

registrant, whether a large or small entity, will no longer be required to pay fees to the USPTO to obtain a certified copy of his or her own registration.

Accordingly, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that the rule changes will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)).

*Executive Order 13132*

This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

*Executive Order 12866*

This rule making has been determined not to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

*Paperwork Reduction Act*

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collections of information and recordkeeping requirements have been reviewed and approved by OMB under OMB Control Number 0651-0009, Trademark Processing. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

**List of Subjects in 37 CFR Part 2**

Administrative practice and procedure, Trademarks.

■ For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 1123, as amended, the Office amends part 2 of title 37 as follows:

■ 1. The authority citation for 37 CFR Part 2 continues to read as follows:

**Authority:** 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 2. Revise § 2.172 to read as follows:

**§ 2.172 Surrender for cancellation.**

Upon application by the registrant, the Director may permit any registration to be surrendered for cancellation. An application for surrender must be signed by the registrant. When there is more than one class in a registration, one or

more entire class(es) but less than the total number of classes may be surrendered. Deletion of less than all of the goods or services in a single class constitutes amendment of registration as to that class (see § 2.173).

■ 3. Amend § 2.173 by revising paragraph (a) to read as follows:

**§ 2.173 Amendment of registration.**

(a) A registrant may apply to amend a registration or to disclaim part of the mark in the registration. The registrant must submit a written request specifying the amendment or disclaimer. This request must be signed by the registrant and verified or supported by a declaration under § 2.20, and accompanied by the required fee. If the amendment involves a change in the mark, the registrant must submit a new specimen showing the mark as used on or in connection with the goods or services, and a new drawing of the amended mark. The registration as amended must still contain registrable matter, and the mark as amended must be registrable as a whole. An amendment or disclaimer must not materially alter the character of the mark.

\* \* \* \* \*

■ 4. Revise § 2.174 to read as follows:

**§ 2.174 Correction of Office mistake.**

Whenever a material mistake in a registration, incurred through the fault of the United States Patent and Trademark Office, is clearly disclosed by the records of the Office, a certificate of correction stating the fact and nature of the mistake, signed by the Director or by an employee designated by the Director, shall be issued without charge and recorded. A printed copy of the certificate of correction shall be attached to each printed copy of the registration certificate. Thereafter, the corrected certificate shall have the same effect as if it had been originally issued in the corrected form. In the discretion of the Director, the Office may issue a new certificate of registration without charge.

■ 5. Amend § 2.175 by revising paragraphs (a) and (b) to read as follows:

**§ 2.175 Correction of mistake by registrant.**

(a) Whenever a mistake has been made in a registration and a showing has been made that the mistake occurred in good faith through the fault of the registrant, the Director may issue a certificate of correction. In the discretion of the Director, the Office may issue a new certificate upon payment of the required fee, provided that the correction does not involve

such changes in the registration as to require republication of the mark.

(b) An application for such action must:

- (1) Include the following:
  - (i) Specification of the mistake for which correction is sought;
  - (ii) Description of the manner in which it arose; and
  - (iii) A showing that it occurred in good faith;
- (2) Be signed by the registrant and verified or include a declaration in accordance with § 2.20; and
- (3) Be accompanied by the required fee.

\* \* \* \* \*

■ 6. Revise § 2.176 to read as follows:

**§ 2.176 Consideration of above matters.**

The matters in §§ 2.171 to 2.175 will be considered in the first instance by the Post Registration Examiners. If the action of the Examiner is adverse, registrant may petition the Director to review the action under § 2.146. If the registrant does not respond to an adverse action of the Examiner within 6 months of the mailing date, the matter will be considered abandoned.

Dated: August 13, 2004.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 04-19016 Filed 8-18-04; 8:45 am]

**BILLING CODE 3510-16-P**

**POSTAL SERVICE**

**39 CFR Part 601**

**Issue 3 of the Purchasing Manual; Incorporation by Reference**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service announces the publication of Issue 3 of the Postal Service Purchasing Manual. Issue 3 supersedes previous editions of the Purchasing Manual, and is incorporated by reference in the Code of Federal Regulations.

