since interim approval was granted.

To solicit citizens comments on the operating permit programs, on December 11, 2000, EPA published a document to announce a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs (see 65 FR 77376). The deficiencies the public claims exist could be either deficiencies in the substance of the approved program or deficiencies in how a permitting authority is implementing its program. Where EPA agrees that there is deficiency, it will publish a notice of deficiency on or before December 1, 2001, and establish a time frame for the permitting authority to take action to correct the deficiency.

Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

EPA received a comment letter from one person on what he believes to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** document published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

What Are the Program Changes That EPA Is Proposing To Approve?

A. Changes Required to Receive Full Program Approval

B. Other Changes

A. Changes Required To Receive Full Program Approval

As stipulated in the October 6, 1995 rulemaking, full approval of the MBUAPCD operating permit program was made contingent upon correction of deficiencies identified by EPA. MBUAPCD corrected all of these deficiencies in the revised title V program submitted to EPA on May 9, 2001. The corrections consist of the addition of new rule language, the deletion of problematic old rule language, or in one case, a commitment in the May 9, 2001 submittal to revise Rule 218 upon being notified by EPA of an application by an affected tribe for state status. The deficiencies identified by EPA when interim approval of the MBUAPCD title V program was granted, as well as the corrections made by MBUAPCD to address these deficiencies, are summarized below. The Technical Support Document (TSD) in the Docket for this rulemaking contains the full text of EPA's description of each deficiency in the 1995 rulemaking, as well as complete descriptions of how MBUAPCD corrected the deficiencies, including the revised rule language.

(1) Acid rain sources and solid waste incineration units are required to obtain a permit pursuant to section 129(e) of the Act and may not be exempted from the requirement to obtain a title V permit, in accordance with 40 CFR 70.3(b).

MBUAPCD revised Rule 218 so that it no longer exempts these types of sources from the requirement to obtain a title V permit. Under the revised rule, these sources must obtain title V permits even if they otherwise qualify for one of the exemptions listed in Rule 218.

(2) Revise the definition of ''Administrative Permit Amendments.'' 40 CFR 70.7(d)(1)(iii) and 40 CFR 70.7(e)(4)).

MBUAPCD revised this definition, which now states that an administrative amendment ''requires more frequent monitoring or reporting requirements for the stationary source. * * *'' This definition distinguishes administrative amendments from permit modifications that increase monitoring or reporting requirements, which must be processed as significant permit modifications.

(3) Revise the definition of ''Federally Enforceable Requirement'' to be consistent with 40 CFR 70.2.

MBUAPCD revised this definition so that instead of referring to ''District prohibitory rules that are in the State Implementation Plan (SIP),'' it now refers to ''any standard or other requirement provided for in the State Implementation Plan (SIP) approved or promulgated by USEPA.''

(4) Revise of the definition of ''Minor Permit Modification'' to require that a minor permit modification may not establish or change a permit condition used to avoid a federally enforceable requirement to which the source would otherwise be subject, in accordance with 40 CFR 70.7(e)(2)(i)(A)(4).

MBUAPCD revised this definition so that a permit modification that would ''establish or change any permit condition used to avoid a federally enforceable requirement to which the source would otherwise be subject'' cannot be processed as a minor permit modification.

(5) Require the compliance certification within the permit application to indicate the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act, in accordance with 40 CFR 70.5(c)(9)(iv).

MBUAPCD revised the permit application section of Rule 218 to require that permit applications include ''a description of the compliance status of each emissions unit within the stationary source with respect to federally enforceable requirements including any applicable enhanced monitoring and compliance certification requirements of the Act.''

(6) Revise the application compliance certification requirement to be consistent with 40 CFR 70.5(c)(8)(iii)(C).

MBUAPCD has modified Rule 218 by incorporating the exact language of 40 CFR 70.5(c)(8)(iii)(C).

(7) Provide a demonstration that activities that are exempt from title V permitting are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, Rule 218 may restrict the exemptions to activities that are not likely to be subject

to an applicable requirement and emit less than District-established emission levels (40 CFR 70.5(c) and 40 CFR 70.4(b)(2)).

MBUAPCD added a new definition of ''insignificant activity'' to Rule 218 that establishes emission levels that are used to determine whether or not an activity qualifies as insignificant. The emission levels are two tons per year of any criteria pollutant, and the lesser of 1,000 pounds per year, the section 112(g) *de minimis* levels, or other Title I significant modification levels for Hazardous Air Pollutants and other toxics as identified in 40 CFR 52.21(b)(23)(i). EPA and the District agree that an activity that is subject to a source-specific applicable requirement does not qualify as insignificant, even if its emissions are less than the District-established emission levels.

(8) Revise Rule 218 to provide that the APCO shall also give public notice ''by other means if necessary to assure adequate notice to the affected public,'' in accordance with 40 CFR 70.7(h)(1).

