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NEW YORK, NY

WHEN: September 17, 1996 at 9:00 am.
WHERE: National Archives—Northwest Region
201 Varick Street, 12th Floor
New York, NY
RESERVATIONS: 800–688–9889
(Federal Information Center)

WASHINGTON, DC

WHEN: September 24, 1996 at 9:00 am.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
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(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 96–42 of August 24, 1996

POW/MIA Military Drawdown for Vietnam

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 535 of the 1996 Foreign Operations Assistance Act (Public Law 104–107) (the "Act"), I hereby determine that it is necessary to draw down defense articles from the stocks of the Department of Defense for Vietnam for the purposes set forth in the Act of supporting efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War.

Therefore, I hereby authorize and direct the drawdown of up to $3 million of such defense articles from the stocks of the Department of Defense for Vietnam, for the purposes and under the authorities of section 535 of the Act.

The Secretary of State is authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, August 24, 1996.

[FR Doc. 96–22854
Filed 9–4–96; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 61, No. 173
Thursday, September 5, 1996

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911 and 915

[Docket No. FV95–911–2 FIR]

Limes and Avocados Grown in Florida; Suspension of Certain Volume Regulations and Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; suspension.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule to suspend indefinitely certain volume regulation provisions of the marketing order covering limes grown in Florida. This rule indefinitely suspends the pack-out reporting requirements for the marketing orders covering limes and avocados grown in Florida. The marketing orders regulate the handling of limes and avocados grown in Florida and are administered by the Florida Lime Administrative Committee and the Avocado Administrative Committee, respectively. These provisions are not needed due to reduced Florida lime and avocado production. This rule will also reduce handler reporting burdens for both marketing orders.

EFFECTIVE DATE: October 7, 1996.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2522–S, Washington, DC 20090–6456; telephone: 202–720–5127; or Aleck J. Jonas, Southeast Marketing Field Office, USDA/AMS, P.O. Box 2276, Winter Haven, Florida 33883; telephone: 813–299–4770. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under the provisions of section 8c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act; and of Marketing Agreements and Marketing Orders No. 911 (7 CFR Part 911) and No. 915 (7 CFR Part 915) regulating the handling of limes grown in Florida and avocados grown in South Florida, respectively. These agreements and orders are effective under the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this rule will be applicable for the entire 1996 fiscal year which began April 1, 1996, and will continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 10 Florida lime handlers subject to regulation under the marketing order covering limes grown in Florida, and about 30 lime producers in Florida. Also, there are approximately 35 handlers of avocados and approximately 95 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. A majority of these handlers and producers may be classified as small entities.

This rule continues to suspend indefinitely volume regulation provisions of the Florida lime marketing order. These provisions permitted the collection of information from handlers so that the Florida Lime Administrative Committee (FLAC) could recommend to the Department that lime volume regulations be issued, when and if needed. FLAC determined that volume regulations will not be needed in the near future because of reduced production due to hurricane damage in 1992. Thus, the Department has determined such information will not be needed. This rule also suspends indefinitely certain reporting requirements under the Florida lime and avocado marketing orders. This rule is a relaxation in regulations which reduces handler reporting burdens, resulting in lower industry costs under both marketing orders. Thus, the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small businesses.

The FLAC met on December 13, 1995, and unanimously recommended a two year suspension of their lime volume regulations and pack-out reporting requirements. However, the Department revised the FLAC recommendation by suspending both of these requirements

indefinitely. The Department determined that since volume regulations have not been implemented for at least the past five years and lime production has been reduced to low levels, these regulations should be suspended indefinitely. The Department does not anticipate that such regulations will be needed in the near future.

Also, the Avocado Administrative Committee (AAC) met on January 10, 1996, and recommended indefinite suspension of their pack-out reporting requirements.

The initial suspension of §§ 911.53–59 and 911.111 of the lime marketing order volume regulations and pack-out reporting requirements was published in the **Federal Register** (59 FR 13429, March 22, 1994) and remained in effect through March 31, 1996. Also, the previous suspension of § 915.150 paragraph (d) of the avocado marketing order pack-out reporting requirements was published in the **Federal Register** (59 FR 30866, June 16, 1994) and remained in effect through March 31, 1996.

