action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10703 (63 FR 42691, August 11, 1998), and by adding a new airworthiness directive, to read as follows:

AlliedSignal Inc.: Docket 97–ANE–51–AD. Revises AD 98–17–01, Amendment 39–10703.

Applicability: AlliedSignal Inc. (formerly Allied-Signal Aerospace Company, Garrett Engine Division and Garrett Turbine Engine Co.) TFE731–2, –3, and –4 series turbofan engines with fuel tubes, part numbers (P/Ns) 3071051–1, 3073729–1, or 3072886–1, installed. These engines are installed on but not limited to the following airplanes: Avions Marcel Dassault Falcon 10, 50, and 100 series; Cessna Model 650, Citation III, VI, and VII; Learjet 31 (M31) 35, 36 and 55 series, Raytheon British Aerospace HS–125 series; and Sabreliner NA–265–65.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracked fuel tubes and the subsequent leakage of fuel on and around electrical components, which can cause an engine fire, accomplish the following:

(a) Except for engines installed on Learjet 35, 36, and 55 airplanes, within 160 hours time in service (TIS) after the effective date of this AD, or prior to December 20, 1999, whichever occurs first, install an improved flexible fuel tube, as follows:

(1) For engines installed on Cessna airplanes, install in accordance with the Accomplishment Instructions of AlliedSignal Inc. Alert Service Bulletin (ASB) No. TFE731–A73–3132, dated April 9, 1997.

(2) For engines installed on all other airplanes except for the Learjet 35, 36 and 55 series, install in accordance with the Accomplishment Instructions of AlliedSignal Inc. ASB No. TFE731–A73–3128, dated February 26, 1997.

(b) For engines installed on Learjet 35, 36, and 55, the improved flex tube and the clamp assembly installed on the original rigid fuel tube are optional. If the clamp assembly is used, install the clamp assembly in accordance with the Accomplishment Instructions of AlliedSignal Inc. SB No. TFE731–73–3107, Revision 4, dated April 20, 1994.

(c) An alternative method of compliance or adjustment of the initial compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on April 12, 1999.

Ronald L. Vavruska,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–9657 Filed 4–16–99; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6324–5]

Project XL Site-Specific Rulemaking for Andersen Corporation's Facility in Bayport, Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; request for comments on draft final project agreement.

SUMMARY: The Environmental Protection Agency (''EPA'') is proposing to implement a project under the Project XL program for the Andersen Corporation (''Andersen'') facility located in Bayport, Minnesota. The terms of the project are defined in a draft Final Project Agreement (''FPA'') which is being made available for public review and comment by this document. In addition, EPA is proposing a site-specific rule, applicable only to the Andersen Bayport facility, to facilitate implementation of the project. By this document, EPA solicits comment on the proposed rule, the draft FPA, and the project generally.

This proposed site-specific rule is intended to provide regulatory changes under the Clean Air Act (''CAA'' or the ''Act'') to implement Andersen's XL project, which will result in superior environmental performance and, at the same time, provide Andersen with greater operational flexibility. The proposed site-specific rule would change some of the CAA requirements which apply to the Andersen Bayport facility for the Prevention of Significant Deterioration (''PSD'') program, in particular existing synthetic minor limits that apply to some VOC sources in the Bayport facility. ''Synthetic minor'' limits are operational and control limitations which serve to limit the net emissions increase associated with proposed new or modified units or systems to less than the applicable significance level and thereby keep them out of PSD review.

DATES: *Comments.* All public comments must be received on or before May 19, 1999. If a public hearing is held, the public comment period would remain open until June 3, 1999

Public Hearing. A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning this proposed rule to implement Andersen's XL project. If anyone contacts the EPA requesting to speak at a public hearing by April 29, 1999, a public hearing will be held on May 3, 1999. Additional information is provided in the section entitled **ADDRESSES**.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact Ms. Rachel Rineheart at the EPA by April 29, 1999. Additional information is provided in the section entitled **ADDRESSES**.

ADDRESSES: *Comments.* Written comments should be submitted in duplicate to: Ms. Rachel Rineheart, U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77

West Jackson Boulevard (AR–18J), Chicago, IL, 60604–3590.

Docket. A docket containing supporting information used in developing this proposed rulemaking is available for public inspection and copying at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, (312) 886–7017, 8:30 am–4:30 pm business days, and U.S. EPA, 401 M Street, SW, Room 3802, Washington, D.C. 20460, (202) 260–2601, during normal business hours, and at the Bayport Public Library, 582 North Fourth Street, Bayport, Minnesota 55003, (651) 439–7454. A reasonable fee may by charged for copying.

Public Hearing. If a public hearing is held, it will be held in Bayport, Minnesota. Persons interested in attending the hearing should contact Ms. Rachel Rineheart at (312) 886–7017 to verify that a hearing will be held.

FOR FURTHER INFORMATION CONTACT: Ms. Rachel Rineheart, U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–18J), Chicago, IL 60604–3590, (312) 886–7017.

SUPPLEMENTARY INFORMATION:

Outline of This Document

I. Authority
II. Background
A. Overview of Project XL
B. Overview of the Andersen XL Project
1. Introduction
2. Andersen XL Project Description
a. Background
b. Project Details
3. Environmental Benefits
4. Stakeholder Involvement
III. Clean Air Act Requirements
A. Summary of Regulatory Requirements for the Andersen XL Project
B. Prevention of Significant Deterioration
C. Proposed Regulatory Changes
1. Synthetic Minor Limits
2. Duration
3. Duration of Flexibility
4. Summary
IV. Additional Information
A. Public Hearing
B. Executive Order 12866
C. Regulatory Flexibility
D. Paperwork Reduction Act
E. Unfunded Mandates Reform Act
F. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
G. Executive Order 12875: Enhancing Intergovernmental Partnerships
H. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
I. National Technology Transfer and Advancement Act

I. Authority

This regulation is being proposed under the authority of sections 101(b)(1), 110, 111, 161–169, and 301(a)(1) of the CAA. EPA has determined that this rulemaking is subject to the provisions of section 307(d) of the CAA.

