

Dated: December 27, 2006.

Lee Lohman,

Deputy Assistant Secretary for
Administration, Department of State.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR-5013-P-01]

[RIN 2506-AC19]

Community Development Block Grant Program; Small Cities Program; Proposed Rule

AGENCY: Office of the Assistant
Secretary for Community Planning and
Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's regulations governing the Community Development Block Grant (CDBG) program for non-entitlement areas in the state of Hawaii. Pursuant to statutory authority, the state of Hawaii has elected not to administer funds to units of general local governments located in non-entitlement areas within the state. The statute provides that if Hawaii opts to not assume responsibility for the program, then the Secretary of HUD will make grants to the units of general local government located in Hawaii's non-entitlement areas, employing the same distribution formula as was used under prior regulations. This proposed rule would modify HUD's regulations to clarify how the CDBG program will be implemented in the non-entitlement areas of Hawaii. HUD has also taken the opportunity afforded by this proposed rule to update and streamline the subpart F regulations, particularly with regard to the HUD-administered Small Cities program in New York, which awarded its last competitive grant in Fiscal Year (FY) 1999.

DATES: *Comments Due Date:* March 5, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0001. Communications should refer to the above docket number and title and should contain the information specified in the "Request for Comments" section.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and by members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title.

Public Inspection of Public Comments. All comments and communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Individuals with hearing or speech impairments may access this telephone number via TTY by calling the Federal Information Relay Service at (800) 877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen Rhodeside, Senior Program Officer, State and Small Cities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7184, Washington, DC 20410-7000; telephone (202) 708-1322 (this is not a toll-free number). Individuals with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

The CDBG program is authorized under the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCD Act). Under the CDBG program, HUD allocates funds by formula among eligible state and local

governments for activities that principally benefit low- and moderate-income persons, aid in the elimination of slums or blighting conditions, or meet other community development needs having a particular urgency.

Section 106 of Title I of the HCD Act permits states to elect to assume administrative responsibility for the CDBG program for non-entitlement areas within their jurisdiction. The HCD Act defines a non-entitlement area as an area that is not a metropolitan city or part of an urban county and does not include federally or state-recognized Indian tribes. In the event that a state elects not to administer the CDBG program, Section 106 provides that HUD will administer the CDBG program for non-entitlement areas within the state. HUD's regulations at 24 CFR part 570, subpart F describe the policies and procedures for HUD's administration of the CDBG program in non-entitlement areas.

Section 218 of the Consolidated Appropriations Act, 2004, (Pub. L. 108-199, approved January 23, 2003) required that, by July 31, 2004, the state of Hawaii had to elect if it would distribute funds under section 106(d)(2) of the HCD Act to units of general local government located in its non-entitlement areas. On August 5, 2004, the Governor of Hawaii notified HUD that the state had elected not to take over the CDBG program in the non-entitlement areas within its jurisdiction. In accordance with the Consolidated Appropriations Act, 2004, the Secretary of HUD permanently assumed administrative responsibility for making grants to the units of general local government located in Hawaii's non-entitlement areas (Hawaii, Kauai, and Maui counties) for all future fiscal years, beginning in 2005.

Section 218 of the Consolidated Appropriations Act, 2004, requires the Secretary of HUD to allocate CDBG funds to the units of local government located in Hawaii's non-entitlement areas based upon the same distribution formula currently used to compute their grant funds. The formula takes into consideration population, poverty, and housing overcrowding in these areas. HUD uses the factors to compute a weighted ratio (the extent of poverty is accorded twice as much significance as the population and housing overcrowding factors), which then determines the allocation of funds.

II. This Proposed Rule

This proposed rule would implement section 218 of the Consolidated Appropriations Act, 2004, by amending HUD's regulations at 24 CFR part 570 to

set forth the policies and procedures applicable to grants for non-entitlement areas in states that have not elected to administer the CDBG program. On December 27, 1994, the Hawaii Small Cities regulations were amended, by a final rule (59 FR 66594) that became effective on January 26, 1995, to treat the three non-entitlement counties of Hawaii similar to entitlement grantees, to the greatest extent allowable under statute. As a result, the regulatory changes that are being made in this proposed rule are relatively minor in scope, and are described below.

