January 1, 1995, for all class I controlled substances any person (''transferor'') may transfer to any other person (''transferee'') any amount of the transferor's Article 5 allowances, and after January 1, 2001 any essential use allowance holder (''transferor'') may transfer essential use allowances for CFCs to any other essential use allowance holder for CFCs (''transferee'') solely for the production of essential products (defined at 21 CFR 2.125) as follows:

(i) * * *

(H) The amount of the one percent offset applied to the unweighted amount traded that will be deducted from the transferor's production or consumption allowance balance (except for trades from transformers and destroyers to producers or importers for the purpose of allowance reimbursement) In the case of transferring essential use allowances, the amount of one tenth of one percent of the amount traded will be deducted from the transferor's allowance balance.

(ii) The Administrator will determine whether the records maintained by EPA, taking into account any previous transfers and any production, allowable imports and exports of controlled substances reported by the transferor, indicate that the transferor possesses, as of the date the transfer claim is processed, unexpended allowances sufficient to cover the transfer claim (*i.e.,* the amount to be transferred plus, in the case of transferors of essential use allowances, one tenth of one percent of that amount, and in the case of transferors of production or consumption allowances, one percent of that amount). Within three working days of receiving a complete transfer claim, the Administrator will take action to notify the transferor and transferee as follows:

(A) If EPA's records show that the transferor has sufficient unexpended allowances to cover the transfer claim, the Administrator will issue a notice indicating that EPA does not object to the transfer and will reduce the transferor's balance of unexpended allowances by the amount to be transferred plus, in the case of transfers of production or consumption allowances, one percent of that amount, or in the case of transfers of essential use allowances, one tenth of one percent of that amount. When EPA issues a no objection notice, the transferor and the transferee may proceed with the transfer. However, if EPA ultimately finds that the transferor did not have sufficient unexpended allowances to cover the claim, the transferor and transferee will be held liable for any violations of the regulations of this subpart that occur as a result of, or in conjunction with, the improper transfer.

* * * * *

(iii) In the event that the Administrator does not respond to a transfer claim within the three working days specified in paragraph (a)(1)(ii) of this section, the transferor and transferee may proceed with the transfer. EPA will reduce the transferor's balance of unexpended allowances by the amount to be transferred plus, in the case of transfers of production or consumption allowances, one percent of that amount, or in the case of essential use allowances, one tenth of one percent of that amount. However, if EPA ultimately finds that the transferor did not have sufficient unexpended allowances to cover the claim, the transferor and transferee will be held liable for any violations of the regulations of this subpart that occur as a result of, or in conjunction with, the improper transfer.

* * * * *

[FR Doc. 00–25745 Filed 10–5–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[FRL–6883–1]

RIN 2090–AA16

Pretreatment Program Reinvention Pilot Projects Under Project XL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Today EPA is proposing changes to the National Pretreatment Program regulations to allow Publicly Owned Treatment Works (POTWs) that have completed the Project eXcellence and Leadership (Project XL) selection process, including Final Project Agreement (FPA) development, to modify their approved local Pretreatment Programs. These POTWs would be allowed to modify their programs following the procedures in 40 CFR 403.18, and implement the new local programs as described in their FPAs.

In today's proposed rule, EPA recognizes that many POTWs with approved Pretreatment Programs have mastered the administrative and procedural requirements of the National Pretreatment regulations (40 CFR Part 403). Several of these POTWs want the opportunity to implement local pretreatment programs with effectiveness measured against environmental results rather than strict adherence to programmatic and administrative measures. These POTWs have expressed an interest in Project XL to test new pilot ideas that focus resources on activities that they believe would provide greater environmental benefits than are achieved by complying with current regulatory requirements. This rule is intended to provide the regulatory flexibility that will enable these test programs to move forward. Currently, five POTWs are actively involved in this Project XL process.

DATES: Public Comments: All public comments on the proposed rule must be received on or before November 6, 2000. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) November 6, 2000.

ADDRESSES: Comments should be addressed to ''Project XL/CWA Pretreatment,'' Water Docket MC–4101; United States Environmental Protection Agency, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Commenters are also requested to submit an original and 3 copies of their written comments as well as an original and 3 copies of any attachments, enclosures, or other documents referenced in the comments. Commenters who would like EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII, WordPerfect 5.1/6.1/8 format file and avoid the use of special characters or any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

Supporting materials are also available for inspection and copying at U.S. EPA, Headquarters, 401 M Street, SW., Room 445 West Tower, Washington, DC 20460 during normal business hours. Persons wishing to view the materials at the Washington, DC location are encouraged to contact Mr. Chad Carbone in advance by telephoning (202) 260–4296.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Frazer, (202) 260–0101, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania

Avenue, NW., (MC 4203), Washington, DC 20460.