II. Background

A. Overview of Project XL

This proposed site-specific regulation will implement a project developed under Project XL, an EPA initiative to allow regulated entities to achieve better environmental results at less cost. Project XL—''eXcellence and Leadership''—was announced on March 16, 1995, as a central part of the National Performance Review and the EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project(s), if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

Under Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. They must have full support of affected Federal, state and tribal agencies to be selected. For more information about the XL criteria, readers should refer to the two descriptive documents published in the **Federal Register** (60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997), and the December 1, 1995 ''Principles for Development of Project XL Final Project Agreements'' document.

The XL program is intended to allow the EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow the EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. As part of this experimentation, the EPA may try out approaches or legal interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. The EPA may also modify rules, on a site-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal the EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, the Agency expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

The EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory

provisions, such as sections 101(b) and 103 of the CAA.

B. Overview of the Andersen XL Project

1. Introduction

This proposed site-specific rule will facilitate issuance of a consolidated permit which will contain Federal and State permits as outlined in the Andersen Windows Project XL draft FPA. The draft FPA was developed by the Andersen Community Advisory Committee (''CAC''), Andersen, the Minnesota Pollution Control Agency (''MPCA''), Washington County, and the EPA. The draft FPA is available for review in the docket for today's action and also is available on the world wide web at http://www.epa.gov/projectxl. The draft FPA outlines how the project addresses the eight Project XL criteria, in particular how the project will produce, measure, monitor, report, and demonstrate superior environmental benefits. In today's action, the Agency is soliciting comment on proposed site-specific regulatory changes to implement the project.

The draft FPA contemplates issuance of a consolidated permit which will contain Federal and State permits for Andersen's Bayport facility, which MPCA would issue subsequent to the promulgation of a final rule. The Andersen XL consolidated permit would be composed of a minor new source review permit under the Minnesota State Implementation Plan (''SIP''), a Title V permit under the Minnesota Title V program approved under 40 CFR part 70, and a PSD permit under 40 CFR 52.21, as proposed to be modified and made applicable to Andersen at 40 CFR 52.1246. Any such consolidated permit would be issued in accordance with applicable public notice and comment, and administrative appeal and petition provisions. In issuing a PSD permit, MPCA will be acting as EPA's delegatee in accordance with 40 CFR 52.21(u) and 40 CFR part 124. EPA will send direct and timely notification of the public comment period for the Andersen XL permit to any person who either comments on this proposed rule, the draft FPA, or otherwise requests such notice.

EPA also seeks comment on the draft FPA (which is available on the world wide web, in the docket file for today's action, and upon request) in light of the criteria outlined in the Agency's May 23, 1995, **Federal Register** document (60 FR 27282) regarding Regulatory Reinvention (XL) Pilot Projects. Those criteria are: (1) environmental performance superior to what would be achieved through compliance with current and reasonably anticipated future regulations; (2) cost savings or economic opportunity, and/or decreased paperwork burden; (3) stakeholder support; (4) test of innovative strategies for achieving environmental results; (5) approaches that could be evaluated for future broader application; (6) technical and administrative feasibility; (7) mechanisms for monitoring, reporting, and evaluation; and (8) consistency with Executive Order 12898 on Environmental Justice (avoidance of shifting of risk burden).

2. Andersen XL Project Description

a. Background. The Andersen Corporation is a leading manufacturer of durable, energy efficient, high performance clad wood windows and patio doors. Andersen's main manufacturing plant is at 100 Fourth Avenue North in Bayport, Minnesota (Fourth Avenue Site), along the St. Croix River, a federally designated ''Wild and Scenic River,'' which forms the border between Minnesota and Wisconsin.

Operating in the St. Croix Valley since 1903, Andersen has demonstrated a long-term ethic of stewardship. This ethic is reinforced by the high level of environmental performance of the current Andersen operations. Andersen employs approximately 3,000 people at its Fourth Avenue Site. Existing Fourth Avenue Site manufacturing facilities are located on 110 acres, consisting of 78 buildings, most of which are interconnected. Manufacturing and related processes at Andersen include wood cutting and milling, wood preservative application, painting, vinyl processing, adhesive operations, by-product transfer, wood-fired boilers, assembly operations, technology development, production support and maintenance functions.

The Andersen West Site is located at 4001 Stagecoach Road North, on the western boundary of Bayport. The Andersen West Site is located approximately one mile West of the Fourth Avenue Site and is intended, in part, to be a support operation for the Fourth Avenue Site. The property was purchased by Andersen in 1994 to provide expansion space for its various operations. The site is 245 acres in total size. Of that acreage, approximately 150 acres are suitable for development. The remaining acreage not able to be developed includes a wetland, a bluffland tract that the Company has placed in a conservation easement, and 3 probable Native American Burial sites. A site suitability study is currently underway to identify the best possible use(s) for the site.