HUD has also taken the opportunity afforded by this proposed rule to update and streamline the subpart F regulations, particularly with regard to the HUD-administered Small Cities program in New York. The final competitive grants made under this program were awarded in FY 1999, and almost all New York Small Cities projects expended their funds by the close of FY 2006. The subpart F regulations contain outdated provisions regarding the New York Small Cities program that are no longer necessary and, therefore, would be removed by this rule. These regulatory changes are also described below.

A. Proposed Revisions to 24 CFR Part 570, Subpart F

Title of Subpart F. In order to clarify and differentiate the programs contained within the regulations, the title of subpart F would be amended to read, "Small Cities, Non-entitlement CDBG Grants in Hawaii and Insular Areas."

Section 570.420. Since the three Hawaii non-entitlement counties will be treated as entitlement grantees, § 570.420, which establishes the general requirements for HUD administration of non-entitlement grants, would be amended to remove all references to the HUD-administered small cities program in Hawaii. Section 570.420 will apply only to the Insular Areas program and the HUD-administered Small Cities program in New York for grants made prior to FY 2000. Section 570.420(c), which governs public notification requirements for competitive grants under the HUD-administered Small Cities program, would also be removed. This provision is obsolete, since the final award of such competitive grants were made in FY 1999.

Section 570.427. Amendments made to New York Small Cities projects that involve new activities or alteration of existing activities that will significantly change the scope, location, or objectives of approved activities or beneficiaries require HUD approval. Section

570.427(a) of the regulations would be amended to provide that HUD approval would be granted if the activity meets all of the applicable requirements of the regulations. As noted above, almost all of the New York Small Cities projects expended all of their funds by September 30, 2006. This regulatory change would allow HUD to approve amendments for post-closeout activities that will be funded with program income, without having to re-rank the amended project against the original Small Cities rating criteria. Since the original intent of the projects has already been completed, this amendment will allow units of general local government the flexibility to target projects funded with program income to the needs of their citizens, without burdening the Department to re-rate proposed program amendments against criteria that are no longer relevant.

Section 570.429. Section 570.429 governs the general requirements and grant requirements pertaining to the state of Hawaii. This section will be modified to reflect the changes required by section 218 of the Consolidated Appropriation Act, 2004. The proposed revisions also stress HUD's policy of treating the non-entitlement areas as entitlement areas to the greatest extent that is statutorily permissible.

Section 570.429(a) would be amended to state that the non-entitlement counties in Hawaii are to be treated as entitlement grantees, with the exception of: (1) How allocations are calculated, and (2) the source of their CDBG funding. Section 570.429(b) will be amended to state that the Hawaii non-entitlement counties will be governed by Subpart D of the part 570 regulations in the grant submission and approval process. (Subpart D establishes the policies and procedures governing entitlement grants.)

HUD proposes to remove § 570.429(d), entitled "Adjustment to Grants." In keeping with the intent of the statutory change, grant adjustments for the non-entitlement counties in Hawaii will be handled under the procedures for entitlement grantees under 24 CFR part 570, subpart O (entitled, "Performance Reviews"). HUD also proposes to remove the following paragraphs of § 570.429 as unnecessary due to the treatment of Hawaii's non-entitlement areas under the procedures governing entitlement grantees: Paragraph (f) (regarding required submissions), paragraph (g) (regarding application approval), paragraph (h) (regarding grant agreements), and paragraph (i) (regarding conditional grants).

Section 570.430. The regulation at § 570.430 establishes requirements for

Hawaii program grants made prior to FY 1995. Because all of the funds for pre-1995 grants have been expended, this provision will be removed and the non-entitled counties will follow entitlement rules for the administration of their existing grants and all future grants.

