Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM UT E5 Heber City, UT [NEW]

Heber City Muni-Russ McDonald Field, UT
(Lat. 40°28′55″N., long. 111°25′44″W.)

That airspace extending upward from 700 feet above the surface within the 5-mile radius of the Heber City Muni-Russ McDonald Field, and within 2 miles each side of the 010° bearing from the airport extending to 7.8 miles, and within 2 miles each side of the 160° bearing extending to 8.9 miles; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 41°13′45″N., long. 111°24′20″W., to lat. 41°11′34″N., long. 111°09′28″W., to lat. 40°09′40″N., long. 111°15′42″W., to lat. 40°10′52″N., long. 111°34′57″W., to lat. 40°30′00″N., long. 111°34′57″W to origin, and excluding that airspace within Federal airways; the Salt Lake City, UT; and the Evanston, WY, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on June 14, 2001.

Dan A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–15610 Filed 6–20–01; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 241, 251 and 271

[Release Nos. 33–7985, 34–44424; 35–27419; IC–25003]

RIN 3235–AI14

Application of the Electronic Signatures in Global and National Commerce Act To Record Retention Requirements Pertaining to Issuers Under the Securities Act of 1933, Securities Exchange Act of 1934 and Regulation S-T

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: We are publishing guidance on the obligations of issuers to maintain certain records under the Securities Act of 1933 (''Securities Act''), Securities Exchange Act of 1934 (''Exchange Act'') and Regulation S-T in light of the Electronic Signatures in Global and National Commerce Act (''E-SIGN'').

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mark A. Borges, Division of Corporation Finance, at (202) 942–2910.

SUPPLEMENTARY INFORMATION: We are publishing guidance [1] on the impact of E-SIGN [2] on our rules promulgated under the Securities Act,[3] Exchange Act [4] and Regulation S-T [5] that require issuers to retain signature authentication documents and certain other records for specified time periods.

Discussion

I. Background

E-SIGN seeks to promote electronic commerce by permitting and encouraging the use of electronic records and signatures in transactions in interstate or foreign commerce.[6] Generally, E-SIGN provides that, with respect to any transaction [7] within its scope, a signature, contract or other record relating to the transaction may not be denied legal effect, validity or enforceability solely because it is in electronic form.[8] Similarly, E-SIGN provides that a contract relating to such transaction may not be denied legal effect, validity or enforceability solely because an electronic signature or electronic record was used in its formation.[9]

E-SIGN also encourages the electronic storage of records relating to business, consumer and commercial transactions.[10] Further, E-SIGN authorizes federal and state regulatory agencies to set standards and formats for the retention of these electronic records.[11]

II. E-SIGN's Record Retention Provision

Under E-SIGN, if a statute, regulation or other rule of law requires that a contract or other record relating to a transaction be retained, that requirement is met by retaining an electronic record of the information in the contract or other record if the electronic record

- Accurately reflects the information set forth in the contract or other record; and
- Remains accessible to all persons who are entitled to access by statute, regulation or rule of law, for the period required by such statute, regulation or rule of law, in a form that is capable of being accurately reproduced for later reference.[12]

E-SIGN generally supersedes pre-existing regulatory agency requirements that a record be kept on paper if that record is generated in a business, consumer or commercial transaction.[13] If, however, the record is generated

[1] Except for the discussion in this release about authentication documents, our views expressed today do not address record retention requirements for investment companies and public utility holding companies. Our views also do not address record retention requirements for investment advisers, transfer agents or broker-dealers. These matters are addressed in separate releases. *See* Investment Company Act Release No. 24991 (May 24, 2001) [66 FR 29224 (May 30, 2001)] (investment companies and investment advisers); Public Utility Holding Company Act Release No. 27404 (May 24, 2001) [66 FR 29471 (May 31, 2001)] (public utility holding companies); Exchange Act Release No. 44238 (May 1, 2001) [66 FR 22916 (May 7, 2001)] (broker-dealers); and Exchange Act Release No. 44227 (Apr. 27, 2001) [66 FR 21648 (May 1, 2001)] (transfer agents). This release does not in any way affect the record retention requirements discussed in those releases.

As we have previously noted (*see* Securities Act Release No. 7912 (Oct. 27, 2000) [65 FR 65736 (Nov. 2, 2000)]; Securities Act Release No. 7877 (July 27, 2000) [65 FR 47281 (Aug. 2, 2000)]), we are considering the broader implications of the Electronic Signatures in Global and National Commerce Act on securities transactions.