Except as specifically described in this proposed rule and the draft FPA, nothing in this proposed rule, draft FPA, or the Andersen XL permits will waive, modify, or otherwise affect any obligations Andersen may have under local, State, and Federal law with respect to development of the Andersen West property.

b. Project Details. Andersen plans to expand its production capacity for window components made using its special Fibrex™ technology, which is a combination of reclaimed sawdust and vinyl that can be extruded into a variety of shapes without the need for extensive milling or preservation treatment. In addition, Andersen plans to expand the use of its waterborne treatment processes. Both of these processes result in substantially fewer VOC emissions per unit than traditional solvent-based wood treatment. To expedite this expansion, Minnesota and EPA plan to allow Andersen to modify and add VOC and milling and non-milling PM/PM_{10} sources without additional PSD approvals and eliminate certain existing VOC synthetic minor limits. Today's proposed rule would authorize, only within the context of the Andersen XL project, the elimination of certain VOC synthetic minor limits and establish a ten year contemporaneous period for VOC and non-milling PM/PM_{10} emissions for the purpose of determining net emission increases under the PSD program. All other elements of the project will be incorporated in Andersen's XL permit without the need for any change in applicable requirements.

The cornerstone of this project is the creation of a novel performance ratio approach to the regulation of VOCs which limits VOC emissions per unit of production. This approach, which could not be imposed under existing law, is intended to ''lock-in'' existing efficient manufacturing methods and processes while encouraging continued improvement.

On a per period basis (13 periods per year) Andersen will calculate the ratio of pounds VOC emitted per cubic foot of product shipped (performance ratio) for the preceding 13 periods. That calculation will be compared to the following series of tiered limits established as part of this project:

CAC Limit—The CAC limit shall serve as the main limit for evaluating Andersen's ongoing environmental performance. The CAC limit is the average of the prior five years' performance ratios. The CAC limit will be recalculated once every three years, will decline if appropriate, but will increase only if the CAC approves the

change, with the concurrence of EPA and MPCA. If Andersen's annual performance ratio exceeds the CAC limit, Andersen will be required to provide a specific explanation of the exceedance to the CAC as well as establish a CAC—approved corrective action plan to bring the performance ratio back below the limit.

Enforcement Limit—A static enforcement limit for the ten-year duration of the project will be established utilizing the initial CAC limit plus two standard deviations. If the facility's annual performance ratio exceeds the enforcement limit the company would potentially be subject to the enforcement actions that are available under current law.

Project Limit—The adjusting project limit will be set at two standard deviations above the CAC limit. It will be the same as the enforcement limit for the initial three-year period, but will be adjusted at the same time as the CAC limit. The project limit will never exceed the enforcement limit. If Andersen's performance ratio exceeds the project limit (but is below the enforcement limit) the project will end unless Andersen demonstrates to the satisfaction of the CAC, EPA, and MPCA, each acting in its independent capacity, why the project should continue.

Reward Limit—The reward limit will be set at two standard deviations below the CAC limit. The reward limit will not increase and will only decline if Andersen remains below it for three consecutive years. The CAC limit could never go below the reward limit. If the facility operates below the reward limit, it will potentially receive rewards, depending upon the duration of reward performance, such as formal recognition by U.S. EPA and MPCA, addition of Mini-Projects (to be accomplished in accordance with the Section VI amendment provision of the FPA, including any applicable public notice and comment requirements), and extension of the Project duration which would be treated as a modification of Andersen's XL Permit and be subject to applicable rulemaking and permitting requirements.

Beyond the performance ratio, Andersen will accept enforceable caps on VOC emissions at its Bayport facility and an enforceable cap on non-milling PM/PM10 emissions. In exchange for accepting these caps, as well as making the other project commitments discussed in this section, Andersen will gain greater flexibility to make facility modifications . This is especially important to a company such as Andersen that is subject to fast-changing market conditions. Through greater flexibility, Andersen will be able to quickly change its processes based on changes in demand for its products.

Andersen's Title V permit, which will be included in the Minnesota XL permit, will contain provisions approving in advance some changes anticipated at the facility. An example of possible permit provision for a pre-approved change is included in Attachment D to the FPA. Any such provision will include sufficiently detailed descriptions of the preauthorized changes for compliance purposes and to give the public sufficient notice of the types of changes that will be authorized. The descriptions will also identify all applicable requirements that would apply to the proposed change, including requirements for periodic monitoring and recordkeeping. Pre-approving changes will provide Andersen with the advantage of being able to make modifications without delay and respond to the fast-paced market conditions in the construction industry. This privilege is subject to conditions that will ensure that Andersen's facility modifications are documented for purposes of Agency oversight and public accountability, and will result in superior environmental performance.

In addition, Andersen will control all wood milling operations with BACT baghouse units and monitor HAPs to ensure that they remain below risk-based levels. Andersen will commit that new paint and preservative processes will be at least as clean as their best performing existing processes. If sufficient Fibrex and waterborne capacity exists, Andersen will remove one of its two dip tanks within five years of the project start.

Andersen is making a voluntary commitment to reduce its generation of solid and hazardous waste. Minnesota plans to provide Andersen with flexibility from State requirements relating to decommissioning and disposal of certain process units. Andersen is committing to enhance its existing groundwater remediation system.

3. Environmental Benefits

One of the primary purposes of this project is to allow Andersen to continue to convert production of window and door components to more environmentally efficient processes, such as extrusion of Fibrex composite window components (versus milled and preservative treated wood components), waterborne preservative treatment (versus solvent based preservative treatment), and higher solids paint coatings. These types of processes result in fewer VOC emissions per unit of production than traditional solvent-based processes.

The Fibrex process, as compared to conventional wood milling and preservation treatment processes, is environmentally beneficial for several reasons. First, it reduces dependence on virgin wood materials because it allows for the use of wood byproduct materials, rather than the use of virgin wood. Second, the Fibrex process requires no wood preservation treatment. Wood preservation treatment accounts for a substantial amount of VOC air emissions from the Andersen facility. Thus, expansion of the Fibrex process within Andersen's Bayport facility will result in substantial reductions in the emissions of Volatile Organic Compounds (''VOCs'') per unit of production. Refer to Table 1 for a comparison of air emissions for the traditional vinyl clad wood parts versus Fibrex composite produced parts.