The information presented in this preamble is organized as follows:

I. Authority

This regulation is being proposed under the authority of sections 307, 402 and 501 of the CWA.

II. Background

A. What Is Project XL?

Project XL, which stands for ''eXcellence and Leadership,'' is a national pilot program that tests innovative ways of achieving better and more cost-effective public health and environmental protection through site-specific agreements with project sponsors. Project XL was announced on March 16, 1995, as a central part of the National Performance Review and EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995) and 60 FR 55569 (November 1, 1995). The intent of Project XL is to allow EPA and regulated entities to experiment with pragmatic, potentially promising regulatory approaches, both to assess whether they provide superior environmental performance and other benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects are intended to allow EPA to collect more data on a more focused basis prior to national rulemaking. Today's proposed regulation would enable implementation of specific XL projects. These efforts are crucial to EPA's ability to test new strategies that reduce the regulatory burden and promote economic growth while achieving better environmental and public health protection. EPA intends to evaluate the results of this and other 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.

B. What Is EPA Proposing?

In the June 23, 1998, **Federal Register** (63 FR 6113–6), EPA requested proposals for XL projects from POTWs based on environmental performance measures for the pretreatment program. The process for reviewing and choosing acceptable pilot program candidates included input from POTWs, State and EPA Regional Pretreatment Coordinators, as well as opportunity for public participation. As discussed in more detail below, five POTWs have advanced to the final steps of the Project XL process. In today's proposal, EPA announces proposed revisions to the national pretreatment regulations at 40 CFR part 403 that would allow the selected Local Pilot Pretreatment Programs to be implemented. These POTWs will then need to submit revised pretreatment programs for approval and obtain modified permits to authorize the POTW to implement its pilot program instead of its current Approved POTW Pretreatment Program. In addition, the affected states may first need to revise their own regulations or statutes to authorize the pilot programs for pretreatment XL project sponsors before this rule can be implemented in their jurisdictions.

C. Stakeholder Involvement in the XL Process

EPA believes stakeholder involvement in developing Local Pilot Pretreatment Programs is crucial to the success of the programs, therefore, as part of the Project XL proposal, a POTW must clearly explain its process for involving stakeholders in the design of the pilot program. This process should be based upon the guidance set out in the April 23, 1997, **Federal Register** notice. The support of parties that have a stake in the program is very important. Once EPA has accepted a candidate based on its detailed proposal, the POTW, EPA, the State and local stakeholders typically finalize a Final Project Agreement (FPA). The FPA is a non-binding agreement that describes the intentions and commitments of the implementing parties. Stakeholders may include communities near the project, local or state governments, businesses, environmental and other public interest groups, or other similar entities. Stakeholders will also have formal opportunities to comment on provisions of the FPA that are incorporated in the POTW's revised pretreatment program under the procedures established at 40 CFR 403.18 and this proposal.

D. What Is the National Pretreatment Program?

The National Pretreatment Program is part of the Clean Water Act's (CWA's) water pollution control program. The program is a joint regulatory effort by local, State, and federal authorities that requires the control of industrial and commercial sources of pollutants discharged to municipal wastewater plants (called ''publicly owned treatment works'' or ''POTWs''). Control of pollutants prior to discharge of wastewater to the municipal sewer system minimizes the possibility of pollutants interfering with the operation of the POTW and reduces the levels of toxic pollutants in wastewater discharges from the POTW and in the sludge resulting from municipal wastewater treatment.

E. What Are the Current Pretreatment Program Requirements?

The minimum requirements for an Approved POTW Pretreatment Program currently are published at 40 CFR 403.8(f). POTWs with Approved Pretreatment Programs must maintain adequate legal authority, identify industrial users, designate which industrial users (IUs) are ''Significant Industrial Users'' (SIUs) (under 40 CFR 403.3(t)) and perform required monitoring, permitting and enforcement. Other sections of part 403 require POTWs with Approved Pretreatment Programs to sample and apply nationally applicable pretreatment standards to the industrial users discharging pollutants to the POTW collection system. POTWs are also required to develop local limits in accordance with 40 CFR 403.5. As proposed today, EPA would allow Approval Authorities to require a POTW to meet requirements in an environmental performance-based pilot program instead of certain administrative programmatic requirements currently required in a POTW's Approved Pretreatment Program under 40 CFR part 403.