**EFFECTIVE DATE:** This final rule is effective on August 19, 2004. The incorporation by reference of the Purchasing Manual, Issue 3 is approved by the Director of the Federal Register as of August 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Harris (202) 268-5653.

**SUPPLEMENTARY INFORMATION:** Issue 1 of the Purchasing Manual was issued on January 31, 1997, as the successor to former USPS Publication 41, the U.S.

Postal Service Procurement Manual. At that time, purchasing organizations were advised that, pending the updating of contract-writing systems, the purchasing organizations could determine, subject to specific limitations, when and to what extent they may adopt its policies and procedures. The Purchasing Manual then became fully effective on January 27, 2000.

Subsequently, updated editions of the Purchasing Manual were issued on January 31, 2002 (Issue 2), and December 25, 2003 (Issue 3). Pending the updating of purchasing support systems for consistency with the new policies contained in Issue 3, purchasing organizations were advised that they might adopt the policies and procedures contained in Issue 3 immediately, or might continue to follow the policies and procedures contained in Issue 2. If a purchasing organization adopted Issue 3 policies and procedures for any category or categories of purchases, it would be required to use those policies and procedures consistently for that category or categories, and not revert to previous policies and procedures. Contracting officers were required to ensure that solicitations and other purchasing documents made prospective offerors fully aware of the authority (Issue 3 or Issue 2, as revised through April 18, 2002) pursuant to which an individual purchase was made. Particular care was required that previous versions of provisions and clauses were not used in purchases made under the policies and procedures of Issue 3, and vice versa. To date, the Postal Service has not formally transitioned from PM Issue 2 to PM Issue 3 primarily because of problems in updating purchasing support systems for consistency with the new policies contained in Issue 3. The end of this transition period will be announced in the **Federal Register**.

The Purchasing Manual is published and available to all users on the World Wide Web at <http://www.usps.com/business>, and contains the Postal Service's purchasing policy.

It will be noted that on March 24, 2004 (69 FR 13786), the Postal Service published a proposed rule in the **Federal Register** entitled "Purchasing of Property and Services". In this document, the Postal Service proposed to amend its regulations in order to implement the acquisition portions of its *Transformation Plan* (April 2000) and the similar recommendations of the President's Commission on the United States Postal Service (July 2003) as they relate to the acquisition of property and services. That earlier, ongoing

rulemaking is proceeding separately and independently, and should not be considered to be a part of this current notice.

On June 28, 2004 (69 FR 36018), the Postal Service published in the **Federal Register** a detailed discussion of the policy changes and other major features contained in Issue 1 of the Purchasing Manual. Subsequently, on July 29, 2004 (69 FR 45270) the Postal Service published a detailed discussion of the policy changes and other major features contained in Issue 2 of the Purchasing Manual. The following is a similar discussion of the most significant changes in Postal Service purchasing policy contained in Issue 3.

### **Purchasing Manual Issue 3—Major Policy Changes**

*Overview:* Issue 3 of the Postal Service Purchasing Manual continues the efforts of the Postal Service (1) to reflect the best practices of the private and public sectors, (2) to streamline the purchasing process and ensure it concentrates on furthering the business and competitive interests of the Postal Service, and (3) to provide a policy structure that furthers the Postal Service's use of supply chain management business practices. Issue 3 also contains the cumulative changes made to Issue 2 of the Purchasing Manual between January 31, 2002, and December 25, 2003. A discussion of all significant changes contained in Issue 3 is available to all users on the World Wide Web at <http://www.usps.com/business>.

*Organizational Changes:* The restructuring of Purchasing and Materials into Supply Management has resulted in numerous changes in organization names (*i.e.*, Purchasing and Materials is now called Supply Management) and managerial titles and authorities. These changes are reflected throughout Purchasing Manual Issue 3.

### **Purchasing Manual Issue 3—Other Significant Changes**

*Chapter 1, Authority, Responsibility and Policy:* 1.1.2.b Supply Management Policy Committee. The Supply Management Policy Committee (SMPC) replaces the Purchasing Policy Committee. SMPC membership has changed to reflect the SM organization.