TABLE 1.—AIR EMISSIONS COMPARISON: VINYL CLAD WOOD TO FIBREX COMPOSITE

[Based on 1,000,000 standard size window pieces]

Type of emission	Vinyl-clad profile air emissions (tons)	Fibrex profile air emissions (tons)
VOC	96.2	5.6
PM/PM_{10}	0.69	1.88
HAP	0.19	0.03

In an effort to move away from solvent based wood preservation treatment processes, Andersen worked with suppliers to develop water-borne wood preservative formulations that provide the same product performance as their solvent-based predecessors. The VOC content of water-borne formulations is typically 10–30% that of the traditional solvent based formulations. Since 1990, Andersen has converted or installed 12 waterborne preservative wood treatment systems to replace older solvent-based preservative processes. Greater than 50% of the wood window and door frame components are now preserved with a waterborne wood preservative formulation, which has reduced VOC emissions by over 350 tons annually. This agreement will facilitate increased use of existing waterborne wood treatment systems by removing certain synthetic minor limits which restrict use of those systems and the installation of additional waterborne wood treatment systems, as well as the

possible phase-out of one of two of the company's remaining solvent based wood preservation diptanks. Refer to Table 2 for a comparison of air emissions per unit of production from traditional solvent based wood preservation processes versus waterborne processes.

TABLE 2.—AIR EMISSIONS COMPARISON: SOLVENT-BASED TO WATERBORNE WOOD TREATMENT

[(Based on 1,000,000 standard size window pieces]

Type of emission	Solvent-based wood treatment air emissions (tons)	Waterborne wood treatment air emissions (tons)
VOC	87.0	13.3
HAP	0.16	0

Andersen window components manufactured from Fibrex composite offer performance characteristics similar to the existing vinyl-clad wood components. Currently, Andersen is using Fibrex composite technology in their Renewal™ replacement window product line and has introduced Fibrex composite components into some core product lines. This Project XL agreement facilitates further expansion of Fibrex composite production.

Fibrex composite creates a high value usage of certain Andersen byproduct materials, and is itself completely recyclable into new Fibrex composite components, thus completing a product stewardship circle of Fibrex composite to Fibrex composite.

Andersen's conversion from VOC based processes to Fibrex and waterborne preservation processes is, in part, limited by market acceptance of Fibrex. The flexibility provided in this Project XL pilot will allow Andersen to quickly react to increases in market demand or to install additional waterborne preservation processes, whichever may be most appropriate. In addition, removing the VOC synthetic minor limits on the existing waterborne preservation processes will allow Andersen to maximize use of those environmentally superior processes while limiting the use of existing VOC-based preservation processes.

4. Stakeholder Involvement

Stakeholder involvement and participation is vital to the success of the Andersen Project XL program. Andersen will continue to work with the CAC which was established in December 1997. The CAC serves as the primary contact with the community and other stakeholder groups, conveying concerns to the community and forging an accountability link between the community and the company.

In addition, the CAC will serve in an oversight role. For example, if Andersen's annual performance ratio exceeds the CAC limit, Andersen will be required to provide a specific explanation of the exceedance to the CAC as well as establish a CAC—approved corrective action plan to bring the performance ratio back below the limit.

The work of the CAC is based on the Stakeholder Involvement Plan, which is included as an attachment to the draft FPA. Andersen will continue outreach work with all Stakeholders using the strategies and tactics contained in the plan. Andersen will also continue to be responsive to community inquiries on operational matters including traffic, noise and odor.

III. Clean Air Act Requirements

A. Summary of Regulatory Requirements for the Andersen XL Project

Implementation of the Andersen Project XL pilot requires only limited regulatory changes. Specifically, Andersen's use of its waterborne inline wood treatment systems is currently restricted by certain VOC ''synthetic minor'' limits. The PSD program for the State of Minnesota would prohibit relaxation of permit operating restrictions which were established for the purpose of limiting potential to emit without first meeting the requirements of the PSD program, which includes the installation of Best Available Control Technology (BACT) and an air quality impacts analysis. For the reasons discussed in this preamble, EPA proposes to allow relaxation of certain VOC ''synthetic minor'' limits as a part of the Andersen Project XL pilot.

In addition, the PSD program for the State of Minnesota would limit the effectiveness of a plantwide applicability limit (PAL), referred to as an emissions cap in the FPA, to 5 years. As described in the FPA, the expected duration of the Andersen XL project, including the VOC and non-milling PM/PM_{10} PALs, is 10 years. As explained below (Section III.B.), EPA proposes to allow establishment of VOC and non-milling PM/PM_{10} PALs for Andersen, which would be effective in avoiding PSD for a 10 year period.

All other elements of the Andersen Project XL pilot, including the ability to add or modify sources so long as emissions remain below the VOC and non-milling PM/PM_{10} PALs which will be set at levels to assure that no significant net emission increase will occur, would not require regulatory amendments. The regulatory changes under this proposed site-specific rule address only VOC and PM/PM_{10} emissions including the length of the contemporaneous period used to determine the VOC and PM/PM_{10} PALs. Andersen will fully comply with normally applicable regulations for all other pollutants. In addition, Andersen will fully comply with provisions of any New Source Performance Standards, the State Implementation Plan, including minor New Source Review (''NSR''), and the Title V operating permit program, that apply to its operations, and with all requirements for the control of hazardous air pollutants (HAPs), including any Maximum Achievable Control Technology standards that would apply to the facility. Andersen will also comply with all existing and future environmental requirements not specifically amended pursuant to EPA's site-specific rulemaking for this project or pursuant to the permits expected to be issued by the MPCA.

