PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland, Inc.: Docket 97–NM–04–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes having serial numbers 3 through 433 inclusive, excluding serial numbers 269, 408, and 413; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the alternate release mechanism of the flight compartment door, which could delay or impede the evacuation of the flightcrew during an emergency, accomplish the following:

(a) Within 9 months after the effective date of this AD, modify the flight compartment door (Modification 8/2337) in accordance with Bombardier Service Bulletin S.B. 8–52–39, Revision 'A,' dated October 31, 1996.

Note 2: Modification of the flight compartment door accomplished prior to the effective date of this AD, in accordance with Bombardier Service Bulletin S.B. 8–52–39, dated August 30, 1996, is considered acceptable for compliance with the modification required by paragraph (a) of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

Issued in Renton, Washington, on July 3, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–18151 Filed 7–10–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–9]

Proposed establishment of Class E Airspace; McLaughlin, SD.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM) which proposed to establish a Class E airspace area at McLaughlin, SD, to accommodate a Global Positioning System (GPS) Runway 31 standard instrument approach procedures (SIAP) for McLaughlin Municipal Airport. The NPRM is being withdrawn because the number of operations at this airport no longer warrants a GPS SIAP.

DATES: This withdrawal is effective July 11, 1997.

FOR FURTHER INFORMATION CONTACT: Manuel A. Torres, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

On May 13, 1997, a Notice of Proposed Rulemaking was published in the **Federal Register** to establish Class E airspace at McLaughlin, SD, to accommodate a new GPS Runway 31 SIAP for McLaughlin Municipal Airport (62 FR 26263).

Summary of Comments

No comments were received.

Conclusion

In consideration of the operations at McLaughln Municipal Airport which no longer warrant a GPS SIAP, action is being taken to withdraw the proposed establishment of Class E airspace at McLaughlin, SD.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Withdrawal of Proposed Rule

Accordingly, pursuant to the authority delegated to me, the Airspace Docket No. 97–AGL–9, as published in the **Federal Register** on May 13, 1997 (62 FR 26263), is hereby withdrawn.

Authority: 49 U.S.C. 106(G), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–18153 Filed 7–10–97; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 193–0038; FRL–5856–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) to govern transportation conformity and decisions in the San Francisco Bay Area. The intended effect of proposing approval of these rules is to implement the transportation conformity provisions of the Clean Air Act, as amended in 1990 (CAA or the Act). The revisions concern rules from the following District: Bay Area Air Quality Management District (BAAQMD). The rules define the criteria and procedures for transportation conformity actions and consultation for the Bay Area.

DATES: Comments on this proposed rule must be received in writing by August 11, 1997.

ADDRESSES: Written comments on this action should be addressed to: Mark Brucker, Air Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Air Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Ruth Verlar, (415) 744–1208.

California Air Resources Board, Transportation Strategies Group, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 92123–1095, Eric Simon, (916) 322–2700.
Bay Area Air Quality Management District , 939 Ellis St., San Francisco, CA 94109, David Marshall, (415) 749–4678.

FOR FURTHER INFORMATION CONTACT:

Mark Brucker, Air Planning Office, AIR–2, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1231, email: brucker.mark@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being proposed for approval into the California SIP include: BAAQMD, ''The San Francisco Bay Area Transportation Air Quality Conformity Procedures,'' which includes §§ 93.100 through 93.104 and §§ 93.106 through 93.136 and ''The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures''. These rules were submitted by the California Air Resources Board to EPA on December 16, 1996. These rules are found to be complete pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V.

II. Background

Section 176(c)(4) of the Clean Air Act requires EPA to promulgate criteria and procedures for demonstrating and ensuring conformity of Federal transportation actions to the applicable implementation plan developed pursuant to section 110 and part D of the Act. Conformity to an implementation plan is defined in the Act as conformity to an implementation plan's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of the standards. The Act also stipulates that EPA's procedures must require that State Implementation Plans (SIPs) be revised to include conformity procedures and criteria for each nonattainment or maintenance area for one or more pollutant. EPA promulgated the federal transportation conformity criteria and procedures (referred to as the Transportation Conformity rule) on November 24, 1993. The rule established the process by which the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and metropolitan planning organizations (MPOs) determine conformity of transportation actions. It also established requirements applicable to recipients of federal highway and transit funds when implementing projects which do not need federal approval.

The Transportation Conformity rule also establishes the criteria for EPA approval of conformity SIPs (see 40 CFR 51.396). These criteria provide that the state provisions must address all requirements of the rule in a manner which makes them fully enforceable under state law, must incorporate certain provisions verbatim, and must be at least as stringent as the other requirements specified in the Transportation Conformity rule.

The San Francisco Bay Area includes a designated moderate nonattainment area for carbon monoxide (CO) and is a maintenance area for ozone. However, since redesignation of the area to attainment for ozone in 1995 the ozone standards have been exceeded many times.