[2] Pub. L. No. 106–229, 114 Stat. 464 (2000) (codified at 15 U.S.C. 7001–7006, 7021, 7031).

[3] 15 U.S.C. 77a, *et seq.*

[4] 15 U.S.C. 78a, *et seq.*

[5] 17 CFR 232.10—232.601.

[6] E-SIGN preamble.

[7] E-SIGN section 106(13) [15 U.S.C. 7106(13)] defines the term ''transaction'' generally to mean ''an action or set of actions relating to the conduct of business, consumer or commercial affairs between two or more persons.''

[8] E-SIGN section 101(a)(1) [15 U.S.C. 7001(a)(1)]. Note, however, that section 101(e) of E-SIGN [15 U.S.C. 7001(e)] provides that legal effect, validity or enforceability may be denied to a contract or other record required to be in writing that is kept in electronic form if the electronic record is not in a form that is capable of being retained and accurately reproduced for later reference by all involved parties.

[9] E-SIGN section 101(a)(2) [15 U.S.C. 7001(a)(2)].

[10] E-SIGN section 101(d)(1) [15 U.S.C. 7001(d)(1)]. With respect to record retention requirements imposed by a federal statute or agency rule, E-SIGN became effective on March 1, 2001 unless a federal regulatory agency had announced, proposed or initiated rulemaking to establish performance standards to assure accuracy, record integrity and accessibility of electronic records on or before that date. Where a federal regulatory agency announced, proposed or initiated a rulemaking project on or before March 1, 2001, the effective date of E-SIGN was postponed until June 1, 2001 with respect to those record retention requirements. *See* E-SIGN section 107(b)(1) [15 U.S.C. 7007(b)(1)]. On February 28, 2001, we published notice of our intention to engage in rulemaking in order to provide interpretive guidance and, where appropriate, propose or adopt electronic performance standards consistent with E-SIGN. *See* Securities Act Release No. 7955 (Feb. 28, 2001) [66 FR 13273 (Mar. 5, 2001)]. Accordingly, to the extent that E-SIGN affects any record retention requirements under the federal securities laws, E-SIGN took effect on June 1, 2001, instead of March 1, 2001.

[11] E-SIGN section 104(b)(3) [15 U.S.C. 7004(b)(3)].

[12] E-SIGN section 101(d)(1) [15 U.S.C. 7001(d)(1)]. E-SIGN preserves our authority to interpret this provision. E-SIGN section 104(b)(1) [15 U.S.C. 7004(b)(1)].

[13] *See* Office of Management and Budget, Memorandum for the Heads of Departments and Agencies from Jacob J. Lew, No. M–00–15, *OMB Guidance on Implementing the Electronic Signatures in Global and National Commerce Act* (Sept. 25, 2000), Part III, B.1 (''OMB Guidance'').

principally for governmental purposes, it is not subject to E-SIGN.[14]

III. Record Retention Requirements Imposed on Issuers Under the Securities Act, Exchange Act and Regulation S-T

Several of our disclosure rules require issuers to retain records related to the documents filed with us or distributed to investors. Of principal concern to us is the provision in Regulation S-T that requires issuers to retain manually-signed signature pages or other documents that signatories must execute (''authentication documents'') to authenticate, acknowledge or otherwise adopt their signatures that appear in typed form within electronically filed documents.[15] These authentication documents must be executed before or at the time an issuer makes an electronic filing. The filer must retain each authentication document for a period of five years and furnish it to us upon request. Comparable requirements exist under the Securities Act and the Exchange Act where typed, duplicated or facsimile signatures appear on a document that we permit issuers to file with us in paper form.[16]

We believe that these requirements to retain authentication documents are not subject to E-SIGN because authentication documents are records generated principally for governmental purposes rather than in connection with a business, consumer or commercial transaction.[17] Moreover, these authentication documents arise in the context of a governmental filing. Governmental filings are expressly excluded from E-SIGN.[18] Accordingly, issuers subject to these retention requirements should continue to retain the paper original of all authentication documents.[19]

Other rules under the Securities Act, Exchange Act and Regulation S-T that require issuers to retain records[20] do not expressly require that the records be retained in paper form.[21] Accordingly, issuers may elect to keep these records in electronic form as long as the storage method selected offers the same assurances of accuracy and accessibility as are provided by paper retention.