F. How Do the Current Requirements Relate to Environmental Objectives?

As described in 40 CFR 403.2, the general pretreatment regulations promote three objectives:

(a) To prevent the introduction of pollutants into POTWs which will interfere with the operation of POTWs, including interference with the use or disposal of municipal sludge;

(b) To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and

(c) To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

These objectives require local programs to be designed so they are preventative in nature, and therefore, any pilot program also would need to maintain this preventative approach. The specific requirements for an Approved POTW Pretreatment Program are intended to achieve these objectives. Individual pretreatment programs, however, are not routinely required to report on the achievement of environmental measures.

The 1991 National Pretreatment Program Report to Congress provides extensive data related to the sources and amounts of pollutants discharged to POTWs, the removal of pollutants by secondary treatment technology, and the general effectiveness of the pretreatment program. The 1991 Report did, however, point to a serious lack of comprehensive environmental data with which to fully assess the effectiveness of both the national and local pretreatment programs. These project XL pilots would help to provide data for this purpose.

G. Why Is EPA Considering Allowing POTW Local Pilot Pretreatment Programs at this Time?

Some POTWs have mastered the administrative aspects of the pretreatment program (identifying industrial users, permitting, monitoring, *etc.*) and want to move into more environmental performance-based processes. These POTWs have expressed an interest in focusing their resources on activities that they believe would provide greater environmental benefit than is achieved by complying with the current requirements. Some POTWs want to be able to make decisions on allocating resources based on the risk associated with the industrial contributions they receive or other factors. Others want to be able to focus more resources on ambient monitoring in their receiving waters and/or to integrate their pretreatment programs with their storm water monitoring programs. In general, these POTWs want the opportunity to redirect limited resources away from currently required activities that they do not believe are benefitting the environment and toward activities that may achieve measurable improvements in the environment.

EPA developed the Project XL program to provide regulated entities the flexibility to conduct innovative pilot projects. Today's proposed rule represents an attempt to spur innovation in the pretreatment program to increase environmental benefits and, in conjunction with the streamlining proposal, (see 64 FR 39564) to determine if further streamlining of the program is needed, how streamlining can achieve environmental improvements and in what direction those future streamlining efforts should be directed.

H. Are There Any POTWs Currently Going Through Project XL Approval Process?

In order to implement the pretreatment XL projects, EPA is proposing a rule that would provide regulatory flexibility under the Clean Water Act. Currently, five (5) POTWs have requested flexibility through the Project XL FPA approval process. The POTWs are: The Narragansett Bay Commission (NBC) in Rhode Island; the Jeffersontown Wastewater Treatment Plant (WWTP), owned and operated by the Louisville and Jefferson County Metropolitan Sewer District (MSD) in Kentucky; the Metropolitan Water Reclamation District of Greater Chicago (Chicago) in Illinois; the City of Albuquerque (Albuquerque), New Mexico; and the City of Denton (Denton), Texas. The FPA for NBC lays out the following flexibilities: (1) Reduced self-monitoring requirements for ten (10) categorical industrial users (CIUs) for tier 1 facilities, (2) reduced inspection frequency for ten (10) CIUs tier 1 facilities from once every year to once every two years and, (3) allow participating CIUs tier 1 facilities to not sample for pollutants not expected to be present. Under the FPA for MSD, the POTW is requesting flexibility to (1) use an alternative definition for significant industrial user (SIU), (2) allow participating CIUs to not sample for pollutants not expected to be present and (3) use an alternative definition of significant noncompliance (SNC). The Chicago FPA describes flexibility that includes (1) use of an alternative (in relation to the pretreatment streamlining proposal) definition for de minimis categorical industrial user (CIU) and (2) reduced self-monitoring and self-reporting requirements for participating CIUs and (3) use alternative monitoring methods. The Albuquerque FPA lays out flexibility to (1) use an alternative definition of SIU, (2) use an alternative definition of SNC, (3) reduce permitting requirements for participating IUs, (4) use alternative monitoring methods and (5) reduce reporting requirements for participating IUs. The Denton FPA lays out flexibility to (1) reduce its monitoring of participating IUs and (2) reduce its inspection of participating IUs. In exchange for these flexibilities, each individual POTW would need to commit to produce certain proportional amounts of superior environment performance as laid out in the FPA and maintain all legal and preventative environmental health and safety standards. Complete project site-specific descriptions can be found on the web at: http://www.epa.gov/projectxl/.