An interim final rule was issued on April 16, 1996, to extend the suspension indefinitely. That rule was published in the **Federal Register** (61 FR 17551, April 22, 1996), with an effective date of April 1, 1996. That rule provided a 30-day comment period which ended May 22, 1996. No comments were received.

Sections 911.53–59 (7 CFR 911.53–59) of the lime marketing order cover volume regulations and were used by FLAC to collect and maintain information from handlers, so that it could recommend to the Department that lime volume regulations be issued, when and if needed. FLAC determined that volume regulations will not be needed in the near future, and thus such information will not be needed because of reduced production due to hurricane damage in 1992.

Concerning pack-out reporting requirements, both FLAC and AAC recommended suspension of their pack-out reporting requirements. Section 911.111 (7 CFR 911.111) and § 915.150 (7 CFR 915.150) contain provisions requiring Florida handlers to file certain reports with either the FLAC or the AAC concerning their Florida lime and avocado shipments, respectively. This rule continues the suspension of these provisions since information collected under these provisions is not needed because lime and avocado production is so low. These provisions would require handlers to furnish information on types and numbers of containers of limes and avocados they pack each day. Sufficient information from other sources is available to meet the committees' needs during future seasons. Information needed for the committees' operations, marketing policies, and compliance is available from inspection certificates collected on a daily basis by committee staff. These resources are used to collect such information. Low lime and avocado production has also resulted in a substantial reduction of both committees' staff and a reduction of assessment income. Thus, the continuation of the suspension will reduce administrative costs and work load.

These continued suspensions are a result of damage to the lime and avocado groves caused by Hurricane Andrew in August 1992. For limes, Hurricane Andrew reduced production acreage from approximately 6,500 acres to approximately 1,500 acres with many non-producing trees in the remaining acreage. Production in the 1991–92 season was 1,682,677 bushels. In the 1992–93 season, production prior to the hurricane was 1,146,000 bushels. After the hurricane, in the 1993–94 season, production fell to 228,455 bushels and in the 1994–95 season, it was 283,977 bushels. This was well below the levels reached prior to the hurricane.

For avocados, Hurricane Andrew reduced production acreage from approximately 9,000 acres to less than 6,000 acres with many non-producing trees in the remaining acreage. Production in the 1991–92 season was 1,110,105 bushels. In the 1992–93 season, production fell to 283,000 bushels and in the 1993–94 season it was 174,712 bushels. Although the 1994–95 season recovered to 778,951 bushels, it is well below the levels reached prior to the hurricane.

Therefore, this action reflects the committees' and the Department's appraisal of the need to continue the suspension of certain volume regulations and pack-out reporting requirements under the orders, as specified. This rule finalizes the interim final rule that indefinitely suspended certain reporting requirements for Florida limes and avocados, and lessens the overall reporting and recordkeeping burden under the orders. The Department's view is that this continued suspension will have a beneficial impact on Florida lime and avocado producers and handlers, since it lessens the reporting burden on handlers and will reduce the committees' expenses incurred under the orders.

The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0581–0091 and 0581–0078 for limes and avocados respectively.

This final rule continues to indefinitely suspend the annual reporting burden currently estimated at 210.4 hours for all regulated Florida lime handlers to: (1) apply for a prorate base and allotment; (2) report daily the percentages, by size category, of the limes packed by them; and (3) report daily the number of containers of limes sold and delivered by them within the State of Florida.

This final rule continues to indefinitely suspend the annual reporting burden currently estimated at 62 hours for all regulated Florida avocado handlers who file Avocado Handler Daily Size Report Forms. The Supplementary Information section of the interim final rule published on April 22, 1996 (61 FR 17551) indicated that the Avocado Weekly Report Form was also being discontinued. That statement was in error. Only paragraph (d) of section 915.150 *Reports* of the avocado marketing order's rules and regulations was suspended. Paragraph (a) of that section, which pertains to the weekly report, was not suspended.

After consideration of all relevant matter presented, the information and recommendations submitted by the committees, and other information, it is found that the provisions as they appeared in the interim rule, as published in the **Federal Register** (61 FR 17551, April 22, 1996), and as finalized herein no longer tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 911 and 915 are amended as follows:

PART 911—LIMES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 911 which was published at 61 FR 17551 on April 22, 1996, is adopted as a final rule without change.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Accordingly, the interim final rule amending 7 CFR part 915 which was

published at 61 FR 17551 on April 22, 1996, is adopted as a final rule without change.

