Street, San Francisco, CA 94105–3901. Copies of the documents relevant to this proposed rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted revision to the State Plan are also available for inspection at the following location: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Air Division (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION: This document concerns the approval of a revision submitted by the California Air Resources Board on December 20, 2000, to the State of California's Section 111(d) Plan for Existing Municipal Solid Waste Landfills. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Dated: August 8, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23480 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ040–OPP; FRL–7058–7]

Clean Air Act Proposed Approval of Operating Permit Programs; Pinal County Air Quality Control District, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Pinal County Air Quality Control District (Pinal or District) operating permit program. The Pinal operating permit program was 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. EPA granted interim approval to the Pinal operating permit program on October 30, 1996. See 61 FR 55910. The District consequently revised its program to satisfy the conditions of the interim approval; however, the effective date of the revisions was made contingent upon EPA approving the changes under both 40 CFR part 70 and 40 CFR part 52. On September 5, 2001, the District revised the rules again in order to make the effective date of the rule changes contingent solely upon EPA approval under part 70. EPA is proposing to approve the operating permit program contingent upon Pinal submitting the rules that were adopted on September 5, 2001 as a revision to its part 70 program.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by October 22, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of Pinal's submittal and other supporting documentation relevant to this action during normal business hours at the Air Division of EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V program at the following location: Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, Arizona 85232.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252 or *vagenas.ginger@epa.gov.*

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

What is the operating permit program?

What is EPA's proposed action?

What are the program changes that EPA is approving?

What is the effect of this proposed action?

I. What Is the Operating Permit Program?

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 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 compliance 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 this 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 permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, 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 volatile organic compounds or nitrogen oxides.

II. What Is EPA's Proposed Action?

Because the Pinal 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 to the program in a rulemaking published on October 30, 1996 (61 FR 55910). The interim approval notice described the conditions that had to be met in order for the Pinal program to receive full approval. This **Federal Register** notice describes the changes that have been made to the Pinal operating permit program to correct conditions for full approval.

EPA is proposing full approval of the operating permits program submitted by Pinal based on the revisions adopted as of September 5, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's October 30, 1996 rulemaking. *See* 61 FR 55910. In addition, EPA is proposing to approve, as a title V operating permit program revision, additional changes to the rules. The interim approval issues, Pinal's corrections, and the additional changes are described below under the section entitled ''What are the program changes that EPA is approving?''

III. What Are the Program Changes That EPA Is Approving?

A. Corrections to Interim Approval Issues

In its October 30, 1996 rulemaking, EPA made full approval of Pinal's operating permit program contingent upon the correction a number of interim approval issues. Each issue, along with Pinal's correction, is described below.

1. Rule deficiency: Because the phrase ''including any fugitive emissions of any such pollutants'' in the version of the rule in Pinal's approved part 70 program could be read to modify only the 25 ton per year threshold, PCR Sec. 1–3–140(79)(b)(i) (the definition of ''major source'') did not clearly require that fugitive emissions of HAPs be included when determining a source's potential to emit. In order to correct the deficiency, the definition needed to be revised so that it would be clear that fugitive emissions of hazardous air pollutants must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year HAP major source thresholds. *See* 40 CFR section 70.2.

Rule change: The rule has been revised to correct the deficiency. It now defines a major source under section 112 of the CAA to include, ''* * * for pollutants other than radionuclides, any stationary source that emits, or has the potential to emit, in the aggregate and including fugitive emissions, 10 tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the CAA, 25 tons per year of any combination of such hazardous air pollutants, or such lesser quantity as described in Chapter 7 of this Code.'' (Emphasis added.)

2. Rule deficiency: The major source definition in Pinal's original submittal was less inclusive than the definition in part 70 in that it did not require that certain sources count fugitive emissions towards major source thresholds. In order to correct this deficiency, EPA required that Pinal revise PCR Sec. 1–3–140(79)(c) to delete sections 79(c)(ii), (iii), and (iv) and to add sources that belong to a category regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category, to the list of sources that must include fugitive emissions when determining major source status as defined in section 302(j) of the Act. *See* 40 CFR section 70.2.