1.4.1.b.4 Required Approvals has been revised to state that the Vice President (VP), Supply Management's (SM) approval of a proposed contract award or modification serves as the delegation of authority required by PM 1.4.2.d Actions Exceeding a Contracting Officer's Delegated Authority.

1.4.2.c Delegations of Authority has been revised to state that, unless

specifically limited in his or her letter of delegation, a contracting officer may award a contract regardless of commodity group.

1.4.4.a.2 Appointment Authority has been revised to state that contracting officer appointment officials must keep a record of all letters of delegation, certificates of appointment, and documentation concerning a contracting officer's education, experience and training related to the individual CO's level.

1.4.4.b.3 Qualifications has been revised in a number of areas to (1) specify that a certification as a certified purchase manager from the Institute of Supply Management meets the certification requirement for level I contracting officer; and (2) establish new training requirements.

*Chapter 2, Purchase Planning:*

2.1.3.b.2 Responsibilities (Purchase Planning) has been revised to state that the purchase team has the responsibility to maintain and apply the cost and pricing models in order to optimize the total cost of ownership, and in 2.1.3.b.3, transportation planning matters have been added as areas in which materials professionals may offer expertise.

2.1.5.b Elements (Individual Purchase Plans) has been revised to add two elements (subparagraphs 7 and 21) that a purchase plan should include.

2.1.6.c.4 Reviews and Approvals (Noncompetitive Purchase Method) has been revised to clarify approval authority for noncompetitive purchases.

2.1.7.b.3 Developing Strategies (Supplier Selection Strategy) has been revised to state that purchase teams should take care to ensure that solicitations do not include unnecessary minimum standards, mandatory feature call outs or other inappropriate limitations on supplier selection.

2.2.1.c Clauses (Quality Requirements). This paragraph has been revised to discuss the use of new Clauses 2-1, Inspection and Acceptance and 2-2, Quality Management System. These clauses replace previous Clauses 2-1, Inspection and Acceptance—Supplies, 2-2, Quality Assurance I—Supplies, 2-3, Quality Assurance II—Supplies, 2-24, Inspection and Acceptance—Supplies—Nonfixed Price, 2-48, Inspection and Acceptance—Services, and 2-49, Quality Assurance—Services, all of which have been deleted.

2.2.5.f F.O.B. Points (Delivery and Acceptance). Subparagraph 1 has been revised to state that solicitations should require offerors to include both f.o.b. origin and destination prices for transportation analysis and that such analysis is available from field material

management specialists and Headquarters. Subparagraph 3 has been revised to add shipment base points to the areas that may be specified as f.o.b. destination.

2.2.10.c Sharing Savings (Value Engineering). This paragraph has been revised to change the sharing scheme to one that is based on a negotiated arrangement contained in the contract. Paragraph 2.2.10.e Evaluation has been revised to for clarity, and Clause 2–22, Value Engineering, has been revised to reflect these changes.

2.2.11 Price Reduction. This new section states that when they plan to award strategically-sourced or long-term contracts, purchase teams must consider the inclusion of new Clauses 2–48, Most Favored Customer Pricing and 2–49, Cost/Price Reduction. The new clauses are included in Appendix B.

2.2.12 Investment Recovery. This new section states that an effective and efficient investment recovery plan can further the Postal Service's supply chain management goals, and directs purchase teams to include new Provision 2–8, Investment Recovery, in solicitations when it is determined that investment recovery will play a significant role in the overall success of the purchase. The new provision is included in Appendix A.

2.4.4.h Provision (Cost-Reimbursement Contracts). This new paragraph requires purchase teams to include new Provision 2–9, Accounting System Guidelines—Cost Type Contracts, in all solicitations for cost-type contracts the estimated value of which is \$100,000 or more. The provision requires pre-award review and approval of the potential supplier's cost accounting system by the Postal Service's Inspector General or representative, and delineates the elements required in such accounting systems. The new provision is included in Appendix A.

*Chapter 3, Supplier Relations:* 3.3.3.b Procurement Lists (Workshops for People who are Blind or Severely Disabled) has been revised to state that additions and deletions to the Procurement List are published in the **Federal Register** as they occur.