Dated: August 29, 1996.

Terry L. Medley,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96–22661 Filed 9–04–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–249–AD; Amendment 39–9730; AD 96–18–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320–111, –211, and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320–111, –211, and –231 series airplanes, that requires visual inspections to detect cracks of the fittings of the pressurized floor at frame 36, and renewal of the zone protective finish or replacement of fittings with new fittings, if necessary. This amendment is prompted by a report of fatigue cracking found on the pressurized floor fitting at frame 36 under the lower surface panel. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in failure of a floor fitting and subsequent depressurization of the fuselage.

DATES: Effective October 10, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 10, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320–111, –211, and –231 series airplanes was published in the **Federal Register** on April 19, 1996 (61 FR 17257). That action proposed to require visual inspection(s) to detect cracks of the six fittings of the pressurized floor at frame 36 under the lower surface panel, and renewing the zone protective finish or replacement of the fittings with new fittings, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

New Service Information

Airbus has issued Revision 1 of Service Bulletin A320–57–1028, dated April 19, 1996. This revision is essentially identical in its technical content as the original version, which was cited in the proposal as the appropriate source of service information. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has classified this revised service bulletin as mandatory. Accordingly, this final rule has been revised to reference Revision 1 of the service bulletin. It has also been revised to note that any of the required actions that were performed in accordance with the originally issued service bulletin prior to the effective date of the final rule are considered acceptable for compliance with this AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 22 Airbus Model A320–111, –211, and –231 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,960, or $180 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

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:

96–18–06 Airbus Industrie: Amendment 39–9730. Docket 95–NM–249–AD.

Applicability: Model A320–111, –211, and –231 series airplanes; manufacturer's serial numbers 002 through 008 inclusive, 010 through 014 inclusive, 016 through 078 inclusive, and 080 through 104 inclusive; on which Airbus Modification 21282P01497 (reference Airbus Service Bulletin A320–57–1029) has not been installed; 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 (c) 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 fatigue cracking on the pressurized floor fitting at frame 36 under the lower surface panel, which could result in failure of a fitting and subsequent depressurization of the fuselage, accomplish the following:

Note 2: Inspections and replacement(s) that were performed prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–57–1028, dated April 12, 1996, are considered acceptable for compliance with this AD.

(a) Prior to the accumulation of 16,000 total landings, or within 6 months after the effective date of this AD, whichever occurs later, perform a visual inspection to detect cracks of the 6 fittings of the pressurized floor at frame 36 under the lower surface panel, in accordance with Airbus Service Bulletin A320–57–1028, Revision 1, dated April 19, 1996.

(1) If no cracking is found, prior to further flight, renew the zone protective finish in accordance with the service bulletin. Repeat the visual inspection thereafter at intervals not to exceed 12,000 landings.

(2) If only 1 of the 6 fittings is found to be cracked and that crack is less than or equal to 0.59 inch (15 mm) in length, prior to further flight, replace the cracked fitting with a new fitting in accordance with the service bulletin. Thereafter, prior to the accumulation of 500 landings following accomplishment of this replacement, replace the remaining 5 fittings with new fittings in accordance with the service bulletin.

(3) If only 1 of the 6 fittings is found to be cracked and that crack is greater than 0.59 inch (15 mm) in length, prior to further flight, replace all six fittings with new fittings in accordance with the service bulletin.

(4) If 2 or more fittings are found to be cracked, prior to further flight, replace all 6 fittings with new fittings in accordance with the service bulletin.

(b) Replacement of all 6 fittings with new fittings in accordance with Airbus Service Bulletin A320–57–1028, Revision 1, dated April 19, 1996, constitutes terminating action for the inspection requirements of this AD.

(c) 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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) The actions shall be done in accordance with Airbus Service Bulletin A320–57–1028, Revision 1, dated April 19, 1996, which contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
1–3	1	Apr. 19, 1996.
4–15	Original	Aug. 12, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 10, 1996.

Issued in Renton, Washington, on August 23, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–22144 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–204–AD; Amendment 39–9735; AD 96–18–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10 and –15 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10 and –15 series airplanes, that requires repetitive inspections to detect cracks in the bulkhead tee caps, and repair and follow-on actions, if necessary. It also provides for an optional terminating modification for the repetitive inspections. This amendment is prompted by reports of cracking in the bulkhead tee caps at a fuselage station in the area of certain longerons due to fatigue. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in loss of pressurization and damage to adjacent structure.

