

## OFAC RISK MATRIX—Continued

Low	Moderate	High
Training is appropriate and effective based on the institution's risk profile, covers applicable personnel, and provides necessary up-to-date information and resources to ensure compliance. The institution employs strong quality control methods.	Training is conducted and management provides adequate resources given the risk profile of the organization; however, some areas are not covered within the training program. The institution employs limited quality control methods.	Training is sporadic and does not cover important regulatory and risk areas or is non-existent.  The institution does not employ quality control methods.

Dated: November 2, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9-26754 Filed 11-6-09; 8:45 am]

BILLING CODE 4811-45-P

## ARMED FORCES RETIREMENT HOME 38 CFR Part 200

[Docket No. AFRH 2009-01]

RIN 3030-ZA00

### Compliance with the National Environmental Policy Act

**AGENCY:** Armed Forces Retirement Home.

**ACTION:** Final rule.

**SUMMARY:** The Armed Forces Retirement Home (AFRH) has developed regulations establishing policy and assigning responsibilities for implementing the National Environmental Policy Act (NEPA) of 1969, related laws, executive orders, and regulations in the decision-making process of the AFRH. These regulations have been developed to comply with Section 103 of 42 U.S.C. 4321.

**DATES:** Effective November 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** Joe Woo, Master Planner, (202) 730-3445.

**SUPPLEMENTARY INFORMATION:** This rule is not a major rule for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, AFRH certifies that these rules will not have a significant impact on small business entities.

These rules set out environmental policy for the Armed Forces Retirement Home (AFRH) and provide direction for carrying out the procedural requirements of the National Environmental Policy Act. These regulations were developed to comply with Section 103 of 42 U.S.C. 4321. These rules were published for public comment in the **Federal Register** (August 27, 2009, 74 FR 43649) and no comments were received.

### List of Subjects in 38 CFR Part 200

Armed forces, Environmental protection, Retirement.

■ For the reasons stated in the preamble, the Armed Forces Retirement Home (AFRH) establishes 38 CFR Chapter II consisting of Part 200 to read as follows:

### CHAPTER II—ARMED FORCES RETIREMENT HOME

#### PART 200—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec.

200.1 Purpose.

200.2 Background.

200.3 Responsibilities.

200.4 Implementation of NEPA and related authorities.

200.5 Coordination with other authorities.

200.6 Public involvement.

200.7 Cooperating agencies.

200.8 AFRH participation in NEPA compliance by other agencies.

Appendix A to Part 200—Categorical Exclusions

Appendix B to Part 200—The Action Requiring an Environmental Assessment

Appendix C to Part 200—Actions Requiring Environmental Impact Statement

**Authority:** 24 U.S.C. 401, *et seq.*

#### § 200.1 Purpose.

These regulations set out AFRH environmental policy and provide direction for carrying out the procedural requirements of the National Environmental Policy Act (NEPA) and related legal authorities.

#### § 200.2 Background.

(a) The NEPA and the Council on Environmental Quality regulations implementing the procedural requirements of NEPA (40 CFR 1500 through 1508, hereinafter, the CEQ regulations) require that each Federal agency consider the impact of its actions on the human environment and prescribe procedures to be followed. Other laws, executive orders, and regulations provide related direction. NEPA establishes and AFRH adopts as policy that as a Federal agency, AFRH will: Use all practicable means, consistent with other essential

considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may:

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(b) As an important means of carrying out this policy, AFRH will analyze and consider the impacts of its proposed actions (activities, programs, projects, legislation) and any reasonable alternatives on the environment, and on the relationship of people with the environment. This analysis is to be undertaken early in planning any such action, as an aid to deciding whether the action will go forward, and if so how. Consideration must be given to reasonable alternative means of achieving the purpose and need for the proposed action, and to the alternative of not taking the proposed action. The analysis is to be completed, and used to inform the decision maker and make the public aware of the action's potential impacts, before the decision is made about whether and how to proceed with the action. Relevant environmental documents, comments, and responses regarding the proposal will accompany the proposal and be presented to the AFRH decision maker for their consideration.