Rule change: The rule has been revised as required by EPA.

3. Rule deficiency: Pinal's title V program provided certain exemptions that are not allowed under part 70. In order to correct the problem, EPA required that Pinal revise PCR Sec. 3–1–040(C)(1) to require that the motor vehicles, agricultural vehicles, and fuel burning equipment that are exempt from permitting shall not be exempt if they are subject to any applicable requirements. *See* 40 CFR section 70.5(c).

Rule change: PCR 3–1–040(C) contains exemptions from the permitting requirements. It has been modified so that, while a general exemption for agricultural equipment used in normal farm operations exists, the exemption does not apply to ''equipment that would be classified as a source that would require a permit under title V of the Clean Air Act (1990), or would be subject to a standard under 40 CFR Parts 60 or 61, or any other applicable requirement.'' This language is consistent with what other Arizona agencies did in their original submittals and we found to be fully approvable. The rule no longer provides an exemption for motor vehicles or fuel burning equipment.

4. Rule deficiency: Pinal's originally submitted program contained flaws in its provisions regarding the timing of the submission of permit applications. In order to correct the deficiencies, EPA required that PCR Sec. 3–1–045(F)(1) be revised to require sources requiring Class A (title V) permits to submit a permit application no later than 12 months after the date the Administrator approves the District program. In addition, Pinal was required to revise PCR Sec. 3–1–050(C) to include an application deadline for existing sources that become subject to the requirement to obtain a Class A permit after the initial phase-in of the program. This application deadline must be 12 months from when the source becomes subject to the program (meets Class A permit applicability criteria). *See* 40 CFR section 70.5(a)(1)(i).

Rule change: The district has corrected these deficiencies in the following manner. PCR 3–1–045(F)(1) now requires that sources in existence on November 3, 1993 not holding valid permits to operate or installation permits must submit an application within 180 days of receipt of notice from the Control Officer that a permit is required or within 12 months of becoming subject to the Class A permitting requirements, whichever is earlier. PCR3–1–050(C)(2) now specifies that a timely application for an existing source that is not initially required to obtain a title V permit but becomes subject at some later time to be one that is submitted within 12 months after the source becomes subject to title V.

5. Rule deficiency: Section 70.6(a)(8) requires that title V permits contain a provision that ''no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.'' PCR Sec. 3–1–081(A)(10) included this exact provision but also included a sentence that negated this provision. EPA required that Pinal either delete or revise the negating sentence to make the rule consistent with part 70. *See* 40 CFR section 70.6(a)(8).

Rule change: The negating sentence has been deleted from Pinal's rule.

6. Rule deficiency: Section 70.4(b)(12) provides that sources are allowed to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. Specifically, section 70.4(b)(12)(iii) provides that if a permit applicant requests it, the permitting authority shall issue a permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap, established in the permit independent of otherwise applicable requirements. PCR Sec 3–1–081(A)(14) provided for such permit conditions without excluding modifications under title I of the Act and changes that do not exceed the emissions allowable under the permit. Pinal was required to revise PCR Sec. 3–1–081(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. In addition, this provision needed to be revised to require that the permit terms and conditions provide for notice that conforms to section 3–2–180(D) and (E) and that describes how the increases and decreases in emissions will comply with the terms and conditions of the permit. *See* 40 CFR section 70.4(b)(12).

Rule changes: PCR 3–1–081(A)(14)(d) now specifies that permits that contain terms and conditions allowing for the trading of emissions for the purpose of complying with a federally enforceable emission cap established independent of otherwise applicable requirements ''shall provide for notice that conforms with section 3–2–180(D) and (E) and describes how the increases and decreases in emissions will comply with the terms and conditions of the permit, as per 40 CFR Chapter 1, Part 70, section

70.4(b)(12).'' PCR 3–1–081(A)(14)(e) requires that ''changes made under this subparagraph shall not include modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit.''

7. Rule deficiency: In order to ensure that the requirement to obtain a title V permit is enforceable, Pinal was required to revise PCR Sec. 3–4–420 to provide that a conditional order that allows a source to vary from the requirement to obtain a Class A permit may not be granted to any source that meets the Class A permit applicability criteria pursuant to PCR Sec. 3–1–040.