DATES: Effective October 10, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 10, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10 and –15 series airplanes was published in the **Federal Register** on March 28, 1995 (61 FR 13787). That action proposed to require repetitive inspections to detect cracks in the bulkhead tee caps, and repair and follow-on actions, if necessary. The proposal would also provide for an optional terminating modification for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the

making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Two commenters support the proposal.

Request to Ensure that Parts are Available

One commenter who supports the proposal is concerned that enough replacement parts may not be available to support the repair requirements of the proposed rule.

The FAA responds to this concern by stating that the manufacturer has advised that ample replacement tee cap splices will be available to the U.S. fleet in support of any necessary repair that may be required as a result of the inspection required by this rule.

Request for a Revision of Initial Inspection Interval

Two commenters request that the proposed rule be revised to extend the initial inspection interval for airplanes on which the modification specified in the manufacturer's Structural Repair Manual (SRM), Chapter 53–40–00, Volume 1, has been accomplished. This modification involves installing an arrowhead doubler at station Y=1156.000. For airplanes with this modification, the commenters request that the initial inspection interval be changed from the proposed 1,500 landings to 2,200 landings. The commenters state that this extension will allow the inspection to be accomplished during regularly scheduled maintenance (i.e., a "C" check) at a main base. One commenter states that trying to accomplish a radiographic inspection at a field station (rather than at a main base) is very difficult and, if cracks are detected during the inspection, it is nearly impossible to repair them at a field station since trained personnel and appropriate equipment may not be available.

The FAA does not concur with the commenters' request for two reasons:

First, the accomplishment of the SRM modification specified by the commenters has been determined—via an assessment by both the airframe manufacturer and the FAA—to have no effect on the time that cracks may initiate and grow in the bulkhead tee caps at fuselage station Y=1156.00. Although the McDonnell Douglas service bulletin cited in this rule does refer to that SRM modification, the reference is made only to discuss the fact that the accomplishment of the SRM modification affects the methodology that must be used for the inspection and installation of a preventative modification of the bulkhead tee cap. Therefore, there is no basis to connect the inspection times required by this AD to whether or not the SRM modification has been accomplished.

Second, the compliance time for the initial inspection required by this AD is based on the reports of fatigue cracking in the bulkhead tee caps on airplanes that had accumulated between 56,394 and 72,931 total flight hours and between 21,629 and 26,094 total landings. The FAA has determined that inspections of this area by the time the airplane has accumulated at least 20,000 total landings will ensure that fatigue cracking is detected before it reaches a critical length.

The "1,500 landings" specified in the AD's compliance time is a "grace period" that was established to preclude grounding airplanes that have exceeded the 20,000-landing threshold. In determining an appropriate "grace period" for this action, the FAA not only considered the degree of urgency associated with addressing the unsafe condition, but normal scheduled maintenance for the majority of affected operators, recommendations of the manufacturer, analysis of the rate of crack growth, and reports of cracking found in the in-service fleet. In consideration of all of these factors, the FAA finds that the 1,500-landing "grace period" for initiating the required inspections on higher-time airplanes to be warranted, in that it represents an appropriate interval of time allowable for airplanes to continue to operate without compromising safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 133 Model McDonnell Douglas Model DC–10–10 and –15 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 121 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $21,780, or $180 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

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:

96–18–11 McDonnell Douglas: Amendment 39–9735. Docket 95–NM–204–AD.

Applicability: Model DC–10–10 and –15 series airplanes, as listed in McDonnell Douglas Service Bulletin DC10–53–168, dated August 9, 1995; 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 (c) 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 fatigue cracking, which could result in loss of pressurization and damage to adjacent structure, accomplish the following:

(a) Prior to the accumulation of 20,000 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later, perform an eddy current and radiographic inspection, as applicable, to detect cracks in the bulkhead tee caps (left and right sides) in the area of longerons 38.0 through 41.0 at fuselage station Y=1156.000, in accordance with McDonnell Douglas Service Bulletin DC10–53–168, dated August 9, 1995.

(1) If no cracks are detected, repeat the inspections thereafter at intervals not to exceed 2,600 landings until paragraph (b) of this AD is accomplished.