(c) NEPA also requires and AFRH will ensure that, to the fullest extent possible, analyses and consultations required by other environmental laws be coordinated with those required under NEPA, to reduce redundancy, paperwork, time, and cost.

(d) The AFRH is an independent Federal agency that provides residence and related services for certain retired and former members of the Armed Forces. The AFRH has property in Washington, DC and Gulfport, MS.

(e) This part contains AFRH's general policy regarding NEPA implementation and sets out AFRH procedures that supplement the CEQ regulations for meeting NEPA requirements. It also assigns responsibilities to the Chief Operating Officer (COO) for the AFRH and the Master Planner. These regulations provide further detail regarding the conduct of NEPA impact analyses.

### **§ 200.3 Responsibilities.**

(a) The COO is the AFRH NEPA official responsible for compliance with NEPA for AFRH actions. The COO also provides the AFRH's views on other agencies' environmental impact statements (EIS).

(b) The Master Planner is the point of contact for information on: AFRH NEPA documents; NEPA oversight activities; and review of other agencies' EISs and NEPA documents.

(c) The AFRH's assigned counsel is the point of contact for legal questions involving environmental matters.

### **§ 200.4 Implementation of NEPA and related authorities.**

(a) *Classification of AFRH actions.* (1) All AFRH proposed actions typically fall into one of the following three classes, in terms of requirements for review under NEPA: Categorical exclusions, environmental assessments, and environmental impact statements.

(2) The Master Planner, is responsible for classifying proposed actions and undertaking the level of analysis, consultation, and review appropriate to each.

(b) *Categorical Exclusions (CATEX).* (1) A categorical exclusion (CATEX) is a category of actions which do not individually or cumulatively have a significant effect on the human environment, except under extraordinary circumstances (42 CFR 1508.4). Because they lack the potential for effect, they do not require detailed analysis or documentation under NEPA.

(i) Determining when to use a CATEX (screening criteria). To use a CATEX, the proponent must satisfy the following three screening conditions:

(A) The action has not been segmented. Determine that the action has not been segmented to meet the definition of a CATEX. Segmentation can occur when an action is broken down into small parts in order to avoid the appearance of significance of the total action. An action can be too narrowly defined, minimizing potential impacts in an effort to avoid a higher level of NEPA documentation. The scope of an action must include the consideration of connected, cumulative, and similar actions.

(B) No exceptional circumstances exist. Determine if the action involves extraordinary circumstances that would preclude the use of a CATEX (*see* paragraphs (b)(1)(ii)(A) through (xiv) of this section).

(C) One (or more) CATEX (*See* Appendix A to Part 200) encompasses the proposed action. Identify a CATEX (or multiple CATEXs) that potentially encompasses the proposed action. If no CATEX is appropriate, and the project is not exempted by statute or emergency provisions, an EA or an EIS must be prepared, before a proposed action may proceed.

(ii) Extraordinary circumstances that preclude the use of a CATEX are:

(A) Reasonable likelihood of significant effects on public health, safety, or the environment.

(B) Reasonable likelihood of significant environmental effects (direct, indirect, and cumulative).

(C) Imposition of uncertain or unique environmental risks.

(D) Greater scope or size than is normal for this category of action.

(E) Reportable releases of hazardous or toxic substances as specified in 40 CFR part 302.

(F) Releases of petroleum, oils, and lubricants, application of pesticides and herbicides, or where the proposed action results in the requirement to develop or amend a Spill Prevention, Control, or Countermeasures Plan.

(G) When a review of an action reveals that air emissions exceed de minimis levels or otherwise that a formal Clean Air Act conformity determination is required.

(H) Reasonable likelihood of violating any Federal, State, or local law or requirements imposed for the protection of the environment.

(I) Unresolved effect on environmentally sensitive resources, as defined in paragraph (b)(1)(iii) of this section.

(J) Involving effects on the quality of the environment that are likely to be highly controversial.

(K) Involving effects on the environment that are highly uncertain,

involve unique or unknown risks, or are scientifically controversial.