While the draft FPA outlines the requirements that will be included in the State of Minnesota XL permit (which will include the PSD permit), a draft of that permit and the accompanying modeling and analysis required by section 165 of the CAA have not been completed. Therefore, a determination of whether the draft permit satisfies the statutory PSD permitting criteria in section 165(a) of the Act will be deferred until such time as the draft permit is made available for public notice and comment. Because many of the details of the Andersen Project XL pilot will necessarily be deferred until issuance of the draft permit and in order to enhance participation in the Project XL process, EPA will compile a list of persons wishing to receive direct notice of the availability of the draft permit for review. Persons desiring such notice may now submit a written request to EPA at the address in the section entitled **ADDRESSES.**

Once the public comment period on this proposed rule has closed, EPA will review any comments received and determine in consultation with Andersen, MPCA, and stakeholders whether to proceed to development of the draft permit and whether any changes are necessary to the draft FPA. In any event, EPA does not intend to take final action on this proposed rule until such time as the draft permit has been public noticed and any comments are available for consideration in this rulemaking.

B. Prevention of Significant Deterioration

As explained above, a determination of whether the draft Andersen PSD permit meets the PSD requirements of the Act will be deferred to such time as the draft permit is available for public review and comment. However, for the purposes of this proposed rule which would modify certain requirements of the PSD program, a brief description of the PSD requirements may be useful to reviewers.

The PSD program is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the Act. In attainment areas (i.e., areas meeting the National Ambient Air Quality Standards (''NAAQS'')) and unclassifable areas, the requirements for the PSD program found in part C of title I of the Act apply. The PSD provisions are a combination of air quality planning and air pollution control technology program requirements. Each SIP is required to contain a preconstruction review program for the construction and modification of any major stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect Air Quality Related Values (''AQRVs'') (including visibility) in national parks and other natural areas of concern; to assure appropriate emission controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resource; and to ensure that any decision to increase air pollution is made only after full public consideration of all the consequences of such a decision. See sections 101(b)(1), 110(a)(2)(C) and 160 of the Act. The Andersen Bayport facility is located in an area that meets the NAAQS for all criteria air pollutants except carbon monoxide (CO). The PSD program under part C of title I of the Act applies to those criteria air pollutants other than carbon monoxide (attainment area) while the major non-attainment NSR program under part D of title I of the Act applies to carbon monoxide.

Because the SIP for the State of Minnesota did not meet the PSD requirements of section 160–165 of the Act, EPA promulgated a PSD program for the State by incorporating by reference the provisions of 40 CFR 52.21(b) through (w) into the applicable state plan for the State of Minnesota (*see* 40 CFR 52.1234). In addition, EPA delegated authority to the MPCA as the PSD permitting agency in Minnesota. Therefore, MPCA will, with EPA oversight, draft, accept public comment on, and issue any Andersen PSD permit, subject to procedural requirements in 40 CFR 52.21 and 40 CFR part 124.

C. Proposed Regulatory Changes

1. Synthetic Minor Limits

During the period from 1990 to 1995, Andersen developed and installed 12 waterborne inline wood treatment systems and, within the door subplant, three solventborne paint systems. In order to avoid PSD review, Andersen obtained two minor new source review permits from MPCA containing operational and control limitations on each of these systems. These limitations are sometimes called ''synthetic minor'' limits because they serve to limit the net emissions increase associated with the proposed new units or systems to less than the applicable significance level and thereby keep them out of PSD review. As part of the Andersen Project XL pilot, Andersen seeks to replace certain synthetic minor VOC limits with the tiered per unit of production limits and the VOC PAL, as well as all the other aspects of the project described in the draft FPA.

In order to meet the goals embodied in the tiered per unit of production limits, Andersen needs to utilize its waterborne inline wood treatment systems at a capacity level higher than presently allowed under the synthetic minor limits. Accordingly, Andersen seeks relief from the synthetic VOC operational limits on its waterborne inline wood treatment systems. Andersen's existing waterborne systems are superior in terms of VOC emissions per unit of production as compared to the solvent-based systems (see Table 2).

Andersen also needs to fully utilize the three solventborne paint systems within the door subplant, which are subject to both operational and control limits (a catalytic oxidizer). According to information provided by Andersen, assuming the catalytic oxidizer is in use, the door plant paint lines emit approximately 1.6 pounds of VOCs for each gallon of combined coatings applied. Other paint lines, which are not subject to synthetic minor limits, emit approximately 4.5 pounds of VOCs for each gallon of combined coatings applied. So, with respect to use limits, the door subplant paint lines are lower emitting than Andersen's other paint lines.

Under its existing permits, Andersen is required to control VOC emissions from the door subplant paint lines by operating a catalytic oxidizer. Andersen requests that it be allowed to shut the catalytic oxidizer off so long as it is able to maintain compliance with the VOC PAL and per unit of production limits. Andersen believes that beyond any cost savings, this would give them the flexibility to use the catalytic oxidizer to more effectively control VOCs elsewhere in the facility or to address community concerns about odors, which may or may not be associated with use of the catalytic oxidizer.

Andersen has explained that in order to maintain compliance with the per unit of production limit it will need to reduce VOC emissions on a per unit basis prior to shutting down the catalytic oxidizer. For example, Andersen intends to convert the solvent based preservative application systems, which account for approximately sixty percent of VOC emissions from the door plant paint lines, to in-line waterborne treatment systems. Still, Andersen believes that it will have to further reduce VOC emissions from other sources within the facility prior to shutting down the catalytic oxidizer.