(2) If any crack is detected, prior to further flight, accomplish the repair specified in either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Splice in a new bulkhead tee cap section at cracked area of bulkhead tee cap in accordance with the service bulletin. Within 20,000 total landings after accomplishing this repair, perform eddy current inspections to detect cracks in accordance with the service bulletin. Repeat the inspections thereafter at intervals not to exceed 2,600 landings until paragraph (b) of this AD is accomplished. If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(ii) Repair in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(b) Terminating action for the repetitive inspections required by paragraphs (a)(1) and (a)(2)(i) of this AD is as follows:

(1) Accomplish the preventative modification and eddy current open hole inspection in accordance with Condition 1 (no cracks in bulkhead tee cap), Option 2, of McDonnell Douglas Service Bulletin DC10–53–168, dated August 9, 1995. And

(2) Within 14,450 total landings following accomplishment of the modification specified in paragraph (b)(1) of this AD, perform an eddy current and radiographic inspection to detect cracks, in accordance with Condition 1 (no cracks in bulkhead tee cap), Option 2, of the service bulletin.

(i) If no cracks are detected, repeat the inspections thereafter at intervals not to exceed 3,950 landings.

(ii) If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(c) 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, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) 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.

(e) The inspections shall be done in accordance with McDonnell Douglas Service Bulletin DC10–53–168, dated August 9, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 10, 1996.

Issued in Renton, Washington, on August 26, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–22262 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 97

[Docket No. 28667; Amdt. No. 1750]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be altered to remove "or GPS" from these non-localizer, non-precision instrument approach procedure titles.) Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (Air).

Issued in Washington, DC on August 23, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective Oct. 10, 1996*

Angola, IN, Tri-State Steuben County, NDB or GPS RWY 5, Amdt 6 CANCELLED
Angola, IN, Tri-State Steuben County, NDB RWY 5, Amdt 6
Dayton, OH, Dayton-Wright Brothers, NDB or GPS RWY 9, Amdt 7 CANCELLED
Dayton, OH, Dayton-Wright Brothers, NDB or GPS–A, Orig

[FR Doc. 96–22545 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28666; Amdt. No. 1749]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are

incorporated by reference in the amendment under U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air traffic control, Airports, Navigation (Air).

Issued in Washington, DC on August 23, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * Effective upon publication.

FDC date	State	City	Airport	FDC No.	SIAP
07/17/96	NY	New York	John F. Kennedy Intl	6/4927	ILS RWY 4L AMDT 8...
07/25/96	GA	Atlanta	Peachtree City-Falcon Field	6/5239	NDB RWY 31 AMDT 1... THIS NOTAM CORRECTS 6/5239 IN TL 96–18
08/08/96	NC	Rutherfordton	Rutherfordton County	6/5324	NDB RWY 1, AMDT 4B...
08/08/96	SC	Darlington	Darlington County Jetport	6/5838	NDB OR GPS RWY 23, ORIG. DELETE NOTE...
08/08/96	SC	Darlington	Darlington County Jetport	6/5839	VOR/DME OR GPS–A, AMDT 6. DELETE NOTE...
08/13/96	NH	Lebanon	Lebanon Muni	6/5996	ILS RWY 18 AMDT 3... THIS REPLACES NOTAM 6/5297 LEB
08/13/96	NH	Lebanon	Lebanon Muni	6/5997	VOR OR GPS RWY 25 ORIG... THIS REPLACES NOTAM 6/5251 LEB
08/13/96	NH	Lebanon	Lebanon Muni	6/5999	VOR/DME OR GPS RWY 7, ORIG... THIS REPLACES NOTAM 6/5250 LEB
08/16/96	GA	Marietta	Cobb County-McCollum Field	6/6161	VOR/DME OR GPS RWY 9 ORIG–A...
08/16/96	MI	Oscoda	Oscoda-Wurtsmith	6/6163	VOR OR GPS RWY 6, ORIG...

