(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day send by Express Mail service to all participants in the most recent omnibus rate case a notice which briefly describes its proposal. Such notice shall indicate on its first page that it is a notice of a Request for Establishment of a Provisional Service to be considered under §§ 3001.171 through 3001.176, and identify the last day for filing a notice of intervention with the Commission.

(e) Within 5 days after receipt of a Postal Service request under the provisions of this subpart, the Commission shall issue a notice of proceeding and provide for intervention by interested parties pursuant to § 3001.20. In the event that a party wishes to dispute a genuine issue of material fact to be resolved in the consideration of the Postal Service's request, that party shall file with the Commission a request for a hearing within the time allowed in the notice of proceeding. The request for a hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position. The Commission will hold hearings on a Postal Service request made pursuant to this subpart when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue.

**§ 3001.174 Rule for decision.**

The Commission will issue a decision on the Postal Service's proposed provisional service in accordance with the policies of the Postal Reorganization Act, but will not recommend modification of any feature of the proposed service which the Postal Service has identified in accordance with § 3001.172(a)(iii). The purpose of this subpart is to allow for consideration of proposed provisional services within 90 days, consistent with the procedural due process rights of interested persons.

**§ 3001.175 Data collection and reporting requirements.**

In any case in which the Commission has issued a recommended decision in favor of a provisional service of limited duration requested by the Postal Service, and the Board of Governors has put the provisional service recommended by the Commission into effect, the Postal Service shall collect and report data pertaining to the provisional service during the period in which it is in effect in accordance with the periodic reporting requirements specified in § 3001.102. If the Postal Service's regular data reporting systems are not revised to include the provisional service during the period of its effectiveness, the Postal Service shall perform, and provide to the Commission on a schedule corresponding to § 3001.102 reports, special studies to provide equivalent information to the extent reasonably practicable.

**§ 3001.176 Continuation or termination of provisional service.**

At any time during the period in which a provisional service recommended by the Commission and implemented by the Board of Governors is in effect, the Postal Service may submit a formal request that the provisional service be terminated, or that it be established, either as originally recommended by the Commission or in modified form, as a permanent mail classification. Following the conclusion of the period in which the provisional service was effective, the Postal Service may submit a request to establish the service as a mail classification under any applicable subpart of the Commission's rules.

6. Amend Part 3001 by adding Subpart K, Rules for Use of Multi-Year Test Periods, §§ 3001.181–3001.182 to read as follows:

## Subpart K—Rules for Use of Multi-Year Test Periods

**§ 3001.181 Use of multi-year test period for proposed new services.**

(a) The rules in §§ 3001.181 and 3001.182 apply to Postal Service requests pursuant to section 3623 for the establishment of a new postal service, with attendant rates, which in the estimation of the Postal Service cannot generate sufficient volumes and revenues to recover all costs associated with the new service in the first full fiscal year of its operation. In administering these rules, it shall be the Commission's policy to adopt tests periods of up to 5 fiscal years for the purpose of determining breakeven for newly introduced postal services where the Postal Service has presented substantial evidence in support of the test period proposed.

(b) This section and § 3001.182 are effective November 28, 2001 through November 28, 2006.

**§ 3001.182 Filing of formal request and prepared direct evidence.**

In filing a request for establishment of a new postal service pursuant to section 3623, the Postal Service may request that its proposal be considered for a test period of longer duration than the test period prescribed in § 3001.54(f)(2). Each such request shall be supported by the following information:

(a) The testimony of a witness on behalf of the Postal Service, who shall provide:

(1) A complete definition of the multi-year test period requested for the proposed new service;

(2) A detailed explanation of the Postal Service's preference of a multi-year test period, including the bases of the Service's determination that the test period prescribed in § 3001.54(f)(2) would be inappropriate; and

(3) A complete description of the Postal Service's plan for achieving an appropriate contribution to institutional costs from the new service by the end of the requested test period.

(b) Complete documentary support for, and detail underlying, the test period requested by the Postal Service, including:

(1) Estimated costs, revenues, and volumes of the proposed new service for the entire requested test period;

(2) Return on investment projections and all other financial analyses prepared in connection with determining the cost and revenue impact of the proposed new service; and

(3) Any other analyses prepared by the Postal Service that bear on the overall effects of introducing the proposed new service during the requested test period.