I. What Are the Environmental Benefits Anticipated Through Project XL?

These XL projects are expected to achieve superior environmental performance beyond that which is achieved under the current CWA regulatory system by allowing local agencies the ability to identify environmental goals and allocate the necessary resources on a site specific local basis. Specifically, these projects are expected to produce additional benefits by (i) reducing pollutant loadings to the environment or some other environmental benefit beyond that currently achieved through the existing pretreatment program (including collecting environmental performance data and data related to environmental impacts in order to measure the environmental benefit), (ii) reduced or optimized costs related to implementation of the pretreatment program with the savings used to attain environmental benefits elsewhere in the watershed in any media, and (iii) providing EPA with information on how the pretreatment program might be better oriented towards the achievement of measures of environmental performance. These objectives are consistent with the principles of the National Performance Review.

EPA's intent is to allow Local Pilot Pretreatment Programs to be administered by those POTWs that best further those objectives. Each pilot program's method of achieving the environmental benefit should be transferable so that other programs may be able to implement the method and also achieve increased environmental benefits.

J. What Is the Project Duration and Completion Date?

Under Project XL, local Pilot Pretreatment Programs may be approved to operate for the term expressed in the FPA. Prior to the end of the FPA approval period (at least 180 days), the POTW may apply for a renewal or extension of the project period in accordance with the terms of the FPA. If a POTW is not able to meet the performance goals of its Local Pilot Pretreatment Program, the Pretreatment Approval Authority (either EPA or the authorized State) could allow the performance measures to be adjusted if the primary objectives of the Local Pilot Pretreatment Program would be met. The revised Local Pilot Pretreatment Program would need to be approved in accordance with the FPA and the procedures in 40 CFR 403.18.

If the primary objectives of the proposal are not being met, the Approval Authority would direct the POTW to discontinue implementing the Local Pilot Pretreatment Program and resume implementation of its previously approved pretreatment program. The Pretreatment Approval Authority would need to ensure that the POTW's NPDES permit includes a reopener clause to implement this procedure.

The results of the pilots, including recommendations in POTW reports, may be used to determine the direction of future Pretreatment Program streamlining and/or reinvention.

K. How Could the Project Be Terminated?

Either the Approval Authority or the POTW may terminate a project earlier than the final project agreement's (FPA) anticipated end date. Parties will follow procedures set out in the FPA. The implementing permits will also reflect the possibility of early termination. When the NPDES permitting agency modifies the POTW's NPDES permit to incorporate the flexibility allowed by today's rule, it must include a 'reopener' provision that requires the POTW to return to compliance with current pretreatment requirements at the expiration or termination of the FPA, including an interim compliance period, if needed. Additional details are available in the site-specific FPAs.

III. Rule Description

Today's proposed rule will modify 40 CFR part 403 to allow Pretreatment Approval Authorities (EPA or State) to grant regulatory flexibility to selected Project XL POTWs with approved FPAs. The regulatory flexibility would allow these specific POTWs to implement Pretreatment Programs that include legal authorities and requirements that are different than the administrative requirements in 40 CFR part 403. The POTW would need to submit any such alternative requirements as a substantial program modification in accordance with the procedures outlined in 40 CFR 403.18. The approved modified program would need to be incorporated as an enforceable part of the POTW's NPDES permit. The Approval Authority would approve or disapprove the pilot program using the procedures in 40 CFR 403.18.

For example, the POTW would work through the Project XL process as described above. The POTW either would or has already developed the necessary FPA with stakeholder participation (local interest groups, State representatives, EPA, any other interested parties). The POTW would use the FPA as the blueprint when developing a revision of the POTW's approved local pretreatment program. The POTW would submit the revised program to its Approval Authority (State or EPA region) requesting a substantial program modification using the procedures outlined in 40 CFR 403.18. The Approval Authority would review the program modification request to determine that it contains the provisions of the blue-print FPA and makes a determination to approve or deny the request. The proposal for modification is publicly noticed following the procedures in 40 CFR 403.11 and 40 CFR 403.18. After the close of the public comment period, the Approval Authority will consider and respond to public comments and revise the POTW's pretreatment program accordingly. Then the POTWs NPDES permit will be modified by adding the modified pretreatment program as an enforceable part of the permit.