FDC date	State	City	Airport	FDC No.	SIAP
08/16/96	PR	San Juan	Luis Munoz Marin Intl	6/6158	NDB RWY 8 AMDT 7...
08/16/96	PR	San Juan	Luis Munoz Marin Intl	6/6159	VOR RWY 8/10 AMDT 9...
08/16/96	PR	San Juan	Luis Munoz Marin Intl	6/6160	VOR OR GPS RWY 26 AMDT 18...
08/16/96	PR	San Juan	Luis Munoz Marin Intl	6/6189	NDB RWY 10 AMDT 5...
08/16/96	PR	San Juan	Luis Munoz Marin Intl	6/6190	ILS RWY 8 AMDT 15...
08/16/06	PR	San Juan	Luis Munoz Marin Intl	6/6195	RNAV RWY 10 AMDT 7...
08/19/06	MS	Jackson	Jackson Intl	6/6274	LOC BC RWY 15R AMDT 4...
08/19/96	MS	Jackson	Jackson Intl	6/6275	ILS RWY 33L AMDT 4...
08/19/96	PR	San Juan	Luis Munoz Marin Intl	6/6286	ILS RWY 10 AMDT 4...
08/19/96	TX	Fort Stockton	Fort Stockton-Pecos County	6/6279	GPS RWY 12, ORIG...
08/19/96	TX	Fort Worth	Fort Worth Meacham Intl	6/6296	ILS RWY 34R, ORIG...
08/19/96	WV	Bluefield	Mercer County	6/6306	ILS RWY 23 AMDT 14A...
08/19/96	WV	Bluefield	Mercer County	6/6310	VOR/DME OR GPS RWY 23 AMDT 4...
08/19/96	WV	Bluefield	Mercer County	6/6322	VOR RWY 23 AMDT 8...
08/20/96	OK	Durant	Eaker Field	6/6355	NDB OR GPS RWY 35, AMDT 5...
08/20/96	RI	Providence	Theodore Francis Green State	6/6349	VOR/DME OR GPS RWY 23 AMDT 6...
08/20/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	6/6358	ILS RWY 17L, ORIG...
08/20/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	6/6359	ILS RWY 35R, ORIG...
08/21/96	AK	Anchorage	Anchorage Intl	6/6371	ILS/DME RWY 14, ORIG...
08/21/96	CA	Palo Alto	Palo Alto Arpt of Santa Clara Co	6/6375	GPS RWY 30 ORIG...
08/21/96	CT	Windsor Locks	Bradley Intl	6/6385	ILS RWY 24 AMDT 7...
08/21/96	CT	Windsor Locks	Bradley Intl	6/6386	VOR RWY 15, ORIG...
08/22/96	MS	Jackson	Jackson Intl	6/6407	ILS RWY 15L AMDT 7A...
08/22/96	MS	Jackson	Jackson Intl	6/6408	NDB OR GPS RWY 15L AMDT 4...

ANCHORAGE

ANCHORAGE INTL
Alaska
ILS/DME RWY 14 ORIG...
FDC Date: 08/21/96
FDC 6/6371/ANC/ FI/P ANCHORAGE INTL, ANCHORAGE, AK. ILS/DME 14 ORIG...S–ILS 14... VIS CAT A–D ¾. THIS IS ILS/DME RWY 14 ORIG A.

PALO ALTO

PALO ALTO ARPT OF SANTA CLARA CO
California
GPS RWY 30 ORIG...
FDC Date: 08/21/96
FDC 6/6375/PAO/ FI/P PALO ALTO ARPT OF SANTA CLARA CO, PALO ALTO, CA. GPS RWY 30 ORIG...DELETE NOTE... PROC NA AT NIGHT. THIS IS GPS RWY 30 ORIG-A.

WINDSOR LOCKS

BRADLEY INTL
Connecticut
ILS RWY 24 AMDT 7...
FDC Date: 08/21/96
FDC 6/6385/BDL/ FI/P BRADLEY INTL, WINDSOR LOCKS, CT. ILS RWY 24 AMDT 7...CHANGE MISSED APPROACH TO READ...CLIMB TO 3000 VIA BDL VOR/DME R–229 TO DITTI INT/BDL 10.3 DME AND HOLD. THIS IS ILS RWY 24 AMDT 7A.

WINDSOR LOCKS

BRADLEY INTL
Connecticut
VOR RWY 15 ORIG...
FDC Date: 08/21/96
FDC 6/6386/BDL/ FI/P BRADLEY INTL, WINDSOR LOCKS, CT. VOR RWY 15 ORIG...CHANGE MISSED APPROACH TO READ...CLIMB TO 3000 VIA BDL VOR/DME R–149 TO DODAY INT/BDL 11.2 DME AND HOLD. THIS IS VOR RWY 15 ORIG-A.