[FR Doc. 01–27090 Filed 10–26–01; 8:45 am]

BILLING CODE 7710–FW–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 70

**[AL–T5–2001–02; FRL–7091–2]**

## Clean Air Act Final Full Approval of Operating Permit Programs; Alabama, City of Huntsville, and Jefferson County

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

**ACTION:** Final full approval.

**SUMMARY:** EPA is promulgating full approval of the operating permit programs of the Alabama Department of Environmental Management, the City of Huntsville's Division of Natural Resources, and the Jefferson County Department of Health. These programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits

to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On November 15, 1995, EPA granted interim approval to the Alabama, Huntsville, and Jefferson County title V operating permit programs. These agencies revised their programs to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on August 28, 2001. EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the Alabama, Huntsville, and Jefferson County operating permit programs.

**EFFECTIVE DATE:** November 28, 2001.

**ADDRESSES:** Copies of the Alabama, Huntsville, and Jefferson County submittals and other supporting documentation used in developing the final full approval are available for inspection during normal business hours at EPA, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Interested persons wanting to examine these documents, which are contained in EPA docket number AL–T5–2001–01, should make an appointment at least 48 hours before the visiting day.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kim Pierce, EPA Region 4, at (404) 562–9124 or *pierce.kim@epa.gov/.*

**SUPPLEMENTARY INFORMATION:** This section provides additional information by addressing the following questions:

What is the operating permit program?
Why is EPA taking this action?
What is involved in this final action?

**What Is the Operating Permit Program?**

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under the title V program include: ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides ( $NO_X$), or particulate matter ($PM_{10}$); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of VOCs or $NO_X$.

**Why Is EPA Taking This Action?**

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the Alabama, Huntsville, and Jefferson County programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to these programs in a rulemaking (60 FR 57346) published on November 15, 1995. The interim approval notice described the conditions that had to be met in order for the Alabama, Huntsville, and Jefferson County programs to receive full approval. Interim approval of these programs expires on December 1, 2001.

**What Is Involved in This Final Action?**

The Alabama Department of Environmental Management, the City of Huntsville's Division of Natural Resources, and the Jefferson County Department of Health have fulfilled the conditions of the interim approval granted on November 15, 1995. On August 28, 2001, EPA published a notice in the **Federal Register** (see 66 FR 45253) proposing full approval of the Alabama, Huntsville, and Jefferson County title V operating permit programs, and proposing approval of other program revisions. Since EPA did not receive any comments on the proposal, this action promulgates final full approval of the Alabama, Huntsville, and Jefferson County programs and final approval of the other program changes described in the proposal.

**Administrative Requirements**

*A. Docket*

Copies of the Alabama, Huntsville, and Jefferson County submittals and other supporting documentation used in developing the final full approval are contained in docket files maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. The docket files are available for public inspection at the location listed under the **ADDRESSES** section of this document.

*B. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

*C. 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.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

*D. Executive Order 13132*

This rule does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the CAA.

*E. Executive Order 13175*

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000).

*F. Executive Order 13211*

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866.

*G. Regulatory Flexibility Act*

The Regulatory Flexibility Act 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 a 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 rule will not have a significant impact on a substantial number of small entities because operating permit program approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

*H. Unfunded Mandates Reform Act*

Under sections 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

*J. Paperwork Reduction Act*

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*K. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 70**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: October 18, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

## PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by revising the entry for Alabama to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

* * * * *

**Alabama**

(a) Alabama Department of Environmental Management:

(1) Submitted on December 15, 1993, and supplemented on March 3, 1994; March 18, 1994; June 5, 1995; July 14, 1995; and August 28, 1995; interim approval effective on December 15, 1995; interim approval expires on December 1, 2001.

(2) Revisions submitted on July 19, 1996; April 9, 1997; August 4, 1999; January 10, 2000; and May 11, 2001. The rule revisions contained in the July 19, 1996; January 10,

2000; and May 11, 2001 submittals adequately addressed the conditions of the interim approval which expires on December 1, 2001. The State is hereby granted final full approval effective on November 28, 2001.

(b) City of Huntsville Division of Natural Resources:

(1) Submitted on November 15, 1993, and supplemented on July 20, 1995; interim approval effective on December 15, 1995; interim approval expires on December 1, 2001.

(2) Revisions submitted on March 21, 1997; July 21, 1999; December 4, 2000; February 22, 2001; April 9, 2001; and September 18, 2001. The rule revisions contained in the March 21, 1997; April 9, 2001; and September 18, 2001 submittals adequately addressed the conditions of the interim approval which expires on December 1, 2001. The City is hereby granted final full approval effective on November 28, 2001.

(c) Jefferson County Department of Health:

(1) Submitted on December 14, 1993, and supplemented on July 14, 1995; interim approval effective on December 15, 1995; interim approval expires on December 1, 2001.