3.4.5 Department of Veterans Affairs has been revised to provide the proper name of this department.

3.7 Debarment, Suspension and Ineligibility. This subchapter has been revised extensively. Some of the highlights of the revision are:

3.7.1.a Definitions contains a new set of relevant definitions.

3.7.1.c Treatment of Suppliers on the Postal Service and GSA List has been rewritten and now states that

suppliers proposed for debarment are treated the same as those which are debarred or suspended and excluded from receiving contracts unless other treatment is approved by the Vice President, Supply Management. In addition, the VP, SM, may direct the termination for default of any contracts with a supplier which has been debarred, suspended or made ineligible.

3.7.1.d Causes for Debarment has been rewritten to add to the causes for which a supplier may be debarred, and to state that the existence for several of the causes for debarment will be established by a preponderance of the evidence.

3.7.1.e Mitigating Factors is a new section, and contains a series of factors the VP, SM, should consider when deciding whether debarment is warranted.

3.7.1.f Period of Debarment has been revised in paragraph 2., to state that the VP, SM, may refer requests for removal from debarment or a reduction of the period of debarment to the Judicial Officer for a hearing and findings of fact which the VP will then consider.

3.7.1.g Procedural Requirements for Debarment has been revised to state that debarment decisions are made based on the preponderance of the evidence, and that, if there are questions regarding material facts, that the VP, SM, may (1) seek additional information or (2) request the Judicial Officer to hold fact-finding hearings on the matter. The VP, SM, may reject findings when they are deemed arbitrary or capricious or clearly erroneous.

3.7.1.m Solicitation Provision is a new section that requires that offerors complete a new paragraph e. of Provision 4–3, Representations and Certifications, when the contract value is expected to exceed \$100,000.

*Chapter 4, Purchasing:* 4.2.2.e Solicitation Provisions. This paragraph has been revised to state (1) that when a purchase team decides to modify, supplement or add to Provision 4–1, Standard Solicitation Provisions, or paragraphs b. and c. of Provision 4–2, Evaluation, counsel need not be consulted if a provision already contained in Appendix A, Solicitations, will replace similar subject matter in Provision 4–1 or b. and c. of Provision 4–2; and (2) that counsel should be consulted when the evaluation scheme to be used in Provision 4–2 is unusual, particularly complex, or there are other circumstances under which such consultation is advisable. Similar changes are reflected in A.2.1, Solicitation Contents in Appendix A, Solicitations.

4.2.5.d.3 Documentation (Best Value Determinations) has been revised to state that this documentation should include the extent and result of any discussions with the supplier awarded the contract and any other offerors.

4.2.7.a Clause 4–1 General Terms and Conditions has been revised to state that replacing subject matter contained in this clause with the text of a PM clause addressing the same subject matter does not require consultation with counsel. Similar changes are reflected in B.2.1 in Appendix B, Contract Clauses.

4.2.7.b Clause 4–2 Contract Terms and Conditions Required To Implement Policies, Statutes, or Executive Orders has been revised to state (1) that neither this clause nor any of the clauses added by reference may be modified unless a deviation has been reviewed and approved by an individual at a higher level than the contracting officer who holds deviation approval authority; and (2) that any changes to paragraph b of this clause (Examination of Records) must be reviewed by assigned counsel and the Office of the Inspector General before a related deviation request is submitted.

4.2.7.d Modifying Clauses has been revised to agree with the revision to 4.2.7.a and 4.2.7.b, above.

4.5.5.a.6 Definitions (Information Technology) has been revised to provide a new definition of this term.

4.5.5.b.6 Security Considerations (Information Technology) has been revised to state that purchase teams ensure that specifications or statements of work for IT purchases address the security aspects of the Business Impact Assessment (BIA).

*Chapter 5, Contract Pricing:* 5.2.12.d Educational Institutions has been revised to reference the new Office of Management and Budget Circular (OMB Circular A–21) that establishes the indirect cost rates for cost-reimbursement contracts with educational institutions and to provide a new source for the Directory of Federal Contract Audit Offices.

*Chapter 6, Contract Administration:* 6.1.2.a.7 Contracting Officer Responsibilities (Contract Administration Functions) has been revised to state that, when appropriate, the contracting officer is responsible for including in the contract file the business reason for a particular action.