ATLANTA

PEACHTREE CITY-FALCON FIELD
Georgia
NDB RWY 31 AMDT 1...
FDC Date: 07/25/96
THIS NOTAM CORRECTS 6/5239 IN TL 96–18
FDC 6/5239/FFC/ FI/P PEACHTREE CITY-FALCON FIELD. ATLANTA, GA. NDB RWY 31 AMDT 1...CHANGE ALTIMETER NOTE TO READ...IF LOCAL ALTIMETER SETTING NOT RECEIVED, USE ATLANTA ALTIMETER SETTING AND INCREASE ALL MDAS 80 FT. DELETE...ATLANTA ALTIMETER SETTING MINIMUMS BLOCK.

MARIETTA

COBB COUNTY-MCCOLLUM FIELD
Georgia
VOR/DME OR GPS RWY 9 ORIG-A...
FDC Date: 08/16/96
FDC 6/6161/RYY/ FI/P COBB COUNTY-MCCOLLUM FIELD, MARIETTA, GA. VOR/DME OR GPS RWY 9 ORIG-A...CHANGE ALTM NOTE TO READ...IF LOCAL ALSTG NOT RECEIVED, USE FULTON COUNTY/BROWN FIELD ALSTG AND INCREASE ALL MDA'A 80 FEET. THIS IS VOR/DME OR GPS RWY 9 ORIG-B.

OSCODA

OSCODA-WURTSMITH
Michigan
VOR OR GPS RWY 6, ORIG...
FDC Date: 08/16/96
FDC 6/6163/OSC/ FI/P OSCODA-WURTSMITH, OSCODA, MI. VOR OR GPS RWY 6, ORIG...PROFILE NOTE...DELETE *1760 WHEN USING ALPENA ALSTG. THIS IS VOR OR GPS RWY 6 ORIG-A.

JACKSON

JACKSON INTL
Mississippi
LOC BC RWY 15R AMDT 4...
FDC Date: 08/19/96
FDC 6/6274/JAN/ FI/P JACKSON INTL, JACKSON, MS. LOC BC RWY 15R AMDT 4...RWY 33L–15R NOW RWY 34L–16R. CHANGE ALL REFERENCES FROM 33L TO 34L AND 15R TO 16R. THIS IS LOC BC RWY 15R AMDT 4A.

JACKSON

JACKSON INTL
Mississippi
ILS RWY 33L AMDT 4...
FDC Date: 08/19/96
FDC 6/6275/JAN/ FI/P JACKSON INTL, JACKSON, MS. ILS RWY 33L AMDT 4...RWY 33L–15R NOW RWY 34L–16R. CHANGE ALL REFERENCES FROM 33L TO 34L AND 15R TO 16R. THIS IS ILS RWY 34L AMDT 4A.

JACKSON

JACKSON INTL
Mississippi
ILS RWY 15L AMDT 7A...
FDC Date: 08/22/96
FDC 6/6407/JAN/ FI/P JACKSON INTL, JACKSON, MS. ILS RWY 15L AMDT 7A...RWY 15L–33R NOW RWY 16L–34R. CHANGE ALL REFERENCES FROM 15L TO 16L AND 33R TO 34R. THIS IS ILS RWY 16L AMDT 7B.

JACKSON

JACKSON INTL
Mississippi
NDB OR GPS RWY 15L AMDT 4...
FDC Date: 08/22/96
FDC 6/6408/JAN/ FI/P JACKSON INTL, JACKSON, MS. NDB OR GPS RWY 15L AMDT 4...RWY 15L–33R NOW RWY 16L–34R. CHANGE ALL REFERENCES FROM 15L TO 16L AND 33R TO 34R. THIS IS NDB OR GPS RWY 16L AMDT 4A.

RUTHERFORDTON

RUTHERFORDTON COUNTY
North Carolina
NDB RWY 1, AMDT 4B...
FDC Date: 08/08/96
FDC 6/5824/57A/ FI/P RUTHERFORDTON COUNTY, RUTHERFORDTON, NC. NDB RWY 1, AMDT 4B...REVISED MISSED APPROACH TO READ...CLIMB TO 2000 THEN CLIMBING LEFT TURN TO 3000 DIRECT RFE NDB AND HOLD. THIS IS NDB RWY 1 AMDT 4C.