(L) Establishes a precedent (or makes decisions in principle) for future or subsequent actions that are reasonably likely to have a future significant effect.

(M) Potential for degradation of already existing poor environmental conditions. Also, initiation of a degrading influence, activity, or effect in areas not already significantly modified from their natural condition.

(N) Introduction/employment of unproven technology.

(iii) If a proposed action would adversely affect "environmentally sensitive" resources, unless the impact has been resolved through another environmental process (*e.g.*, CZMA, NHPA, CWA, *etc.*) a CATEX cannot be used. Environmentally sensitive resources include:

(A) Listed or proposed Federally listed, threatened, or endangered species or their designated or proposed critical habitats.

(B) Properties listed or eligible for listing on the National Register of Historic Places.

(C) Areas having special designation or recognition such as prime or unique agricultural lands; coastal zones; designated wilderness or wilderness study areas; wild and scenic rivers; National Historic Landmarks (designated by the Secretary of the Interior); 100-year floodplains; wetlands; sole source aquifers (potential sources of drinking water); National Wildlife Refuges; National Parks; areas of critical environmental concern; or other areas of high environmental sensitivity.

(iv) The use of a CATEX does not relieve the proponent from compliance with other statutes, such as RCRA, or consultations under the Endangered Species Act or the NHPA. Such consultations may be required to determine the applicability of the CATEX screening criteria.

(v) For those CATEXs that require documentation, a brief (one to two sentences) presentation of conclusions reached during screening should be included with the checklist. Checklists may be obtained from the Master Planner at 3700 North Capitol Street, NW., Washington, DC 20011.

(2) AFRH recognizes two types of CATEX:

(i) CATEX—does not require documentation unless the Master Planner determines that an extraordinary circumstance may exist, whereupon a CATEX—requires documentation must be prepared (*see* below). The likelihood of such a circumstance is judged to be so low that

no specific environmental document is typically required.

(ii) CATEX—requires documentation that involves a cursory review to ensure that no extraordinary circumstances exist. For an action falling into such a category, a CATEX requiring documentation is completed to support a determination by the Master Planner, as to whether the action needs further review under NEPA. A CATEX documentation is developed and maintained by the Master Planner.

(3) CATEXs requiring and not requiring documentation are listed in Appendix A of these regulations.

(c) *Environmental Assessment (EA)*.

(1) An Environmental Assessment (EA) is a concise public document prepared by or on behalf of AFRH that assists AFRH in deciding whether or not there may be significant effects requiring a more detailed Environmental Impact Statement. Actions typically requiring preparation of an EA are found in Appendix B to Part 200.

(2) The analysis required for an EA leads either to a Finding of No Significant Impact (FONSI) or a Notice of Intent (NOI) to prepare an Environmental Impact Statement. AFRH will prepare a FONSI in accordance with 40 CFR 1508.13, if the agency determines on the basis of the EA that there are no significant environmental effects and therefore, there is no need to prepare an Environmental Impact Statement. AFRH shall make the FONSI available to the affected public as specified in § 1506.6. Under certain limited circumstances, AFRH shall make the finding of no significant impact available for public review for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement;

(ii) The nature of the proposed action is one without precedent; or

(iii) There is controversy associated with the environmental effects of the proposed action.

(d) *Environmental Impact Statement (EIS)*. (1) An Environmental Impact Statement (EIS) is a detailed analysis and report, that presents the environmental effects of a proposed action and its reasonable alternatives. An EIS is prepared for any AFRH action that may have significant effects on the quality of the human environment. A Notice of Intent will be prepared and published in the **Federal Register** as soon as practicable after deciding to

prepare an EIS. When a lengthy period of time will elapse between the decision to prepare the EIS and preparation of the EIS, the notice of intent should be published at a reasonable time prior to preparing the EIS.

(2) Certain AFRH actions are likely to have significant effects on the quality of the human environment, and hence typically require an EIS. These classes of action are listed in Appendix C to Part 200.

(3) When it appears that the action is likely to have significant effects on the quality of the human environment, AFRH will prepare an EIS. An action that typically requires an EIS is found in Appendix C to Part 200. An EA may be prepared to aid in deciding whether an EIS is needed, or the responsible official may decide to prepare an EIS without preparing an EA.