Section 570.432. Section 570.432, which governs the use of Small Cities grants to repay Section 108 loans, will be removed because there will be no future competitively awarded Small Cities grants that can be used to pay Section 108 debt obligations. The non-entitlement counties in Hawaii will follow the requirements of Subpart M of the regulations with regard to repayment of Section 108 loan guarantees.

B. Other Proposed Regulatory Changes

Use of the term "Non-entitlement CDBG Grants in Hawaii." The term "Non-entitlement CDBG Grants in Hawaii" has been inserted into various provisions of 24 CFR part 570 to refer to either the HUD-administered program or to the program's recipients. The provisions where the proposed term has either been substituted or added include §§ 570.200, 570.300, 570.429, and 570.902. By utilizing this term, HUD intends to avoid confusion with the competitively awarded HUD-administered Small Cities program, which made its last new grant in FY 1999, virtually all of which was expended by September 30, 2006, and which has operated only in New York state.

Section 570.208. Section 570.208, which describes the criteria for CDBG national objectives, would be revised to state that the three non-entitled Hawaii counties cannot use the exception criteria, since they do not meet the definition of a metropolitan city or urban county in Section 102(a) of the HCD Act.

Section 570.209. Section 570.209(b)(2)(i) will be revised to include non-entitlement CDBG grants in Hawaii. Non-entitlement CDBG grantees in Hawaii would now apply aggregate standards for evaluating public benefit to all applicable activities for which CDBG funds are obligated for each program year.

Section 570.300. (Section 570.300 will be revised to clarify that §§ 570.307 (Urban Counties) and 570.308 (Joint Requests) do not apply to non-entitlement CDBG grants in Hawaii.

Section 570.901. Section 570.901 will be revised to move the compliance requirements for non-entitlement CDBG grants in Hawaii from § 570.901(e) to § 570.901(d).

Section 570.902. Section 570.902 will be changed to treat non-entitlement CDBG grants in Hawaii in the same manner as entitlements in determining if activities are being implemented in a timely manner.

Section 570.911. Section 570.911 will be revised to treat non-entitlement CDBG grants in Hawaii in the same manner as entitlements with regard to grant reductions.

III. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). The docket file is available for public inspection between the hours of 8 a.m. and 5 p.m. in the Office of Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Hearing- and speech-impaired persons may access the telephone number listed above via TTY by calling the Federal Information Relay Service at (800) 877-8339.

Information Collection Requirements

The information collection requirements contained in this proposed rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2506-0020. The amendments proposed by this rule do not revise the information collection requirements as originally approved by OMB. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government or the

private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the executive order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule only codifies, in HUD's regulations, procedures that will enable the Department to treat the three non-entitled Hawaii counties as entitlement grantees. Since the non-entitled counties previously were funded annually by formula and were treated as entitlement grantees as much as statutorily possible, the rule does not significantly differ from the current status in terms of the impact on the number of entities, the amount of funding, or the governing requirements applicable.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451

Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the finding must be scheduled by calling the Regulations Divisions at (202) 708-3055 (this is not a toll-free number). Hearing- and speech-impaired persons may access the telephone number listed above via TTY by calling the Federal Information Relay Service at (800) 877-8339.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the CDBG Small Cities program is 14.219, and the number for the CDBG Entitlement program is 14.218.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low- and moderate-income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301-5320.

2. Revise § 570.200(a)(3) introductory text to read as follows:

§ 570.200 General Policies.

(a) * * *

(3) *Compliance with the primary objective.* The primary objective of the Act is described in section 101(c) of the Act. Consistent with this objective, entitlement recipients, non-entitlement CDBG grantees in Hawaii, and recipients of insular area funds under section 106 of the Act must ensure that over a period of time specified in their certification not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for activities meeting the criteria under § 570.208(a) or under § 570.208(d)(5) or (6) for benefiting low- and moderate-income persons. For grants under section 107 of the Act, insular area recipients must meet this requirement

for each separate grant. See § 570.420(d)(3) for additional discussion of the primary objective requirement for insular areas funded under section 106 of the Act. The requirements for the HUD-administered Small Cities program in New York are at § 570.420(d)(2). In determining the percentage of funds expended for such activities:

* * * * *

3. Revise § 570.208(a)(1)(ii) introductory text to read as follows:

§ 570.208 Criteria for national objectives.