Rule change: 3–4–420(A) disqualifies a Class A permit holder from eligibility for a conditional order and provides that a conditional order cannot shield a Class B (non-title V) permit holder from an obligation to apply for a title V permit. Section 3–4–420(B) only allows conditional orders to be issued to Class B permit holders. Therefore, unpermitted sources, Class A sources, and anyone holding a Class B permit that is required to obtain a Class A permit cannot be covered by a conditional order.

8. Rule deficiency: Pinal's original title V program submittal allowed a source to operate within the limitations set forth in its general permit application until the District took action on the application. This is inconsistent with part 70. In order to correct this deficiency, Pinal was required to revise PCR Sec. 3–5–490(C) to provide that when an existing source that files a timely and complete application seeking coverage under a general permit either as a renewal of authorization under the general permit or as an alternative to renewing an individual part 70 permit, the source must continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the District issues or denies the authorization to operate under the general permit. *See* 40 CFR section 70.4.(b)(10).

Rule change: PCR Sec. 3–5–490(C)(1) now requires that ''an existing source that has filed a timely and complete application seeking coverage under a general permit, either as a renewal of authorization under the general permit or as an alternative to renewing an individual permit shall continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the Control Officer issues or denies the authorization to operate under the general permit.''

9. Rule deficiency: Pinal's title V program allowed a source seeking coverage under a general permit as an alternative to renewing its existing permit to operate under the terms of the general permit even when coverage had been denied. To correct this problem, EPA required that Pinal revise PCR Sec. 3–5–490(C) to require that if an existing source seeking coverage under a general permit as an alternative to renewing an individual permit is denied coverage, the source must continue to comply with the terms and conditions of its individual source permit. In addition, Pinal was required to revise Sec. 3–5–490(C) to clarify that, notwithstanding the 180-day permit application deadline set by the District in its notification to the source, a source that was denied coverage under the general permit may not operate after the date that its individual permit expires unless it has submitted a timely and complete application to renew that individual permit in accordance with PCR Sec. 3–1–050(C)(2). *See* 40 CFR sections 70.7(d) and 70.4(b)(10).

Rule changes: PCR Sec. 3–5–490(C)(2) now requires that ''[i]f the application from an existing source seeking coverage as an alternative to renewing an individual permit is denied, the source shall continue to comply with the terms and conditions of its individual source permit.'' PCR Sec. 3–5–490(C)(2) specifies that a source that was denied coverage under a general permit may continue to operate under its individual permit provided it has filed a timely and complete application prior to the expiration of the source's individual permit.

10. Rule deficiency: In order to resolve some internal inconsistencies in Pinal's regulations PCR Sec. 3–5–550(C) needed to be revised to clarify that if the Control Officer revokes a source's authorization to operate under a general permit and the source submits a timely and complete application for an individual source permit as required by the Control Officer, it may continue to operate under the terms of the general permit until the District issues or denies the individual source permit.

Rule change: PCR Sec. 3–5–550(C) has been revised to correct the deficiency as follows: ''A source authorized to operate under a general permit may operate under the terms of the general permit until the earlier date of expiration of the general permit or 180 days after receipt of the notice of termination of any general permit. If the operator submits a timely and complete application for an individual permit in accordance with sections 3–1–050, 3–1–055, and 3–5–490, while still authorized to operate under the terms of its general permit, the applicant may continue to operate under authority of the underlying general permit until the Control Officer issues or denies the individual permit.''

B. Other Changes

EPA is also taking action to approve, as a title V operating permit program revision, additional program changes made by Pinal since the interim approval was granted. Some of the rules Pinal has submitted for EPA approval incorporate changes other than those described above. We have evaluated the additional changes and find that they are consistent with part 70 and are therefore including those changes in our proposed approval. These changes are described below:

1. PCR 3–1–040. Paragraph B.2., which spells out applicability criteria for non-title V permits, has been modified. Part 70 does not address permit requirements for non-title V sources, and so this change is not relevant to the approval of this rule pursuant to part 70. A new paragraph D. was also added to the rule. This new provision specifies that construction or reconstruction of a major source of HAP renders the source subject to MACT standards promulgated by EPA, or, where no standard has been promulgated, to a case-by-case MACT determination pursuant to 40 CFR sections 63.40 through 63.44. This change is consistent with part 70 and is therefore approvable.