*Chapter 7, Bonds, Insurance and Taxes:* 7.1.8.g.1 Contract Modifications (Execution of Bonds) has been revised to state that, when a contract modification increases the contract price, the supplier and the surety must execute a consent of surety and increase the penal amount, and submit it to the contracting officer.

*Chapter 8, Patents and Data Rights:* No significant changes have been made in this Chapter.

*Chapter 9, Labor Policies:* 9.4.5.1 Liquidated Damages has been revised to state that, under certain circumstances, when the VP, SM, finds that an assessment of liquidated damages is incorrect, the VP may adjust the damages, or release the supplier, lessor or subcontractor from liability when the amount of damages is \$500 or less.

9.7.2.e Contracts With a Religious Corporation, Association, or Educational Institution or Society (Exempt Contracts) is a new paragraph that states that, when contracting with these types of organizations, it is not a violation of Section 202 of Executive Order 11246 to employ individuals of a certain religion to perform work connected with the carrying-on of such an entity. Previous paragraphs 9.7.2.e and 9.7.2.f are renumbered as 9.7.2.f and 9.7.2.g.

9.10 Veterans has been revised as a result of the passage of the Veterans' Employment Opportunities Act and the Secretary of Labor's related implementing regulations. Clause 9-14 Affirmative Action for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans has been similarly revised.

*Appendix A, Solicitations:* A.2.1 Solicitation Contents has been revised along the lines discussed in 4.2.2.e, above.

Provision 2-8 Investment Recovery is a new provision and has been added as discussed in 2.2.12 above.

Provision 2-9 Accounting System Guidelines—Cost Type Contracts is a new provision that has been added as discussed in 2.4.4.h above.

Provision 4-1 Standard Solicitation Provisions paragraph b., Period for Acceptance of Offers, has been deleted.

Provision 4-3 Representations and Certifications has been revised to include a new paragraph e (Certification Regarding Debarment, Proposed Debarment, and Other Matters) as discussed in 3.7 above.

*Appendix B, Contract Clauses:* B.2.1 Clause 4-1 General Terms and Conditions has been revised along the lines discussed in 4.2.7.d, above.

B.2.2 Clause 4-2 Contract Terms and Conditions Required To Implement Policies, Statutes, or Executive Orders has been revised along the lines discussed in 4.2.7.a and d, above.

Clauses 2-1 Inspection and Acceptance and 2-2 Quality Management System. As discussed in 2.2.1.c, above, this Clause and Clause 2-2 replace previous Clauses 2-1, 2-2, 2-3, 2-24, 2-48 and 2-49.

Clause 2-9 Definition of Delivery Terms and Supplier's Responsibilities has been revised for clarity.

Clause 2-22 Value Engineering Incentive has been revised along the lines of 2.2.10.c above.

Clauses 2-48 Most Favored Customer Pricing and 2-49, Cost/Price Reduction are two new clauses as discussed in 2.2.11 above.

Clause 3-2 Participation of Small, Minority and Woman-Owned Businesses has been revised in b.(1) by stating that showing the amount of money paid to subcontractors during the reporting period is one of the methods by which suppliers report subcontracting activity.

Clause 4-1 General Terms and Conditions has been revised by adding new c.1.(e) which states that the delivery or performance schedule is one of the contractual elements the contracting officer may change under the Changes paragraph of this clause. Paragraph m. has also been revised to state that the debarment, suspension, or ineligibility of a supplier, its partners, officers, or principal owners may constitute an act of default under the contract, and that act will not be subject to notice and cure pursuant to any termination of default provision of the contract.

Clause 4-2 Contract Terms and Conditions Required To Implement Policies, Statutes, or Executive Orders. Paragraph b., Examination of Records, has been revised. In addition, no changes may be made to this paragraph before (1) consultation with assigned counsel and the Office of the Inspector General and (2) a deviation has been reviewed and approved by a higher level than the contracting officer who holds deviation approval authority.

Clause 4-5 Inspection of Professional Services has been revised by deleting the final sentence.

Clause 4-14 Software Development Warranty has been revised for clarity.

Clause 7-5 Errors and Omissions has been revised for clarity.

