

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism Assessment

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994) this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping requirements, Security measures, Waterways.

### Temporary Regulation

In consideration of the foregoing, subpart F of part 165 of Title 33, Code of Federal Regulations, is amended as follows:

#### PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46

2. A temporary § 165.T02-003 is added, to read as follows:

#### § 165-T02-003 Safety Zone: Little Kanawha River, Worthington Creek Entrance

(a) *Location.* The Little Kanawha River between miles 0.9 and 1.9, the entrance to Worthington Creek, Wood County, West Virginia is established as a safety zone.

(b) *Effective dates.* This section is effective on September 11, 1995 at 6 a.m. EDT. It terminates on November 11, 1995 at 8 p.m. EST, unless terminated sooner by the Captain of the Port Huntington.

(c) *Regulations.* (1) All vessels must, except those vessels with explicit permission from the Captain of the Port:

(i) Remain outside the safety zone during all periods of closure, as announced by Coast Guard Broadcast Notice to Mariners and as enforced on scene by personnel from the Coast Guard Marine Safety Office Huntington, WV.

(ii) Communicate with the contract vessel M/V WILLIAM H. ELLIOT on channel 16 VHF-FM to arrange for safe passage through the safety zone at all other times, providing at least ten (10) minutes advance notice prior to transiting through the regulated area.

(iii) Provide the contract vessel M/V WILLIAM H. ELLIOT at least ten (10) minutes advance notice to move/suspend operations in any case where the transiting vessel operator believes the safe passage of any vessel or tow is jeopardized by the presence/operation of the crane barge during operations not involving river closure.

(2) Vessels involved with the East Street Bridge demolition operations must, except those vessels with explicit permission from the Captain of the Port:

(i) M/V WILLIAM H. ELLIOT: Communicate with and arrange safe passage through the safety zone for all vessels not involved in the demolition project.

(ii) M/V WILLIAM H. ELLIOT: Initiate appropriate broadcast notices to local mariners over channel 16 VHF-FM 24 hours, 2 hours, and 5 minutes prior to initiation of blasting operations.

(iii) M/V WILLIAM H. ELLIOT: Ensure that all vessel traffic is outside the area of the safety zone and the waterside blast area is secured prior to any explosive detonation, with that information effectively communicated to the contractors conducting the blasting.

(iv) M/V WILLIAM H. ELLIOT: Monitor operations involving steel and debris removal after each detonation and, following clearance of the river, the conduct of subsequent subsurface sweeps of the main channel.

(v) M/V WILLIAM H. ELLIOT: Notify the Coast Guard Captain of the Port Huntington once a successful sweep has determined that the Little Kanawha River main shipping channel is clear (a minimum underwater clearance of 15 feet below normal river pool), with no obstructions to impede the safe navigation of vessels.

(vi) All other contract vessels: Relocate to a safe area prior to any blasting operations.

(3) AMERICAN BRIDGE COMPANY must, except with explicit permission from the Captain of the Port:

(i) Not detonate explosives if a vessel not involved with the blasting operation is inside the safety zone, or if any contract vessel has not relocated to a safe distance away from the blast area, as verified and communicated by the M/V WILLIAM H. ELLIOT.

(ii) Not initiate any blasting operations until local law enforcement officials have verified and

communicated that landside security is established and that landside portions of the safety zone are clear.

(iii) Not initiate any blasting operations in periods of restricted visibility (operator must ensure there is clear bank-to-bank visibility).

(iv) Not initiate any blasting operations in a period of forty-eight (48) hours after it has been determined by the Captain of the Port that blasting operations have been suspended for the scheduled date and time to allow proper rescheduling of demolition operations with federal and state representatives, local authorities, and industry.

(4) The Captain of the Port may, upon request, authorize a deviation from any rule in this section if he determines that the proposed operations can be done safely.

(5) The Captain of the Port may direct the movement of any vessel within the safety zone as appropriate to ensure the safe navigation of vessels through the safety zone.

Dated: August 22, 1995, 4:30 p.m. EDT.

**G.H. Burns III,**

*Lieutenant Commander, U.S. Coast Guard,  
Captain of the Port, Huntington, WV.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 153-1-7165a; FRL-5278-7]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, El Dorado County Air Pollution Control District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern a rule from the El Dorado County Air Pollution Control District (EDCAPD). This rule controls volatile organic compound (VOC) emissions from lumber processing and timber manufacturing operations. This approval action will incorporate the rule into the federally approved SIP.

The intended effect of approving this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on this rule serves as a final determination that the finding of

nonsubmittal for this rule has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

**DATES:** This final rule is effective on November 13, 1995 unless adverse or critical comments are received by October 12, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the rule and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 330 Fair Lane, Placerville, CA 95667.