2. PCR 3–1–045. Paragraph E. of the version of the rule originally approved by EPA has been deleted. This paragraph specified the fee schedule that sources would be subject to prior to EPA's approval of the District's title V program and is no longer necessary.

3. PCR 3–1–050. Paragraph C of this rule, which specifies the criteria an application must meet in order to be considered timely, has been changed to eliminate a reference to a Rule 3–1–047. Whereas the originally approved version of the rule provided that, ''[u]nless otherwise required by 3–1–045 or 3–1–047, a timely application is * * *'' the modified provision references only 3–1–045. Because 3–1–047 was never an approved element of the part 70 program and was not relied upon to meet part 70 requirements, the elimination of this reference has no effect on the approvability of this rule pursuant to part 70.

4. PCR 3–1–081. Consistent with part 70, paragraph B of this rule provides that all conditions of a permit, except those that are specifically designated as not federally enforceable, are enforceable by the Administrator and citizens under the Clean Air Act. Paragraph B.2. has been modified to specify that any provision that a source

elects to make federally enforceable pursuant to the District's synthetic minor permitting rule may not be designated as non-federally enforceable. This change is consistent with part 70 and is therefore approvable.

IV. What Is the Effect of This Proposed Action?

Pinal previously adopted rule revisions that addressed the issues identified in EPA's interim approval and described above. On September 5, 2001, the District adopted a revision to the effective date of those rules. EPA action granting full approval to Pinal's title V program must be completed by December 1, 2001 to avoid the imposition of the federal operating permit program, part 71. In order to provide EPA adequate time to undertake notice and comment rulemaking on the District's title V program, Pinal submitted a copy of its revised rules to EPA on August 6, 2001. The District requested that we propose action on those rules prior to the formal submittal of the District's changes regarding the effective date of the rules. The rules we are proposing for approval today are those the District adopted on September 5, 2001. Table 1 lists the rules addressed by this proposal with the dates that they were adopted and when we anticipate they will be submitted by Pinal.

TABLE 1

Rule#	Rule title	Adoption date	Anticipated submittal date
PCR 1–3–140 (79)	Definitions (definition of stationary source only)	9/5/01	9/30/01
PCR 3–1–040	Applicability and Classes of Permits	9/5/01	9/30/01
PCR 3–1–045	Transition from Installation and Operating Permit Program	9/5/01	9/30/01
PCR 3–1–050	Permit Application Requirements	9/5/01	9/30/01
PCR 3–1–081	Permit Conditions	9/5/01	9/30/01
PCR 3–4–420	Standards of Conditional Orders	9/5/01	9/30/01
PCR 3–5–490	Application for Coverage under a General Permit	9/5/01	9/30/01
PCR 3–5–550	Revocations of Authority to Operate under a General Permit	9/5/01	9/30/01

Should Pinal submit these rules to EPA as a title V program revision in the form in which they were adopted on September 5, 2001, Pinal will have fulfilled the conditions of the interim approval granted on October 30, 1996 [61 FR 55910]. EPA is therefore proposing full approval of the Pinal operating permit program contingent on the submittal of the rules listed above.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Pinal submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 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. EPA will consider any comments received in writing by October 22, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also 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). This rule also 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). The rule merely proposes to approve 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 Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or 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. 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.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act 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 voluntary consensus standards (VCS), EPA has no authority to disapprove a State 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 a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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.

Dated: September 5, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23483 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 01–174; FCC 01–218]

2000 Biennial Regulatory Review—Requirements Governing the NECA Board of Directors and Requirements for the Computation of Average Schedule Company Payments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; comments requested.