EPA believes that under the following permit and FPA conditions, Andersen may be allowed to shut down the catalytic oxidizer:

(1) Andersen must obtain MPCA's approval prior to shutting down the catalytic oxidizer by demonstrating that:

(a) in accordance with the MPCA Health Risk Assessment described in section II.D.1.e. of the FPA, shut down of the catalytic oxydizer will not present an unacceptable risk to public health;

(b) Andersen's overall reduction of VOC emissions on a per unit basis is sufficient to ensure continued compliance with the per unit of production limit and the VOC cap; and

(c) the CAC has agreed to the shut down of the oxidizer.

(2) Once the oxidizer is shut down, Andersen may use it to control VOC emissions elsewhere at the facility, leave it in place and available for use on door plant paint line emissions, or, with MPCA approval, dismantle it. If Andersen elects to dismantle the oxidizer, it does so with the express understanding that it may be required to reinstall the oxidizer or other appropriate control equipment if necessary to comply with project emission limits during the project term or applicable emission limits at the end of the project term. In addition, costs associated with retrofitting or installing an oxidizer, if necessary, will not be factors in determining whether an oxidizer is appropriate or required.

(3) Cost savings associated with shutting down the oxidizer must be shown to be reinvested in VOC emission reduction projects.

The applicable PSD regulations would not allow Andersen to relax the

synthetic minor limits, unless Andersen subjected the systems to PSD review. (*See* 40 CFR 52.21(r)(4), which has been incorporated into the Minnesota SIP at 40 CFR 52.1234(b)). When a source or modification that is minor because of enforceable operating limits later applies for a relaxation of those limits, 52.21(r)(4) requires that PSD apply to the source or modification as if the source or modification had not yet been constructed.

The primary purpose of 52.21(r)(4) is to prevent a source from circumventing PSD and NSR permitting requirements by obtaining a synthetic minor limit for a new or modified emission unit and thereafter seeking to relax the limit, without undergoing PSD review. *See* 45 FR 52676, 52689 (Aug. 7, 1980). The provision is a broadly designed safeguard to prevent sources from improperly disaggregating a major modification into two separate parts—an initial synthetic minor modification and a subsequent relaxation of the synthetic minor limit—neither of which would be subject to PSD.

EPA believes it has broad discretion to tailor the safeguard embodied in section 52.21(r)(4) based on relevant factors. Specifically, the Andersen XL project will contain several distinctive features which assure EPA that Andersen is not circumventing the PSD requirements. In this context, EPA believes it may eliminate the section 52.21(r)(4) safeguard, as it applies to certain synthetic minor VOC limits at the Andersen facility. First, Andersen is voluntarily adopting a plantwide cap of 2397 tpy of VOC emissions, which is based on lower than actual emissions levels from a period representative of normal source operation. The plantwide cap eliminates the historic problem in the PSD program that sources sometimes are able to increase emissions above representative actual emissions levels without undergoing PSD review by adding small projects which by themselves do not trigger PSD and are not subject to any cumulative plantwide limit on emissions. The fact that Andersen's VOC cap is based on actual emissions places it on an even footing with respect to sources which do not take a PAL and ensures that Andersen does not gain emissions credits merely for reducing allowable emissions. Second, Andersen's annual VOC emissions have declined steadily and significantly over time since 1990, so EPA believes it is important to recognize that Andersen likely could have adopted a plantwide, actual emissions-based VOC PAL immediately prior to the 1990 synthetic minor permits (when its actual VOC emissions level was 3,753 tpy) and thereby avoided the need to obtain and accept synthetic minor limits for each new waterborne system and the door plant paint lines in 1990 and 1995. Although determining what could have happened or would have happened if different choices were made is always difficult, EPA believes with reasonable certainty that the 2397 tpy VOC PAL is at least equivalent to what Andersen could have done outside of Project XL and is overall better for the environment. Third, the tiered performance ratio approach will serve to provide incentives for Andersen to reduce emissions further. Finally, EPA reserves the right to terminate the project if there is no environmental improvement.

This limited replacement of the section 52.21(r)(4) safeguard is an approach to preventing circumvention of the PSD program that, while not the one generally adopted by the Agency, merits consideration on a pilot project basis. If the project demonstrates that such an approach leads to superior environmental and economic results and if EPA determines that such an approach is transferable to other situations, it could be considered for broader application. EPA emphasizes that this innovative approach is not being adopted at this time for any source other than the Andersen Bayport facility and indeed is being adopted for Andersen only as to certain identified synthetic VOC limits.

2. Duration of PALs

The expected duration of the Andersen Project XL pilot is 10 years. Therefore, Andersen's XL project contemplates an effective period of 10 years for the PALs under the project. However, as discussed in further detail below, applicable PSD requirements would limit the effectiveness of Andersen's PAL to 5 years. Therefore, in order to implement the Andersen Project XL pilot the PSD requirements must be modified to allow the PAL to remain effective for 10 years.

In addition, the Minnesota XL permit will include Andersen's Title V permit. The Title V permit term may not exceed 5 years. As a result, EPA anticipates that the Title V permit will be renewed after the initial five-year term. EPA also anticipates that the VOC and PM/PM_{10} PALs will continue unchanged in the new permit.

Under present regulations, a source that adds or modifies a unit that would result in a significant emissions increase may ''net'' that particular change out of review if the new emission increase plus the sum of all other contemporaneous credible increases and decreases at the source is less than significant. Under current requirements, PALs are considered a form of netting whereby a range of future changes at a source is determined beforehand not to result in a net emissions increase, such that these changes may occur without triggering PSD requirements. The Federal PSD requirements at 40 CFR 52.21(b)(3)(ii)(a) limit the period within which changes may be considered contemporaneous to 5 years and, therefore, limit the effectiveness of a PAL to 5 years. States implementing a PSD or nonattainment NSR program under an EPA-approved SIP may define a different reasonable contemporaneous period.