**FOR FURTHER INFORMATION CONTACT:** Duane F. James, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1191.

**SUPPLEMENTARY INFORMATION:**

**Applicability**

The rule being approved into the California SIP is EDCAPCD's Rule 234, "VOC RACT Rule—Sierra Pacific Industries." This rule was submitted by the California Air Resources Board to EPA on June 16, 1995.

**Background**

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included a portion of El Dorado County in the Sacramento Metro Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the

1977 Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(b)(2)(C) of the CAA, Congress statutorily required nonattainment areas to submit reasonably available control technology (RACT) rules for all major stationary sources of VOCs by November 15, 1992 (the RACT "catch-up" requirement).

At the time of enactment of the CAA amendments, the Sacramento Metro Area was classified as serious;<sup>1</sup> therefore, this area was subject to the RACT catch-up requirement and the November 15, 1992 deadline.<sup>2</sup>

The State of California submitted many revised RACT rules for incorporation into its SIP on June 16, 1995, including the rule being acted on in this notice. This notice addresses EPA's direct-final action for EDCAPCD's Rule 234, "VOC RACT Rule—Sierra Pacific Industries." EDCAPCD adopted Rule 234 on April 25, 1995. This submitted rule was found to be complete on July 31, 1995, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V<sup>3</sup> and is being finalized for approval into the SIP.

Rule 234 controls VOC emissions from a waste-fired boiler (Boiler #3) at Sierra Pacific Industries in Camino, California. VOCs contribute to the production of ground level ozone and smog. This rule was adopted as part of EDCAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to section 182(b)(2)(C). A similar rule was promulgated by EPA on February 14, 1995, as part of an ozone attainment Federal Implementation Plan (FIP).<sup>4</sup> The

<sup>1</sup> The Sacramento Metro Area was reclassified from serious to severe on June 1, 1995. See 60 FR 20237 (April 25, 1995).

<sup>2</sup> California did not make the required SIP submittal by November 15, 1992. On March 29, 1994, the EPA made a finding of failure to make a submittal pursuant to section 179(a)(1), which started an 18-month sanction clock. The rule being acted on in this direct final rule was submitted in response to the EPA finding of failure to submit.

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>4</sup> The ozone attainment FIP was a court ordered requirement, which applied to the Sacramento, Ventura, and South Coast ozone nonattainment areas in California, and was not a result of the March 29, 1994, findings letter. The final FIP rule was signed on February 14, 1995, but was not

following is EPA's evaluation and final action for Rule 234.

**EPA Evaluation and Action**

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents.<sup>5</sup> Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "catch-up" their RACT rules. See section 182(b)(2). For some categories, such as lumber processing and timber manufacturing, EPA did not publish a CTG. In such cases, the state and local agencies may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. Therefore, the EDCAPCD must determine the VOC control measures that are reasonable and available for Sierra Pacific based on its operations. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 5. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

EDCAPCD's Rule 234, "VOC RACT Rule—Sierra Pacific Industries," limits the emissions of volatile organic

published in the **Federal Register**. The FIP was rescinded by Congressional action on April 10, 1995. Pub. L. 104-6, Defense Supplemental Appropriation, H.R. 889.

<sup>5</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register Notice**" (Blue Book) (notice of availability was published in the **Federal Register** on (May 25, 1988); and the existing control techniques guideline (CTGs).

compounds (VOCs) to 150 parts per million volume (ppmv) from a waste-fired boiler (Boiler #3) at Sierra Pacific. This standard is maintained through any one or more of the following: (1) use of fuel with a maximum moisture content of 50%, (2) operation of the boiler at optimal combustion conditions, (3) proper operation and maintenance of pollution control equipment, and/or (4) periodic inspection, maintenance, and repairs on the boiler and other equipment. Records must be maintained of system operating parameters, including temperatures, pressures, fuel flow rate, steam production rate, repair, fuel moisture, and all VOC control measures. All records must be maintained for five years. Compliance with the emission standard is demonstrated using EPA Methods 25 or 25A. The APCO has to be notified within 48 hours if the emission standard is exceeded. Final compliance with Rule 234 is required by February 1, 1996. A more detailed discussion of the source controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 234, dated May 25, 1995.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, EDCAPCD's Rule 234, "VOC RACT Rule—Sierra Pacific Industries," is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D. Therefore, if this direct final action is not withdrawn, on November 13, 1995, any FIP clock associated with the finding of failure to submit is stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 13, 1995, unless, October 12, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 13, 1995.

**Regulatory Process**

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

**Unfunded Mandates**

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of

the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rule being approved by this action will impose no new requirements because the affected source is already subject to this regulation under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Note:** Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 10, 1995.

**Felicia Marcus,**  
*Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7671q.

**Subpart F—California**

2. Section 52.220 is amended by adding paragraph (c)(222)(i)(B) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (222) \* \* \*
- (i) \* \* \*

(B) El Dorado County Air Pollution Control District.

(J) Rule 234, adopted on April 25, 1995.