III. EPA Evaluation and Action

On December 16, 1996, the state of California submitted a proposed revision to the SIP for Transportation Conformity for the Bay Area. The Bay Area's proposed revision to the SIP incorporates virtually all of the criteria and procedures mandated by the federal rule verbatim. One area of the proposed revision which cannot be incorporated verbatim is the consultation section. EPA's rule requires a state to develop, in coordination with other interested agencies, consultation procedures which meet the minimum federal requirements. EPA's regulations specify certain topics which must be consulted on, but not how that consultation shall occur. EPA finds that the consultation section is approvable. EPA finds that the full conformity submission meets the criteria set forth in § 51.396 of the Transportation Conformity rule. This includes full enforceability under state law. EPA has reviewed the submittal and determined that the adoption by the Bay Area Air Quality Management District makes the rules fully enforceable under state law.

On August 8, 1995, and November 14, 1995, EPA published revisions to the Transportation Conformity Rule. The revisions were developed in response to and through consultation with conformity stakeholders from throughout the country. The Bay Area proposal incorporates those changes. In addition, EPA has proposed to make further changes to the regulations to accommodate stakeholder requests (July 9, 1996). Those changes are expected to be made final in 1997. Once that occurs the Bay Area agencies will have a year to incorporate those changes. If these rules are approved, conformity in the Bay Area will be governed by the procedures being proposed for approval in this notice until EPA approves changes to the SIP to incorporate the 1997 changes to EPA's regulations.

The SIP submittal includes ''The San Francisco Bay Area Transportation Air Quality Conformity Procedures,'' which includes sections 93.100–93.104 and sections 93.106–93.136, and ''The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures''. These rules were adopted by the Bay Area Air Quality Management District on November 6, 1996, after proper notice and a public hearing held October 11, 1996 by the Metropolitan Transportation Commission (MTC) on behalf of MTC, the Bay Area Air Quality Management District and the Association of Bay Area Governments. The procedures apply to all aspects of transportation conformity related to ozone and carbon monoxide in the Bay Area and provide for coverage of particulate matter less than 10 microns (PM–10) (with one exception described below) and Nitrogen Dioxide (NO2) in case the area is redesignated to nonattainment for PM–10 or NO2, as required by § 51.394 of the Transportation Conformity rule.

The conformity rules are verbatim copies of the federal regulations with two exceptions. Section 93.133(c) has been appropriately modified as described below to satisfy EPA's Transportation Conformity rule, and § 93.131(b) has been added to the EPA provisions to make CO hotspot requirements developed in the Bay Area enforceable under the Clean Air Act if approved by EPA. Section 93.133(c) is required by EPA to stipulate that any mitigation measures that are to be employed must be committed to in writing and must be implemented. The submitted version does so.

EPA's regulations allow Regional Administrators to approve CO hotspot analysis procedures different from EPA's if they are equally effective in protecting air quality and have been consulted on through the interagency consultation process in the relevant nonattainment and/or maintenance area (40 CFR 93.131(a)). They can be approved by EPA Regional Administrators outside the SIP revision process and without a **Federal Register** notice. EPA has received proposed CO hotspot requirements for the Bay Area that appear to be approvable as being as stringent as EPA's requirements. EPA is not taking any action on the hotspot

requirements in this notice because they were not submitted for and do not need to be included in the SIP. EPA cannot approve them in any case until after the Bay Area's rules are approved and make such procedures enforceable. If this approval becomes final, then enforceability will have been established for hotspot requirements developed for the Bay Area through the language in § 93.131(b) of the rules described above. EPA anticipates being able to approve the hotspot requirements if and when approval of the conformity procedures becomes final. However, we have informed the Bay Area that they should solicit and consider public comment on the Protocol before expecting EPA to consider giving approval.

The Preamble to the federal conformity regulations strongly encourages agencies to adopt a definition of ''adoption and approval'' for implementation of ''non-federal'' projects by recipients of federal surface transportation funds (58 FR 62205, November 24, 1993 **Federal Register**). It says: ''The SIP must designate what action by each affected recipient constitutes adoption or approval.'' The Bay Area's rules do not include this definition. Without such definition there may be some ambiguity and difficulty for agencies attempting to proceed with such projects. However, EPA does not consider this significant enough to interfere with approval.

Section 51.402 (§ 93.105) identifies a number of specific processes or decisions for which interagency or public consultation is required. For each of these, the Procedures must assign or identify a lead agency and specify the nature of the consultation process. Almost all of the consultation provisions that are required are included, but some of the topics in the federal rules are not included in the Bay Area's consultation procedures, as described in the Technical Support Document. The rules do not include provisions for identifying which projects should be subject to PM–10 hotspot analyses and do not provide a process to address projects outside the metropolitan planning area but within a nonattainment or maintenance area. Neither of these provisions is needed at this time; the area is not currently required to analyze the hotspot impacts of PM–10 projects and the planning area covers all air quality nonattainment and maintenance areas. If conditions change such that one or both of these provisions are needed, then EPA will have to issue a SIP call requiring that those provisions be added to the rules. However, EPA still considers the rules approvable.