The current regulatory requirement regarding contemporaneity derives from the interpretation of the Act's provisions governing modifications set forth in *Alabama Power Co.* v. *Costle*, 636 F.2d 323 (D.C. Cir. 1979). Among other things, the court interpreted the statute as providing for plantwide netting limited, however, to substantially contemporaneous changes. The court explained that EPA retains discretion to define ''substantially contemporaneous.'' Id. at 402. Thereafter, EPA codified contemporaneity as a regulatory requirement. See 45 FR 52676, 52700–52702 (August 7, 1980).

In the specific context of the Andersen Project XL pilot, EPA is proposing a 10 year contemporaneous period to facilitate the 10 year duration of the Andersen Project XL pilot. When issuing permits to implement the VOC and non-milling PM/PM_{10} caps, MPCA will set the cap limits so that any changes during the project term do not result in a significant net emissions increase. Consequently, complying with the cap would demonstrate that no significant net emissions increase is occurring at the facility. In addition, EPA recognizes that Andersen is voluntarily making several important commitments which will result in superior environmental performance: (1) the VOC and non-milling PM/PM_{10} caps, (2) the VOC performance ratio, (3) control of all existing and future milling operations with baghouse filters, (4) emission limits for new or reconstructed paintline or preservative application equipment based on the current best performing processes at Andersen, and (5) the health risk analysis for toxic air emissions. Under these circumstances, EPA believes that a 10 year contemporaneous period for the VOC and non-milling PM/PM_{10} PALs is appropriate.

3. Duration of Flexibility

This site specific rule will expire 10 years from the date it is promulgated. The parties have described in the FPA a process for winding down the Andersen Project XL pilot. At least two years prior to the project's expected conclusion, Andersen, MPCA, and EPA will initiate a process to evaluate the project. The goal of the evaluation will be to establish a process to evaluate the project and to determine the terms of the final permit for the facility at the end of the 10-year project term. This evaluation shall conclude by no later than 18 months prior to the project's expected conclusion. The evaluation will review the project's environmental results and impact, Andersen's performance, and other relevant factors, as determined by all parties. If the evaluation proves the project a success, Andersen may propose to MPCA, EPA and the CAC to extend the project term and the XL permit conditions described in this FPA through issuance of a final permit. The final permit may incorporate limits similar to the limits applicable during the project. If the parties do not agree to extend the project, Andersen will submit an implementation schedule (as discussed below) to achieve compliance with all requirements applicable at the end of the 10-year project term.

If, based on the evaluation, the project should not be extended, Andersen will submit to EPA and MPCA an implementation schedule specifying how Andersen will transition into compliance with all then applicable requirements at the end of the 10-year project term. No later than 12-months prior to the expiration of the project term, the parties will agree to a 12-month implementation schedule. The implementation schedule is intended to reflect Andersen's best efforts to transition into compliance with all then applicable requirements as quickly as practicable within the 12-month transitional period. In no event will the implementation schedule extend beyond the end of the 10-year project term. The implementation schedule submitted by Andersen must contain interim calendar, or milestone, dates for the purchase and installation of any necessary equipment, performance testing, and other necessary measures.

The enforceable limits established as part of the project (i.e., the VOC and PM/PM_{10} emissions caps, as well as the per unit of production limit) will continue to be enforceable during the project evaluation process and any transitional period as described above. In any event, a final permit will be issued to either (1) extend the project through the issuance of a final permit, or (2) transition Andersen to compliance with all requirements applicable at the end of the 10-year project term. The final permit will be based on the permitting requirements, which are applicable at the conclusion of the project. The applicable requirements that will govern the facility at the end of the project's 10-year term will be included in the final permit.

In addition, the Parties have agreed to include rewards as incentives for Andersen to achieve superior environmental performance. For performance below the reward limit for 13 tracking periods or more, Andersen may request an extension of the duration of the current project. If Andersen chooses this reward, Andersen would have to demonstrate to U.S. EPA and MPCA that extension is not only consistent with the goals of the current project, but also that the extension is consistent with EPA rules and policy concerning the duration of plant-wide applicability limit permits. Any such extension would be treated as a modification of Andersen's Minnesota XL Permit which would be accompanied by any necessary rulemaking by EPA. Both the modification and rulemaking would be subject to applicable public notice and comment requirements.

4. Summary

Therefore, under the specific circumstances at Andersen, within the limited context of Project XL, and in advancement of the overall purpose of the PSD program of the CAA, EPA proposes to modify the applicable federally promulgated state plan for Minnesota so that MPCA may issue Andersen a PSD (as EPA's delegatee), minor NSR, and Title V permit: (1) relaxing certain existing synthetic minor VOC limits without requiring PSD review, within the context of the Andersen XL project, and (2) imposing VOC and PM/PM_{10} PALs based on 10 year contemporaneous periods.

IV. Additional Information

A. Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding the proposed regulation in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentation on the draft FPA or proposed rule to implement the Andersen XL project should contact the EPA at the address given in the **ADDRESSES** section of this document. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be sent to EPA at the addresses given in the **ADDRESSES** section of this document. If a public hearing is held, a verbatim transcript of the hearing and written statements will be available for inspection and copying during normal business hours at the EPA addresses given in the **ADDRESSES** section of this document.