\* \* \* \* \*

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#### 40 CFR Part 52

[AK-4-1-6027a, WA-7-1-5542a, WA-38-1-6974a; FRL-5277-9]

#### Clean Air Act Attainment Extensions for PM-10 Nonattainment Areas: Alaska and Washington

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

**ACTION:** Direct final rule.

**SUMMARY:** This action identifies those nonattainment areas in the State of Alaska and the State of Washington which have failed to attain the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to ten micrometers (PM-10) by the applicable attainment date. This action also serves to grant a 1 year attainment date extension for three nonattainment areas: Mendenhall Valley, Alaska; Spokane, Washington; and Wallula, Washington, for PM-10.

**DATES:** This action will be effective on November 13, 1995 unless adverse or critical comments are received by October 12, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: EPA, Air & Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101; the Alaska Department of Environmental Conservation, 410 Willoughy, Suite 105, Juneau, Alaska, 99801-1795; and the Washington State Department of Ecology, P.O. Box 47600, PV-11, Olympia, WA 98504-7600.

**FOR FURTHER INFORMATION CONTACT:** Christi Lee, Environmental Scientist, Air & Radiation Branch (AT-082), EPA, Seattle, Washington, (206) 553-1814, or George Lauderdale, Environmental Protection Specialist, Air & Radiation Branch (AT-082), EPA, Seattle, Washington, (206) 553-6511.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. CAA Requirements Concerning Designation and Classification

Areas meeting the requirements of section 107(d)(4)(B) of the Act<sup>1</sup> were designated nonattainment for PM-10 by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. See generally Section 107(d)(4)(B). These areas included all former Group I PM-10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the National Ambient Air Quality Standards (NAAQS) for PM-10 prior to January 1, 1989.<sup>2</sup> A **Federal Register** notice announcing the areas designated nonattainment for PM-10 upon enactment of the 1990 Amendments, known as "initial" PM-10 nonattainment areas, was published on March 15, 1991 (56 FR 11101), and a subsequent **Federal Register** notice correcting the description of some of those areas was published on August 8, 1991 (56 FR 37654). See 56 FR 56694 (November 6, 1991) and 40 CFR 81.303 and 40 CFR 81.348 (for codified air quality designations and classifications in the State of Alaska and Washington, respectively). All initial moderate PM-10 nonattainment areas have the same applicable attainment date of December 31, 1994.

States containing initial moderate PM-10 nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for, among other things, implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration either that the plan would provide for attainment of the PM-10 NAAQS by December 31, 1994 or that attainment by that date was impracticable. See Section 189(a).

##### B. Attainment Determinations

All PM-10 areas designated nonattainment pursuant to section 107(d)(4)(B) of the Act were initially classified "moderate" by operation of law upon enactment of the 1990 Clean Air Act Amendments. See Section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the Act, EPA has the

responsibility of determining within six months of the December 31, 1994, attainment date whether PM-10 nonattainment areas have attained the NAAQS. Determinations under section 179(c)(1) of the Act are to be based upon an area's "air quality as of the attainment date." Section 188(b)(2) is consistent with this requirement. Generally, EPA will determine whether an area's air quality is meeting the PM-10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established State and Local Monitoring Stations (SLAMS) in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined by EPA to meet federal monitoring requirements (see 40 CFR 50.6 and appendix J, 40 CFR part 53, 40 CFR 58, appendix A & B) and may be used to determine the attainment status of areas. EPA will also consider air quality data from other air monitoring stations in the nonattainment area provided that it meets the federal monitoring requirements for SLAMS. All data will be reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM-10 standard is achieved when the annual arithmetic mean PM-10 concentration over a three-year period (1992, 1993 and 1994 for areas with a December 31, 1994 attainment date) is equal to or less than 50 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM-10 concentrations greater than  $150 \mu\text{g}/\text{m}^3$ . The 24-hour standard is attained when the expected number of days with levels above  $150 \mu\text{g}/\text{m}^3$  (averaged over a three-year period) is less than or equal to one (1.0). Three consecutive years of air quality data is generally necessary to show attainment of the annual and 24-hour standard for PM-10. See 40 CFR part 50 and appendix K.

##### C. Extension of the Attainment Date

The Act provides the Administrator with the discretion to grant a one-year extension of the attainment date for a moderate PM-10 nonattainment area, provided certain criteria are met. See Section 188(d). If an area does not have the necessary number of consecutive years of clean air quality data to show attainment of the NAAQS, a State may apply for up to two one-year extensions of the attainment date for that area. The statute sets forth two criteria a moderate nonattainment area must satisfy in order to obtain an extension: (1) The State has complied with all the requirements and

<sup>1</sup>The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act as amended ("Act" or "CAA"), which is codified at 42 U.S.C. § 7401 *et seq.*

<sup>2</sup>Many of these other areas were identified in footnote 4 of the October 31, 1990 **Federal Register** notice.