At this time, we do not believe that the specification of any additional standards[22] for the electronic retention of issuer records subject to E-SIGN is needed to protect investors. If questions arise about the accuracy, integrity or accessibility of electronic records in the future, we may exercise our authority to impose appropriate standards for electronic retention.

List of Subjects

17 CFR Parts 231 and 241

Securities.

17 CFR Part 251

Holding companies; Securities.

17 CFR Part 271

Investment companies; Securities.

Amendments to the Code of Federal Regulations

For the reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as set forth below:

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

1. Part 231 is amended by adding Release No. 33–7985 and the release date of June 14, 2001, to the list of interpretive releases.

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

2. Part 241 is amended by adding Release No. 34–44424 and the release date of June 14, 2001, to the list of interpretive releases.

PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

3. Part 251 is amended by adding Release No. 35–27419 and the release date of June 14, 2001, to the list of interpretive releases.

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[14] *Id.* at Part I, B and Part III, B.1. The OMB Guidance provides two examples that illustrate this point. In the first example, E-SIGN applies to a governmental agency's requirement that a seller retain a copy of the contract of sale for a regulated substance for future audit or law enforcement purposes because the contract is generated as part of a commercial transaction. In the second example, E-SIGN does not apply to a governmental agency's requirement that a seller retain a copy of an audit of its consumption of the regulated substance because retention is not ''related to'' a commercial transaction, but occurs to comply with a governmental requirement. *See also* 146 Cong. Rec. H4357 (daily ed. Jun. 14, 2000) (statement of Rep. Dingell).

Records generated to comply with governmental requirements are subject to the Government Paperwork Elimination Act [Pub. L. No. 105–277, Title XVII, §§ 1701—1710 (1998) (codified at 44 U.S.C. 3504)], which is effective October 21, 2003.

[15] *See* Item 302(b) of Regulation S-T [17 CFR 232.302(b)]. Since 1993, we have required most documents filed or otherwise submitted to us to be transmitted electronically to our Electronic Data Gathering, Analysis and Retrieval, or EDGAR, system. Regulation S-T, in conjunction with the EDGAR Filer Manual and the electronic filing provisions of applicable rules, regulations and forms, governs the electronic submission of documents filed or otherwise submitted to us via EDGAR. *See* Item 10(a) of Regulation S-T [17 CFR 232.10(a)].

[16] *See* Securities Act Rule 402(e) [17 CFR 230.402(e)]; Securities Act Rule 471(b) [17 CFR 230.471(b)]; Exchange Act Rule 12b-11(d) [17 CFR 240.12b-11(d)]; and Exchange Act Rule 14d-1(h) [17 CFR 240.14d-1(h)]. A similar requirement is applicable to beneficial owners of more than ten percent of any class of equity securities registered under Section 12 of the Exchange Act [15 U.S.C. 78l], and the officers and directors of the issuer of such security who are subject to Section 16(a) of the Exchange Act [15 U.S.C. 78p(a)]. *See* Exchange Act Rule 16a-3(i) [17 CFR 240.16a-3(i)] (retention of manually-signed signature page for any Section 16(a) statement filed with a typed, duplicated or facsimile signature).

[17] As explained in the adopting release for Regulation S-T, generally the authentication document retention requirement was established to provide a satisfactory means by which signatories could authenticate and adopt their typed signatures appearing on filed documents for evidentiary purposes. *See* Securities Act Release No. 6977, Section III.F.2 (Feb. 23, 1993) [58 FR 14628 (Mar. 18, 1993)]. Subsequently, comparable changes were made to the signature requirements for paper filings under the Securities Act and Exchange Act. *See* Securities Act Release No. 7300, Section IV (May 31, 1996) [61 FR 30397 (June 14, 1996)].

[18] E-SIGN section 104(a) [15 U.S.C. 7004(a)].

[19] Similarly, officers, directors and greater than ten percent beneficial owners who are subject to Section 16(a) of the Exchange Act should continue to retain the paper original of their authentication documents. *See* Exchange Act Rule 16a-3(i) [17 CFR 240.16a-3(i)].