B. Executive Order 12866

Because this rule affects only one facility, it is not a rule of general applicability and therefore not subject to OMB review and Executive Order 12866. In addition, OMB has agreed that review of site specific rules under Project XL is not necessary.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because it only affects one source, the Andersen Bayport facility, which is not a small entity. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This action applies only to one company, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local,

and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this rule is limited to Andersen's facility in Bayport, Minnesota. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Nevertheless, in developing this rule, EPA worked closely with MPCA and received meaningful and timely input in the development of this rule. EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant,'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed action is not subject to E.O. 13045 because it is not economically significant as defined in E.O. 12866, and it is based on technology performance and implements previously promulgated health or safety-based ozone and particulate matter Federal National Ambient Air Quality Standards (NAAQS). The effects of ozone and particulate matter on children's health was addressed in detail in EPA's rulemaking to establish these NAAQS, and EPA is not revisiting those issues here.

G. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule. Nevertheless, in developing this rule, EPA worked closely with MPCA and received meaningful and timely input in the development of this rule.

H. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. There are no communities of Indian tribal governments located in the vicinity of the Andersen facility. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act of 1995 (''NTTAA'')

Section 12(d) of NTTAA, Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental Relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds

Dated: April 8, 1999.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 52 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—[AMENDED]

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

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

Subpart Y—Minnesota

2. Subpart Y is amended by adding a new § 52.1246 to read as follows:

§ 52.1246 Prevention of significant deterioration of air quality for Andersen Corporation's facility in Bayport, Minnesota.

(a) *Applicability.* (1) This section applies only to the window and patio door manufacturing facility, commonly referred to as Andersen Windows, located at 4001 Stagecoach Trail and 100 Fourth Avenue, North, Bayport, Minnesota.

(2) This section sets forth the prevention of significant deterioration of air quality preconstruction review requirements for volatile organic compound (''VOC'') and non-milling PM/PM_{10} emissions.

(3) For all other units and pollutants not specifically identified in this section which are subject to regulation under the Act, the preconstruction review requirements of § 52.1234 still apply.

(b) *Regulations for Preventing Significant Deterioration of Air Quality.*

(1) The provisions of 40 CFR 52.21(b) through (w) are applicable and made a part of the state plan for the State of Minnesota, with the exceptions and additions set forth in paragraphs (b)(2), (b)(3), and (b)(4) of this section.

(2) For the purposes of this Section, and in addition to paragraph (b)(1) of this section:

(i) ''Existing waterborne inline treatment units'' shall mean the following specific units at the Andersen facility:

(A) Five waterborne inline wood treatment systems in the main facility, permit number 549–90–I/O–2.

(B) Five waterborne inline wood treatment systems in the door subplant, permit number 549–90–I/O–2.

(C) Two waterborne inline wood treatment systems, permit number 16300001–017.

(ii) ''Existing door subplant paint lines'' shall mean the three solventborne paint and pretreatment systems located in the Andersen facility door subplant, permit number 549–90–I/O–2.

(iii) ''Milling operations'' shall be all those activities which involve the cutting and shaping of wood or Fibrex except that shaping by extrusion shall not be considered milling.

(iv) ''Non-milling operations'' shall be all those activities that generate PM/PM_{10} emissions and which are not milling operations.

(3) With respect to existing inline waterborne treatment units and existing door subplant paint lines only:

(i) ''An increase in the hours of operation or in the production rate.'' applies instead of 40 CFR 52.21(b)(2)(iii)(*f*).

(ii) The requirements of 40 CFR 52.21(r)(4) shall not apply.

(4) With respect to VOC and non-milling PM/PM_{10} emissions, ''The date 10 years before construction on the particular change commences; and'' applies instead of 40 CFR 52.21(b)(3)(ii)(*a*).

(c) This rule expires [date 10 years from effective date of the final rule].

[FR Doc. 99–9723 Filed 4–16–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–5403]

RIN 2127–AH22 and RIN 2127–AH20

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petitions for rulemaking.

SUMMARY: This document denies petitions, submitted jointly by the American Automobile Manufacturers Association (AAMA) and the Association of International Automobile Manufacturers (AIAM) to amend two Federal motor vehicle safety standards (FMVSSs), one on windshield defrosting and defogging and one on windshield wiping and washing, by accepting a European Union (EU) Directive as an optional ''functionally equivalent'' alternative to each safety standard. NHTSA has determined that both EU Directives require windshield minimum cleared areas which are smaller by up to 20 percent than those required by the counterpart Federal motor vehicle safety standards. The agency has concluded that the requirements of the European regulations provide less driving visibility and cannot assure equivalent safety performance. However, the agency believes that harmonization of windshield wiping, washing, defrosting and defogging regulations is possible using worldwide best practices in the context of a Global Technical Regulation developed under the UN/ECE Working Party 29, and it is pursuing such an approach.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Boyd's telephone number is: (202) 366–6346. His facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION: The harmonization of product standards has become a matter of increasing importance in the last several decades. The manufacturing and marketing of products have become increasingly globalized. In response to that trend, countries and regions have moved to adjust and coordinate their regulatory practices to the extent consistent with consumer protection policies. Efforts to coordinate regulatory practices on a global scale have resulted in several international agreements that seek to promote and guide the process of harmonization, while taking care to preserve the right of countries and regions to adopt and maintain standards they believe necessary to address safety, environmental and other needs within their respective jurisdictions.

The United States is a party to several international agreements, including the General Agreement on Tariffs and Trade. That agreement was most recently amended by the Uruguay Round Agreements. One of those agreements is the Agreement on Technical Barriers to Trade (TBT). The TBT Agreement seeks to avoid creating unnecessary obstacles to trade, while recognizing the right of signatory countries to establish and maintain technical regulations for the protection of human, animal and plant life and health and the environment. Among other things, the TBT Agreement also provides that a party to the Agreement will consider accepting as equivalent the technical regulations of other party nations, provided they adequately fulfill