(4) Direction for preparing, circulating, finalizing, and using an EIS in decision making is found in the CEQ Regulations (40 CFR Parts 1500–1508).

(e) *Supplemental statements*. If an EA or an EIS has been completed and the AFRH goes to implement the action, but no action has been taken within four years of the completion of the EA or EIS, the AFRH will review the document to determine if circumstances have changed that would warrant a supplement to the original document. A supplemental statement will be provided to the decision maker to inform the decisions on whether and how to proceed with the proposed action and be maintained with the previous EA or EIS and related records for the proposed action.

(f) *Using NEPA in decision making*.

(1) Compliance with NEPA and related authorities will begin at the earliest point in planning any action, when the widest reasonable range of alternatives is open for consideration.

(2) The NEPA review process will be carried out in coordination with continued planning.

(3) All personnel involved in planning actions should view NEPA review as part of effective planning, not as a mere documentation requirement.

(4) Outside agencies, State and local governments, Indian Tribes, and the public will whenever practicable be afforded reasonable opportunities to participate in the NEPA process.

(5) The results of NEPA review will be fully considered by each AFRH decision-maker before making a decision on an action subject to such review and the alternatives considered by the decision-maker will be encompassed within the range of alternatives for the action.

(6) AFRH will ensure relevant environmental documents, comments, and responses are part of the record in formal rulemaking or adjudicatory proceedings.

(7) Executives and other employees responsible for aspects of NEPA review will be held accountable for the performance of such responsibilities, through performance reviews and other administrative mechanisms.

#### **§ 200.5 Coordination with other authorities.**

(a) To the maximum extent feasible, NEPA review shall be coordinated with review of proposed actions under other environmental legal authorities, including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the National Historic Preservation Act (NHPA); the Endangered Species Act (ESA); Executive Orders 11988, 11990, and 13006; and other applicable authorities.

(b) In effecting such coordination, responsible AFRH officials will ensure that the substantive and procedural requirements of other environmental authorities are met, together with the requirements of NEPA. It will be explicitly understood that compliance with NEPA does not substitute for compliance with other environmental authorities, nor does compliance with such other authority substitute for compliance with NEPA.

#### **§ 200.6 Public involvement.**

(a) As part of its system for NEPA compliance, the COO and the Master Planner shall provide for levels and kinds of public involvement appropriate to the proposed action and its likely effects.

(b) Where a related authority provides specific procedures for public involvement, the responsible AFRH official shall ensure that such procedures where practicable in the process of NEPA review.

(c) Public involvement in the AFRH NEPA process shall have as its purpose the full disclosure of AFRH actions and alternatives to the public, within the constraints of AFRH program authorities, and giving the public a full opportunity to comment on the environmental effects of AFRH proposals.

(d) Pursuant to Executive Order 12898, special efforts will be made to involve members of potentially affected low-income and minority communities in NEPA review and decision-making. Such efforts may include, but are not limited to, special programs of community outreach, including cross-

cultural programs, translations of pertinent documents, and ensuring that translators are available at public meetings.

(e) Information pertaining to AFRH actions and/or NEPA documentation can be obtained through the Master Planner at 3700 North Capital Street, NW, Washington, DC 20011.

#### **§ 200.7 Cooperating agencies.**

(a) Federal agencies with jurisdiction by law will be invited to serve as cooperating agencies and Federal agencies with special expertise may be invited to serve as cooperating agencies in the conduct of NEPA review of an AFRH proposed action.

(b) The responsible AFRH official will invite other Tribal, State, and local agencies to serve as cooperating agencies with subject matter jurisdiction or special expertise in the conduct of NEPA review of an AFRH proposed action.