* * * * *

- (a) * * *
- (1) * * *

(ii) For metropolitan cities and urban counties, an activity that would otherwise qualify under § 570.208(a)(1)(i), except that the area served contains less than 51 percent low- and moderate-income residents, will also be considered to meet the objective of benefiting low- and moderate-income persons where the proportion of such persons in the area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. This exception is inapplicable to non-entitlement CDBG grants in Hawaii. In applying this exception, HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose, as follows:

* * * * *

4. § 570.209(b)(2)(i) is to be revised to read as follows:

§ 570.209 Guidelines for evaluating and selecting economic development projects.

* * * * *

- (b) * * *

(2) *Applying the aggregate standards.* (i) A metropolitan city, an urban county, or a non-entitlement CDBG grantee in Hawaii shall apply the aggregate standards under paragraph (b)(1) of this section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. A grantee under the HUD-administered Small Cities or Insular Areas CDBG programs shall apply the aggregate standards under paragraph (b)(1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which

program income is obligated during that period.

* * * * *

5. Revise § 570.300 to read as follows:

§ 570.300 General.

This subpart describes the policies and procedures governing the making of community development block grants to entitlement communities and to non-entitlement counties in the state of Hawaii. The policies and procedures set forth in subparts A, C, J, K, and O of this part also apply to entitlement grantees and to non-entitlement grantees in the state of Hawaii. Sections 570.307 and 570.308 of this subpart do not apply to the Hawaii non-entitlement grantees.

6. Revise the heading of Subpart F to read as follows:

Subpart F—Small Cities, Non-Entitlement CDBG Grants in Hawaii and Insular Areas Programs

7. In § 570.420:

- a. Revise paragraphs (a)(1) and (b)(1);
- b. Remove § 570.420(c);
- c. Redesignate paragraphs (d), (e), and (f) as paragraphs §§ 570.420 (c), (d), and (e), respectively; and
- d. Revise the newly designated paragraph (e) to read as follows:

§ 570.420 General.

(a) *Administration of Non-entitlement CDBG funds by HUD or Insular Areas—*(1) *Small cities.* The Act permits each state to elect to administer all aspects of the CDBG program annual fund allocation for the non-entitlement areas within its jurisdiction. All states except Hawaii have elected to administer the CDBG program for non-entitlement areas within their jurisdiction. This section is applicable to active HUD-administered small cities grants in New York. The requirements for the non-entitlement CDBG grants in Hawaii are set forth in § 570.429 of this subpart. States that elected to administer the program after the close of Fiscal Year 1984 cannot return administration of the program to HUD. A decision by a state to discontinue administration of the program would result in the loss of CDBG funds for non-entitlement areas in that state and the reallocation of those funds to all states in the succeeding fiscal year.

* * * * *

(b) *Scope and applicability.* (1) This subpart describes the policies and procedures of the Small Cities program that apply to non-entitlement areas in states where HUD administers the CDBG program. HUD currently administers the Small Cities program in only two states—New York (for grants prior to FY

2000) and Hawaii. The Small Cities portion of this subpart addresses the requirements for New York Small Cities grants in §§ 570.421, 570.426, 570.427, and 570.431. Section 570.429 identifies special procedures applicable to Hawaii.

* * * * *

(e) *Allocation of funds—*The allocation of appropriated funds for insular areas under section 106 of the Act shall be governed by the policies and procedures described in section 106(a)(2) of the Act and §§ 570.440 and 570.441 of this subpart. The annual appropriations described in this section shall be distributed to insular areas on the basis of the ratio of the population of each insular area to the population of all insular areas.

8. Revise § 570.427(a) to read as follows:

§ 570.427 Program Amendments.