Clause 8-1 Patent Rights has been revised by removing the reference to Form 7398, Report of Inventions and Subcontracts (this form is obsolete) and by stating that the reports required under this clause must be in a form acceptable to the contracting officer.

Clause 9-14 Affirmative Action for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans has been revised to reflect the changes discussed in 9.10 above.

*Appendices D Rules of Practice in Proceedings Relative to Debarment and Suspension From Contracting and E, Rules of Practice Before the Postal*

*Service Board of Contract Appeals:* These appendices have been revised to correct obsolete mailing addresses.

#### List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

■ In view of the considerations discussed above, the Postal Service hereby amends 39 CFR as follows:

■ 1. The authority citation for part 601 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 410, 411, 2008, 5001-5605.

■ 2. Section 601.100 is revised to read as follows:

#### § 601.100 Purchasing Manual; incorporation by reference.

(a) Section 552(a) of Title 5, U.S.C., relating to public information requirements of the Administrative Procedure Act, provides in pertinent part that “\* \* \* matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register.” In conformity with that provision, with 39 U.S.C. section 410(b)(1), and as provided in this part, the U.S. Postal Service hereby incorporates by reference its Purchasing Manual (PM), Issue 3, dated December 25, 2003. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The PM is available for examination on the World-Wide Web at <http://www.usps.com/business>. You may inspect a copy at the U.S. Postal Service Library, 475 L'Enfant Plaza West SW., Washington, DC 20260-1641, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) The current Issue of the PM is incorporated by reference in paragraph (a) of this section. Successive issues of the PM are listed in the following table:

Purchasing manual	Date of issuance
Issue 1 .....	January 31, 1997.
Issue 2 .....	January 31, 2002.
Issue 3 .....	December 25, 2003.

■ 3. Section 601.101 is revised to read as follows:

**§ 601.101 Effective date.**

The provisions of the Purchasing Manual Issue 3, effective December 25, 2003, are applicable with respect to all covered purchasing activities of the Postal Service.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 04-18772 Filed 8-18-04; 8:45 am]

BILLING CODE 7710-12-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[RME Docket Number R08-OAR-2004-UT-0002; FRL-7791-7]

### Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to New Source Review Rules

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Utah on November 9, 2001, and September 16, 2003. The revisions incorporate new and revise existing definitions in the State's New Source Review (NSR) rules. The revisions update the State's NSR rules so that they are consistent with the revisions EPA made to its NSR rules on July 21, 1992. These revisions were referred to as the WEPCO rule (for the Wisconsin Electric Power Company court ruling). In the July 1992 action, EPA adopted a broad NSR exclusion for utility pollution control projects and an "actual to future actual" methodology for determining whether all other non-routine physical or operational changes at utilities (other than the replacement of a unit or addition of a new unit) are subject to NSR, and modified its regulations to reflect changes made by Congress in the 1990 Amendments to the Clean Air Act to the applicability of new source requirements to clean coal technology (CCT) and repowering projects, and to "very clean" units. The purpose of this action is to make the changes to the State's rule federally enforceable. This action is being taken under section 110 of the Clean Air Act.

**DATES:** This rule is effective on October 18, 2004, without further notice, unless EPA receives adverse comment by September 20, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID R08-OAR-2004-UT-0002, by one of the following methods:

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

- Agency Web site: <http://docket.epa.gov/rmepub/index.jsp>. Regional Materials in EDOCKET (RME), EPA's electronic public docket and comment system for regional actions, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: [long.richard@epa.gov](mailto:long.richard@epa.gov) and [daly.carl@epa.gov](mailto:daly.carl@epa.gov).

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency, Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466.

- Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency, Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID Nos. R08-OAR-2004-UT-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available at <http://docket.epa.gov/rmepub/index.jsp>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://regulations.gov), or e-mail. The EPA's Regional Materials in EDOCKET and [Federal.regulations.gov](http://Federal.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact

information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Carl Daly, Air & Radiation Program, Mailcode 8P-AR, EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, (303) 312-6416, [daly.carl@epa.gov](mailto:daly.carl@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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- V. Statutory and Executive Order Reviews

#### Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.