[20] *See*, for example, Securities Act Rule 428(a)(2) [17 CFR 230.428(a)(2)] (issuers filing registration statements on Form S–8 [17 CFR 239.16b] required to retain documents comprising the Form S–8 prospectus for a period of five years after last use) and Item 405(b)(2)(ii) of Regulation S-K [17 CFR 229.405(b)(2)(ii)] (issuers that maintain for a period of two years the written representation of any reporting person under Section 16(a) of the Exchange Act [15 U.S.C. 78p(a)] that they were not required to file an annual statement of beneficial ownership of securities on Form 5 [17 CFR 249.105] for the issuer's most recently completed fiscal year not required to identify reporting person as having failed to file a Form 5 for that year).

[21] We note, however, that Item 304(c) of Regulation S-T [17 CFR 232.304(c)] requires electronic filers to retain for a period of five years a copy of each publicly distributed document, in the format used, that contains graphic, image, audio or video material where such material is not included in the filed version of the document. Therefore, if graphic or image material is distributed to investors in paper, an issuer would have to retain the information in paper under the rule. We will not object, however, if issuers elect to keep graphic or image information in electronic form, so long as it is a form that replicates the appearance of the distributed document.

[22] E–SIGN permits us to establish performance standards to assure the accuracy, record integrity and accessibility of records that are required to be retained. See E–SIGN section 104(b)(3)(A) [15 U.S.C. 7004(b)(3)(A)].

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. Part 271 is amended by adding Release No. IC–25003 and the release date of June 14, 2001, to the list of interpretive releases.

Dated: June 14, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–15455 Filed 6–20–01; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 226–0271; FRL–6998–3]

Revision to the California State Implementation Plan, Antelope Valley Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a full disapproval of a revision to the Antelope Valley Air Pollution Control District portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on November 14, 2000 and concerns volatile organic compound (VOC) emissions from the transfer of gasoline at dispensing stations. We are taking this action under authority of the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on July 23, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Antelope Valley Air Pollution Control District, 43301 Division Street, Suite 206, (P.O. Box 4038), Lancaster, CA 93539.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On November 14, 2000 (65 FR 68111), EPA proposed a full disapproval of the following rule that was submitted for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
AVAPCD	461	Gasoline Transfer and Dispensing	09/15/98	05/13/99

Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following party:

• Charles L. Fryxell, AVAPCD; letter dated December 12, 2000 and received December 14, 2000.

The comments and our responses are summarized below.

Comment I: AVAPCD disagrees with EPA that the reference to Rule 430 must be removed from Rule 461 because Rule 430 is not in the SIP and is not appropriate for the SIP. AVAPCD argues that Rule 430 was appropriately submitted to EPA as a SIP revision to support the District's title V program. AVAPCD believes that pursuant to the part 70 White Papers #1 and #2, submitted Rule 430 should be considered enforceable unless and until EPA disapproves it.

Response: Page 19 of part 70 White Paper #2 provides for Districts to write Title V permits that rely on rules that have been submitted but not approved by EPA, where the District reasonably believes that the submitted rule will be approved. This does not adequately support the comment on Rule 461 because:

(1) The White Papers do not address the case where a SIP rule, rather than a permit, references rules submitted but not approved.

(2) Based on the EPA correspondence referenced in the comment, AVACPD cannot reasonably assume that the submitted Rule 430 will be approved.

Because we believe Rule 430 will not be incorporated into the SIP and because we have identified other deficiencies in Rule 461, we believe it is appropriate to list the reference to Rule 430 as a deficiency in Rule 461. However, if AVAPCD continues to request EPA action on Rule 430, we can act on Rule 430 in a time frame consistent with District activity to revise Rule 461.

Comment II: AVAPCD comments that they removed the ''Self-Compliance Program'' (SCP) from Rule 461 because South Coast Air Quality Management District (SCAQMD) audits showed that the SCP was ineffective. AVAPCD also comments that they intend to monitor changes that SCAQMD has made in their SCP and will consider EPA's suggested replacement program.

Response: Information collected over the last several years by CARB, SCAQMD and others show considerable VOC emissions caused by inadequately maintained vapor recovery equipment. The SCP was designed to require regular equipment inspections and upkeep to ensure reasonable emission control. While this program may be flawed, we believe it has resulted in significant emission reductions. AVAPCD's removal of the SCP requirement without equivalent replacement violates sections 110(l), 182(b)(2), and 182(b)(3) of the CAA.

Comment III: AVAPCD comments that the proposed disapproval should be a limited approval/limited disapproval, because the rule was previously approved into the SIP and portions of the proposed amendments, including the deletion of the training requirement, the conditional extension of the exemption for mobile fuelers, and a