#### **§ 200.8 AFRH participation in NEPA compliance by other agencies.**

(a) AFRH may participate in the NEPA process as a cooperating agency for another lead agency's project, or as a commenter/reviewer of another agency's NEPA document. AFRH may also participate in environmental studies carried out by non-Federal parties (for example, a local government conducting studies under a State environmental policy law) where such studies are relevant to AFRH's interests or may be incorporated by AFRH into its own studies under NEPA. Where AFRH will be responsible for a decision on a project that is the subject of such a study, and has the authority to do so, AFRH will ensure that the study and its resulting documents meet the standards set forth in these regulations in coordination with the COO.

(b) As a cooperating agency, AFRH participates in the NEPA process as requested by the lead agency, in accordance with 40 CFR 1501.6 of the CEQ regulations. Tasks may include participating in meetings and providing specific information relevant to the matters over which it has jurisdiction by law or expertise.

(c) AFRH comments shall be prepared in consultation with, or by, the Master Planner.

(d) The responsible AFRH official may provide comments and/or reviews of another agency's NEPA documents, and/or other Federal and State environmental documents.

(e) AFRH comments shall be provided in accordance with 40 CFR 1503.3.

### **Appendix A to Part 200—Categorical Exclusions**

#### **A.1 Purpose**

The purpose of Categorical Exclusions (CATEXs) is to limit extensive NEPA analysis to those actions that may be major Federal actions significantly affecting the quality of the human environment, thus saving time, effort, and taxpayer dollars.

#### **A.2 Definition**

An action is categorically excluded from the requirement to prepare an EA or an EIS if it meets the following definition:

"Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in § 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect. (40 CFR 1508.4)

AFRH has identified two types of CATEXs: (1) The CATEX, which does not require documentation and requires completion of an environmental checklist.

#### **A.3 CATEXs—Requires No Documentation**

The following CATEXs require no documentation.

A.3(a) Granting a lease (*i.e.*, outlease), an easement, license, permit (*i.e.*, licenses to Federal entities), or other arrangements for Federal or non-Federal use of AFRH controlled real property, where such use will remain substantially the same in scope and intensity.

A.3(b) Extensions or renewals of leases, licenses or permits (*i.e.*, licenses to Federal entities) or succeeding leases, easements, licenses or permits whether AFRH is acting as grantor or grantee and there is no change in use of the facility.

A.3(c) Repair and alteration projects involving, but not adversely affecting, properties listed on or eligible for the National Register of Historic Places.

A.3(d) Repair to or replacement in kind of equipment or components in AFRH-controlled facilities without change in location, *e.g.* HVAC, electrical distribution systems, windows, doors or roof.

A.3(e) Disposal or other disposition of claimed or unclaimed personal property of deceased persons.

A.3(f) Supportive services that include health care and housing services, permanent housing placement, day care, nutritional services, collection of payment for services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services.

A.3(g) Normal personnel, fiscal, and administrative activities involving civilian

personnel (recruiting, processing, paying, and records keeping).

A.3(h) Routine or minor facility maintenance, custodial, and groundskeeping activities such as window washing, lawn mowing, trash collecting, and snow removal that do not involve environmentally sensitive areas (such as eroded areas, wetlands, cultural sites, or areas with endangered/threatened species).

A.3(i) Environmental Site Assessment activities under RCRA and CERCLA;

A.3(j) Geological, geophysical, geochemical, and engineering surveys and mapping, including the establishment of survey marks;

A.3(k) Installation and operation of ambient air and noise monitoring equipment that does not include constructing or erecting towers;

A.3(l) Routine procurement of goods and services (complying with applicable procedures for sustainable or "green" procurement) to support operations and infrastructure, including routine utility services and contracts.

A.3(m) Routine movement/relocations of residents on site.

#### **A.4 CATEXs Requiring Documentation**

The following are categorical exclusions that require preparation of a checklist to ensure that no extraordinary circumstances exist that would require preparation of an EA or EIS. Checklists may be obtained from the Master Planner at 3700 North Capitol Street, NW., Washington, DC 20011.

A.4(a) Expansion or improvement of an existing facility where all of the following conditions are met:

A.4(a)(1) The structure and proposed use are substantially in compliance with local planning and zoning and any applicable State or Federal requirements;

A.4(a)(2) The proposed use will only slightly increase the number of motor vehicles at the facility;

A.4(a)(3) The site and the scale of construction are consistent with those of existing adjacent or nearby buildings; and

A.4(a)(4) There is no evidence of environmental controversy.