(2) Revisions submitted on February 5, 1998; September 20, 1999; August 8, 2000; March 30, 2001; May 18, 2001; and September 11, 2001. The rule revisions contained in the August 8, 2000; May 18, 2001; and September 11, 2001 submittals adequately addressed the conditions of the interim approval which expires on December 1, 2001. The County is hereby granted final full approval effective on November 28, 2001.

* * * * *

[FR Doc. 01–27105 Filed 10–26–01; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

**[WT Docket No. 97–82; FCC 01–270]**

### Competitive Bidding Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission adopts modifications to its competitive bidding ''anti-collusion'' rule. These modifications codify Commission practices with respect to application of the anti-collusion rule and require applicants to report to the Commission prohibited communications.

**DATES:** Effective November 28, 2001.

**FOR FURTHER INFORMATION CONTACT:** David Hu of the Auctions and Industry Analysis Division at (202) 418–0660.

**SUPPLEMENTARY INFORMATION:** This is a summary of a Seventh Report and Order (*7th R&O*) in WT Docket No. 97–82, adopted on September 19, 2001 and released on September 27, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

#### I. Introduction

1. In the *7th R&O,* the Commission adopts modifications to § 1.2105(c) of the Commission's rules, the competitive bidding ''anti-collusion rule.'' Specifically, the Commission amends the rule so that its language clearly reflects the Commission's practice of prohibiting communications regarding bids or bidding strategies only between auction applicants that have applied to bid on licenses in any of the same geographic areas. In addition, the Commission amends the rule to (i) clarify that it prohibits an auction applicant from discussing a competing applicant's bids or bidding strategies even if the first applicant does not discuss its own bids or bidding strategies, and (ii) require auction applicants that make or receive a prohibited communication of bids or bidding strategies to report the communication immediately to the Commission in writing.

#### II. Background

2. The Commission adopted § 1.2105(c)(1) to deter anticompetitive conduct during auctions of spectrum licenses and to ensure the competitiveness of post-auction markets. The Commission's anti-collusion rule seeks to foster a level competitive playing field during auctions and to ''ensure that the government receives a fair market price for the use of the spectrum.'' In promulgating the rule, the Commission was particularly concerned that some firms might engage in behavior that would unfairly disadvantage other bidders. Communications that violate § 1.2105(c)(1) have the potential to undermine the competitiveness of our auction process and public confidence in the integrity of that process.

3. In the Third Further Notice of Proposed Rule Making (*FNPRM*), 65 FR 6113 (February 8, 2000) the Commission proposed to amend § 1.2105(c)(1) to prohibit an auction applicant from discussing another applicant's bids or bidding strategies even if the first applicant does not discuss or disclose its own bids or bidding strategies. The Commission also proposed to amend § 1.2105(c) to require any auction applicant that makes or receives a communication of bids or bidding strategies prohibited under § 1.2105(c)(1) to report such a communication to the Commission promptly. In addition, the Commission sought comment on whether other changes to § 1.2105(c)(1) may be warranted at this time in light of Congress's mandate that the Commission ensure competitive auctions. The Commission received one comment on the amendments proposed in the *FNPRM.*

#### III. Discussion

*A. Amendments to § 1.2105(c)(1)*

4. *Background.* Subject to certain exceptions, § 1.2105(c)(1) prohibits auction applicants that have applied to bid on any common license area from communicating their bids or bidding strategies with each other from the short-form application filing deadline to the post-auction down payment deadline, unless such applicants are members of a bidding consortium or other joint bidding agreement reported on their short-form applications. In other words, if two auction applicants (that have not entered into an agreement and identified each other on the FCC Form 175) are each eligible to bid on numerous license areas but there is only one license area for which they are both eligible to bid, they may not discuss or disclose to each other their bids or bidding strategies relating to any license area that either of them is eligible to bid on.

5. *Discussion. Applicants subject to § 1.2105(c)(1).* Section 1.2105(c)(1) of the Commission's rules states that ''all applicants'' are prohibited from discussing or disclosing their bids or bidding strategy from the short-form application filing deadline until after the down payment deadline. Notwithstanding the term ''all applicants,'' the Commission has applied the prohibitions of the rule only to auction applicants that have applied to bid for licenses in any of the same geographic license areas, and thus are competing applicants. Thus, as noted, even if two auction applicants that have not identified each other as parties to an agreement on the FCC Form 175 are each eligible to bid on only one license area in common, they may not discuss or disclose to each other their bids or bidding strategies relating to any license area that either of them is eligible to bid