(a) *HUD approval of certain program amendments.* Grantees shall request prior HUD approval for all program amendments involving new activities or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries. Approval is subject to the amended activities meeting the requirements of this part, and being able to be completed promptly.

* * * * *

9. In § 570.429:

- a. Revise paragraphs (a) and (b);
- b. Remove paragraphs (d), (f), (g), (h), and (i);
- c. Redesignate paragraph (e) as a new paragraph (d); and
- d. Revise newly designated paragraph (d) to read as follows:

§ 570.429 Hawaii general and grant requirements.

(a) *General.* This section applies to non-entitlement CDBG grants in Hawaii. The non-entitlement counties in the state of Hawaii will be treated as entitlement grantees except for the calculation of allocations, and the source of their funding, which will be from Section 106(d) of the Act.

(b) *Scope and applicability.* Except as modified or limited under the provisions thereof or this subpart, the policies and procedures outlined in subparts A, C, D, J, K, and O of this part apply to non-entitlement CDBG grants in Hawaii.

* * * * *

(d) *Reallocation.* (1) Any amounts that become available as a result of any reductions under subpart O of this part shall be reallocated in the same or future fiscal year to any remaining eligible applicants on a pro rata basis.

(2) Any formula grant amounts reserved for an applicant that chooses not to submit an application shall be reallocated to any remaining eligible applicants on a pro rata basis.

(3) No amounts shall be reallocated under paragraph (d) of this section in any fiscal year to any applicant whose grant amount was reduced under subpart O of this part.

§§ 570.430 and 570.432 [Removed]

10. Remove §§ 570.430 and 570.432.

11. In § 570.901, revise paragraphs (d) and (e) to read as follows:

§ 570.901 Review for compliance with the primary and national objectives and other program requirements.

* * * * *

(d) For entitlement grants and non-entitlement CDBG grants in Hawaii, the submission requirements of 24 CFR part 91 and the displacement policy requirements at § 570.606;

(e) For HUD-administered Small Cities grants in New York, the citizen participation requirements at § 570.431, the amendment requirements at § 570.427, and the displacement policy requirements of § 570.606;

* * * * *

12. In § 570.902:

- a. Revise the heading of paragraph (a);
- b. Revise the introductory paragraph of paragraph (a)(1); and
- c. Revise paragraph (b) to read as follows:

§ 570.902 Review to determine if CDBG—funded activities are being carried out in a timely manner.

* * * * *

(a) *Entitlement recipients and Non-entitlement CDBG Grantees in Hawaii.* (1) Before the funding of the next annual grant and absent contrary evidence satisfactory to HUD, HUD will consider an entitlement recipient or a non-entitlement CDBG grantee in Hawaii to be failing to carry out its CDBG activities in a timely manner if:

* * * * *

(b) *HUD-administered Small Cities program in New York.* The Department will, absent substantial evidence to the contrary, deem a HUD-administered Small Cities recipient in New York to be carrying out its CDBG-funded activities in a timely manner if the schedule for carrying out its activities, as contained in the approved application (including any subsequent amendment(s), is being substantially met.

13. Revise § 570.911(b) to read as follows:

§ 570.911 Reduction, withdrawal, or adjustment of a grant or other appropriate action.

* * * * *

(b) *Entitlement grants and Non-entitlement CDBG Grantees in Hawaii.* Consistent with the procedures described in § 570.900(b), the Secretary may make a reduction in the CDBG grant amount either for the succeeding program year or, if the grant had been conditioned, up to the amount that had been conditioned. The amount of the reduction shall be based on the severity of the deficiency and may be for the entire grant amount.

* * * * *

Dated: November 13, 2006.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2005–CA–0011, FRL–8259–8]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern the permitting of air pollution sources. We are proposing to approve local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by February 2, 2007.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2005–CA–0011, by one of the following methods

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.
- *E-mail:* R9airpermits@epa.gov.
- *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov,

including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Manny Aquitania, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 972–3977, aquitania.manny@epa.gov.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local ICAPCD Rules 201, 203, 205, 206, and 208. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is