A.4(b) Transfer or disposal of real property to State or local agencies for preservation or protection of wildlife conservation and historic monument purposes.

A.4(c) Disposal of fixtures, related personal property, demountable structures, and transmission lines in accordance with management requirements.

A.4(d) Disposal of properties where the size, area, topography, and zoning are similar to existing surrounding properties and/or where current and reasonable anticipated uses are or would be similar to current surrounding uses (*e.g.*, commercial store in a commercial strip, warehouse in an urban complex, office building in downtown area, row house or vacant lot in an urban area).

A.4(e) Demolition, removal and disposal of debris from the demolition or improvement of buildings and other structures neither on nor eligible for listing on the National Register of Historic Places and when under applicable regulations (*i.e.*, removal of asbestos, polychlorinated biphenyls (PCBs),

and other hazardous material) when other environmental laws and regulations will be satisfied prior to the of demolition, removal and disposal.

A.4(f) Relocations and realignments of employees and/or residents from one geographic area to another that: Fall below the thresholds for reportable actions and do not involve related activities such as construction, renovation, or demolition activities that would otherwise require an EA or an EIS to impellent. This includes reorganization and reassignments with no changes in employee and/or resident status, and routine administrative reorganizations and consolidations.

#### Appendix B to Part 200—The Action Requiring an Environmental Assessment

The following actions are not considered to be major Federal actions significantly affecting the quality of the human environment and, therefore, require an Environmental Impact Statement (EIS) nor are considered a categorical exclusion as defined in these regulations and would require the preparation of an Environmental Assessment (EA):

B.1 Construction on previously disturbed property where there is the potential for an increase in traffic and people.

#### Appendix C to Part 200—Actions Requiring Environmental Impact Statement

The following actions are considered to be major Federal actions significantly affecting the quality of the human environment, and therefore must be the subjects of EIS, as indicates may have significant environmental effects:

C.1 Acquisition of space by Federal construction or lease construction, or expansion or improvement of an existing facility, where one or more of the following applies:

C.1(a) The structure and/or proposed use are not substantially consistent with local planning and zoning or any applicable State or Federal requirements.

C.1(b) The proposed use will substantially increase the number of motor vehicles at the facility.

C.1(c) The site and scale of construction are not consistent with those of existing adjacent or nearby buildings.

C.1(d) There is evidence of current or potential environmental controversy.

C.2 Space acquisition programs projected for a substantial geographical area (e.g., a metropolitan area) for a 3-to-5-year period or greater (Note: a Programmatic EIS is often appropriate here, from which subsequent EISs and EAs can be tiered).

Dated: October 28, 2009.

**Timothy Cox,**

*Chief Operating Officer.*

[FR Doc. E9-26376 Filed 11-6-09; 8:45 am]

**BILLING CODE 8250-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0042; FRL-8902-6]

### Revisions to the Arizona State Implementation Plan, Maricopa County Air Quality Department and Maricopa County

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern PM-10 emissions from open outdoor fires and indoor fireplaces at commercial and institutional establishments, primary and secondary MCAQD ambient air quality standards, and residential woodburning devices. We are approving local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on January 8, 2010 without further notice, unless EPA receives adverse comments by December 9, 2009. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2009-0042, by one of the following methods:

- *Federal eRulemaking Portal:*

*www.regulations.gov.* Follow the on-line instructions.

- *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

• *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**Instructions:** All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail.

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

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

#### FOR FURTHER INFORMATION CONTACT:

Alfred Petersen, EPA Region IX, (415) 947-4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

#### Table of Contents

- I. The State’s Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What are the purposes of the submitted rule revisions?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. EPA recommendation to further improve a rule.
  - E. Public comment and final action.
- III. Statutory and Executive Order Reviews

#### I. The State’s Submittal

##### A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that the rules were amended by the local air agencies and submitted by the Arizona Department of Environmental Quality (ADEQ).