IV. Request for Public Comments

The Agency requests public comments on today's Rule.

V. Additional Information

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this final rule will be significantly less than $100 million and will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. In consideration of the very limited scope of today's rulemaking and the considerable public involvement in the development of the proposed Final Project Agreements subject to today's rule, EPA considers 30 days to be sufficient in providing a meaningful public comment period for today's action.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* 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 the modifications to the pretreatment regulations EPA is allowing would reduce the regulatory costs to POTWs and industrial users of complying with the pretreatment requirements and affect a small number of dischargers. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

An Information Collection Request (ICR) document is currently being prepared by EPA.The ICR will be

submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The proposed rule provides regulatory flexibility to participating sponsors. The changes in information collection requirements as a consequence of the rule allow participating facilities to satisfy the reporting requirements with a single yearly report and provide certification in lieu of not sampling for pollutants not present if certain conditions are met. Also, this regulatory change can result in decreased reporting and recordkeeping burdens for participating facilities.

D. 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 of why that 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.

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. In addition, because this rule contains no regulatory requirements that might significantly or uniquely affect small governments, it is not subject to UMRA section 203.

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

The 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 rule, as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

F. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that 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.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA may also not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with the State and local officials early in the process of developing the regulation.

This proposed rule does not have federalism implications. 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, EPA did fully coordinate and consult with the affected state and local officials in developing this rule.

G. 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 affected facility. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law

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 consensus standard. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

Dated: September 29, 2000.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 403, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority for Part 403 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 403.20 is added to read as follows:

§ 403.20 Pretreatment Program Reinvention Pilot Projects Under Project XL.

The Approval Authority may allow any publicly owned treatment works (POTW) that has a final ''Project XL'' agreement to implement a Pretreatment Program that includes legal authorities and requirements that are different than the administrative requirements otherwise applicable under this part. The POTW must submit any such alternative requirements as a substantial program modification in accordance with the procedures outlined in § 403.18. The approved modified program must be incorporated as an enforceable part of the POTW's NPDES permit. The Approval Authority must include a reopener clause in the POTW's NPDES permit that directs the POTW to discontinue implementing the approved alternative requirements and resume implementation of its previously approved pretreatment program if the primary objectives of the Local Pilot Pretreatment Program are not met or the ''Project XL'' agreement expires or is otherwise terminated.

[FR Doc. 00–25750 Filed 10–5–00; 8:45 am]

BILLING CODE 6560–50–P '

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2215, MM Docket No. 00–184, RM–9955]

Digital Television Broadcast Service; Sheridan, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Duhamel Broadcasting Enterprises, licensee of Station KSGW–TV, NTSC Channel 12, Sheridan, Wyoming, proposing the substitution of DTV Channel 13 for Station KSGW–TV's assigned DTV Channel 21. DTV Channel 21 can be allotted to Sheridan, Wyoming, in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (44–37–20 N. and 107–06–57 W.). As requested, we propose to allot DTV Channel 13 to Sheridan with a power of 50 and a height above average terrain (HAAT) of 372 meters.

DATES: Comments must be filed on or before November 27, 2000, and reply comments on or before December 12, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard R. Zaragoza, Colette M. Capretz, Shaw Pittman, 2300 N Street, NW, Washington, DC 20037–1128 (Counsel for Duhamel Broadcasting Enterprises).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–184, adopted October 3, 2000, and released October 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–25736 Filed 10–5–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2213, MM Docket No. 00–182, RM–9957]

Digital Television Broadcast Service; Sumter, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by McLaughlin Broadcasting, Inc., licensee of Station WQHG–TV, NTSC Channel 63, Sumter, South Carolina, proposing the substitution of DTV Channel 39 for Station WQHB–TV's assigned DTV Channel 38. DTV Channel 39 can be allotted to Sumter, South Carolina, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (34–06–33N. and 80–44–35 W.). As requested, we propose to allot DTV Channel 39 to Sumter with a power of 500 and a height above average terrain (HAAT) of 269 meters.

DATES: Comments must be filed on or before November 27, 2000, and reply comments on or before December 12, 2000.