MBUAPCD revised Rule 218, which now states that the ''notification shall be published in at least one newspaper of general circulation within the District and by other means if necessary to assure adequate notice to the affected public. * * *''

(9) Revise Rule 218 to include the contents of the public notice as specified by 40 CFR 70.7(h)(2).

MBUAPCD revised Rule 218 to explicitly require that the information required by 40 CFR 70.7(h)(2) be included in each public notice of the District's intent to issue, significantly modify, or renew a permit. This section of part 70 requires that public notices identify specific information, including the affected facility, the name and address of the permittee, the activities involved in the permitting action, and name, address, and telephone number of a person whom citizens may contact for additional information.

(10) Revise Rule 218 to provide that the District shall keep a record of the commenters and of the issues raised during the public participation process so that the Administrator may fulfill her obligation to determine whether a citizen petition may be granted (40 CFR 70.7(h)(5)).

MBUAPCD added new language to Rule 218 that states that the ''APCO shall keep a record of the commenters and of the issues raised during the public participation process so that the Administrator of the USEPA may fulfill their obligation to determine whether a citizen petition may be granted.''

(11) Revise Rule 218 to provide EPA with an additional 45 days to review a permit that the District proposes to issue that has been revised as a result of comments received from the public during concurrent public and EPA review of the proposed permit (40 CFR 70.8(a)(1)).

MBUAPCD added new language to Rule 218 that states that ''If the permit is revised due to comments received from the public, the revised permit will be forwarded to USEPA for an additional 45-day review period.''

(12) Revise Rule 218 to define and provide for giving notice to affected states per 40 CFR 70.2 and 70.8(b). Alternatively, MBUAPCD may make a commitment to: (1) Initiate rule revisions upon being notified by EPA of an application by an affected tribe for state status, and (2) provide affected state notice to tribes upon their filing for state status (i.e., prior to Monterey's adopting affected state notice rules).

MBUAPCD addressed this deficiency by making a formal commitment in its May 9, 2001 submittal of its title V program to EPA to revise Rule 218 upon notification by EPA of an affected state within 50 miles of the District.

(13) Revise Rule 218 to require that permits shall be reopened under specific circumstances as required by 40 CFR 70.7(f).

MBUAPCD revised Rule 218 to require that permits be reopened under specific circumstances described in the Rule, which are based on the requirements in 40 CFR 70.7(f).

(14) Revise Rule 218 to provide, consistent with 40 CFR 70.7(e)(2)(iv), that the District shall take action on a minor permit modification application within 90 days of receipt of the application or 15 days after the end of the 45-day EPA review period, whichever is later.

MBUAPCD revised Rule 218 to incorporate these time frames.

(15) Revise Rule 218 to specify the possible actions that may be taken on a minor permit modification application (40 CFR 70.7(e)(2)(iv)).

MBUAPCD added new language to Rule 218 that describes four possible actions that may be taken on a minor permit modification. The possible actions include issuing the permit modification, denying the application, determining that the application must be processed according to significant modification procedures, or revising the draft permit modification and submitting it to EPA as a proposed permit modification.

(16) The California Legislature must revise state law to eliminate the exemption of agricultural production sources from the requirement to obtain a title V permit.

One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the

deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

B. Other Changes

MBUAPCD adopted revisions to District Rule 218, Title V: Federal Operating Permits, on February 21, 1996, March 26, 1997, and April 18, 2001. These revisions are unrelated to the rule revisions made to address interim approval deficiencies, which are described in section A above. With two exceptions, EPA is proposing to approve the rule changes made by MBUAPCD in 1996, 1997, and 2001. The changes that we are proposing to approve are summarized below. EPA is not taking action at this time on MBUAPCD's revision of the definition of ''major source'' in Rule 218 and the effective date of revised Rule 218. The reader should refer to the TSD for additional information on the nature of the rule changes EPA is proposing to approve and the basis for EPA's proposed approval, as well as EPA's reasons for not taking action on the definition of ''major source'' and the effective date change. EPA is proposing to approve the following changes to Rule 218:

- Replace the term ''reactive organic compounds'' with ''volatile organic compounds'' (Sections 2.2.4 and 4.3.4) and refer to District Rule 101.
- Delete the definitions for ''halogenated hydrocarbons'' and ''reactive organic compound''.
- Add a permit shield provision. (Section 4.4)

What Is Involved in This Proposed Action?

The EPA proposes full approval of the operating permits program submitted by MBUAPCD based on the revisions submitted on May 9, 2001, which satisfactorily address the program deficiencies identified in EPA's October 6, 1995 Interim Approval Rulemaking. See 60 FR 52332.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the MBUAPCD submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (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. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it 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, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve

State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. 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 State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26416 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7514]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations 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 base flood elevations 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 following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations 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 base flood and modified base flood elevations, 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. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

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 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

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:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
Alabama	Baldwin County (Unincorporated Areas).	Fish River	Approximately 420 feet upstream of Threemile Creek.	•105	•104