The section of the Consultation Procedures which addresses development of SIPs provided that the three co-lead agencies can ''delegate authority to one of the three co-lead agencies to hold a public hearing * * *.'' This provision is acceptable, but the public notice must make it clear that the one hearing is for all three agencies and all of them must in fact take into account the public input from the hearing.

If these rules are approved it will not amend any existing SIP rules or requirements. Because no existing SIP provisions would be amended or deleted, this action does not need to address the provisions of sections 110(l) and 193 of the Act, which stipulate that certain tests must be met if SIP provisions are being revised, to ensure continued satisfaction of Act requirements and protection of National Ambient Air Quality Standards. However, it is possible that this approval will modify existing procedures being followed by MTC. MTC claims that if this approval becomes final it will result in lifting 1990 and 1991 U.S. District court orders that mandated specific conformity procedures currently embodied in MTC Resolution 2270. EPA offers no opinion on this claim.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, The San Francisco Bay Area Transportation Air Quality Conformity Procedures and The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and section 176(c)(4).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Through submission of this state implementation plan, the State has elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being proposed for approval by this action will impose new requirements, affected parties are already subject to these regulations under State law. Accordingly, no additional costs to State or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State or local governments in the aggregate or to the private sector.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 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 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Oxides of nitrogen, Particulates, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 27, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–18252 Filed 7–10–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX80–1–7329; FRL–5856–4]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: 1990 Base Year Emissions Inventories, 15 Percent Rate of Progress Plans and Contingency Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed conditional interim rule.

SUMMARY: The EPA is proposing a conditional interim approval of the 15 Percent Rate of Progress Plans and associated Motor Vehicle Emissions Budgets (MVEB) for the Dallas/Fort Worth, El Paso and Houston ozone nonattainment areas. In addition, the EPA is proposing to fully approve revisions to the 1990 base year emissions inventory and contingency plans for these three areas.

On January 29, 1996, the EPA published a proposed limited approval/limited disapproval of the 15 Percent Plans and contingency measures in the **Federal Register**. Also, on January 29, 1997, the EPA published a limited approval of the control measures contained in the 15 Percent Plans. Today's proposed action replaces the January 29, 1996, proposed limited approval/limited disapproval of the 15 Percent Plans and contingency measures. The proposed limited approval of the control measures is not affected by this proposal.

DATES: Comments must be received on or before August 11, 1997.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Mr. Guy R. Donaldson, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7242.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

Section 182(b)(1) of the Clean Air Act (the Act), as amended in 1990, requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide Volatile Organic Compound (VOC) emissions by 15 percent from a 1990 baseline. The plans were to be submitted by November 15, 1993, and the reductions were required to be achieved by November 15, 1996. The Clean Air Act also sets limitations on the creditability of certain types of reductions. Specifically, States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program measures (new car emissions standards) promulgated prior to 1990 or for reductions resulting from requirements to lower the Reid Vapor Pressure of gasoline promulgated prior to 1990. Furthermore, the Act does not allow credit for corrections to Vehicle Inspection and Maintenance Programs (I/M) or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990.

In addition, section 172(c)(9) of the Clean Air Act requires that contingency measures be included in the plan revision to be implemented if reasonable further progress is not achieved or if the standard is not attained.

In Texas, four moderate and above ozone nonattainment areas are subject to the 15 Percent Rate of Progress requirements. These are the Beaumont/Port Arthur (moderate [1]), Dallas/Fort Worth (moderate), El Paso (serious), and the Houston/Galveston (severe) areas.

B. Previous 15 Percent Rate of Progress SIP Revisions

Texas first adopted measures for the 15 Percent Rate of Progress Plans and the required contingency measures in two phases. Phase I was submitted to the EPA on November 13, 1993, and contained measures achieving the bulk of the required reductions in each of the nonattainment areas. Phase II was submitted May 9, 1994. The Phase II submittal was to make up the shortfall in reductions not achieved by the Phase I measures. The combination of the Phase I and Phase II measures was ruled complete by the EPA on May 12, 1994.

The EPA analyzed the November 13, 1993, and May 9, 1994, submittal and determined that the measures included in the plan did not achieve the required amount of reductions. Among other reasons, there was a shortfall in reductions because the I/M program relied on in the plans had been repealed by the State. On January 29, 1996, the EPA published a proposed limited approval/limited disapproval of the 15 Percent Plans included in the November 13, 1993, and May 9, 1994, submittals (61 FR 2751). The EPA also proposed a limited approval of the measures that were included with the plans because they resulted in a strengthening of the SIP. For a complete discussion of the deficiencies in the State's plans, please see the January 29, 1996 **Federal Register** document.

[1] Previously classified Serious, on April 2, 1996, the EPA corrected the classification of Beaumont/Port Arthur to moderate (61 FR 14496).