SUMMARY: In this document the Commission is seeking comment on certain of our rules pertaining to the National Exchange Carrier Association (NECA). In particular, we propose to eliminate the annual election requirements for NECA's board of directors. We also propose to streamline the average schedule formula process. Our goal in this proceeding is to eliminate rules that may no longer be necessary in the public interest, reduce unnecessary regulatory burdens on the industry, including small entities, and update our rules and processes with measures that are more appropriate in today's marketplace.

DATES: Written comments by the public are due on or before October 22, 2001, reply comments are due on or before November 5, 2001.

ADDRESSES: Federal Communications Commission 445–12th Street, SW, TW–A325, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark Stone, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0816 or Andrew Mulitz, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0827.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM), CC Docket No. 01–174, FCC 01–218, adopted July 31, 2001 and released August 31, 2001. In this NPRM, we seek comment on certain of our rules pertaining to the NECA. In 1983, the Commission adopted rules providing for an exchange carrier association to administer access tariffs and to establish and operate a high cost fund. Beginning in 1984, all local exchange carriers participated in a mandatory common line tariff, and most participated in a traffic sensitive tariff. For each of these tariffs, the exchange carrier association, NECA, operates pooling mechanisms to collect and distribute revenues among its participating carriers. At that time, the Commission adopted rules relating to the governance and functioning of NECA. As part of our 2000 biennial regulatory review process, we now re-examine these rules in light of today's marketplace. In particular, we propose to eliminate the annual election requirements for NECA's board of directors under § 69.602 and seek comment on whether other measures, such as staggered terms and term limits are necessary. We also propose to streamline the average schedule formula process under § 69.606. Our goal in this proceeding is to eliminate rules that may no longer be necessary in the public interest, reduce unnecessary regulatory burdens on the industry, including small entities, and update our rules and processes with measures that are more appropriate in today's marketplace. We seek comment on the extent to which these proposals will achieve this goal.

I. Board of Directors

Today, all ILECs, regardless of size, are members of NECA. Membership in NECA is grouped into three divisions or subsets: Bell Operating Companies (Subset 1); other carriers with annual revenues of $40 million or more (Subset 2); and all remaining carriers (Subset 3). Each of the subsets is represented on NECA's 15-member board of directors, which governs the Association. The 15-member board is composed of 10 ILEC representatives—two from Subset 1, two from Subset 2, and six from Subset 3—and five directors from outside the telecommunications industry representing all three subsets (outside directors). Each subset nominates and elects its own representatives and outside directors are elected by the entire NECA membership. As required under our rules, all board members are selected through an annual election and serve a term of one year.

NECA proposes that the Commission revise §§ 69.602(e) and 69.602(f) to provide for periodic elections for the board of directors, instead of annual elections. In addition, NECA proposes eliminating § 69.602(i), which specifies that directors shall serve one-year terms. We seek comment on NECA's proposals and on the specific benefits that changes to the annual election requirement and one-year term limit for board members would provide to ILEC members. Commenters should discuss whether the elimination of the annual election requirements would have any impact on adequate representation of the member companies and should also address the appropriate length of the board members' term and whether term limits should be specified in our rules. We note that under our rules, we have adopted a three-year term for directors that serve on the board of USAC, NECA's independent subsidiary. Would a similar term appointment be appropriate for NECA board members? We also seek comment on alternative proposals that may be appropriate to consider at this time. For instance, would staggered terms, which would provide that the entire board would not run for election at the same time, be appropriate, and if so, does this alternative sufficiently address the cost burdens that NECA identified as being associated with annual elections?

II. Average Schedule Formulas

A. NECA's Historical Role and the Changing Regulatory Environment

NECA was established, and continues today, to develop and file interstate access tariffs and to administer interstate access revenue pools. In the initial years following the Commission's adoption of uniform access charge rules, all ILECs were subject to rate-of-return regulation, and all ILECs were required to participate in NECA's access tariff and common line pooling process. Under our access charge rules, ILECs were compensated either on the basis of their costs or under average schedules, which were permitted for some carriers as a way to avoid imposing the burdens and costs associated with performing cost separations studies needed to determine access charges. From a regulatory perspective, the access charge model sought to ensure that ILECs charged customers an amount that covered their interstate costs, assessed charges through cost-causative rate