LEBANON

LEBANON MUNI
New Hampshire
ILS RWY 18 AMDT 3...
FDC Date: 08/13/96
THIS REPLACES NOTAM 6/5297 LEB
FDC 6/5996/LEB/ FI/P LEBANON MUNI/ LEBANON, NH. ILS RWY 18 AMDT 3...ADD NOTE...WHEN CONTROL TOWER CLOSED, EXCEPT FOR OPERATORS WITH APPROVED WEATHER REPORTING SERVICE PROC NA. THIS IS ILS RWY 18, AMDT 3A.

LEBANON

LEBANON MUNI
New Hampshire
VOR OR GPS RWY 25 ORIG...
FDC Date: 08/13/96
THIS REPLACES NOTAM 6/5251 LEB
FDC 6/5997/LEB/ FI/P LEBANON MUNI, LEBANON, NH. VOR OR GPS RWY 25 ORIG...ADD NOTE...WHEN CONTROL TOWER CLOSED, EXCEPT FOR OPERATORS WITH APPROVED WEATHER REPORTING SERVICE, PROC NA. THIS IS VOR OR GPS RWY 25, ORIG–A.

LEBANON

LEBANON MUNI
New Hampshire
VOR/DME OR GPS RWY 7, ORIG...
FDC Date: 08/13/96
THIS REPLACES NOTAM 6/5250 LEB
FDC 6/5999/LEB/ FI/P LEBANON MUNI, LEBANON, NH. VOR/DME OR GPS RWY 7, ORIG...ADD NOTE...WHEN CONTROL TOWER CLOSED, EXCEPT FOR OPERATORS WITH APPROVED WEATHER REPORTING SERVICE, PROC NA. THIS IS NOR/DME OR GPS RWY 7 ORIG–A.

NEW YORK

JOHN F. KENNEDY INTL
New York
ILS RWY 4L AMDT 8...
FDC Date: 07/17/96
FDC 6/4927/JFK/ FI/P JOHN F. KENNEDY INTL, NEW YORK, NY. ILS RWY 4L AMDT 8...DH 223/HAT 211 ALL CATS. CIRCLING MDA 640/HAA 627 ALL CATS, CAT C VIS 1 3/4. ALTN MNMS ILS 700–2. THIS IS ILS RWY 4L AMDT 8A.

DURANT

EAKER FIELD
Oklahoma
NDB OR GPS RWY 35, AMDT 5...
FDC DATE: 08/20/96
FDC 6/6355/DUA/ FI/P EAKER FIELD, DURANT, OK. NDB OR GPS RWY 35, AMDT 5...DELETE TERMINAL ROUTE FROM BLUE RIDGE /BUJ/ VORTAC. DELETE TERMINAL ROUTE FROM RADEX INTERSECTION. THIS IS NDB OR GPS RWY 35, AMDT 5A.

SAN JUAN

LUIS MUNOZ MARTIN INTL
Puerto Rico
NDB RWY 8 AMDT 7...
FDC Date: 08/16/96
FDC 6/6158/SJU/ FI/P LUIS MUNOZ MARIN INTL, SAN JUAN, PR. NDB RWY 8 AMDT 7...MISSED APCH...CLIMB TO 2000 THEN CLIMBING LEFT TURN TO 3000 VIA SJU R–004 TO CARIB INT/SJU 15 DME AND HOLD N RT 184 INBOUND. THIS BECOMES NDB RWY 8 AMDT 7A.

SAN JUAN

LUIS MUNOZ MARIN INTL
Puerto Rico
VOR RWY 8/10 AMDT 9...
FDC Dare: 08/16/96
FDC 6/6159/SJU/ FI/P LUIS MUNOZ MARIN INTL, SAN JUAN, PR. VOR RWY 8/10 AMDT 9...MISSED APCH...CLIMB TO 2000 THEN CLIMBING LEFT TURN TO 3000 VIA SJU R–004 TO CARIB INT/SJU 15 DME AND HOLD N RT 184 INBOUND. THIS BECOMES VOR RWY 8/10 AMDT 9A.

SAN JUAN

LUIS MUNOZ MARIN INTL
Puerto Rico
VOR OR GPS RWY 26 AMDT 18...
FDC Date: 08/16/96
FDC 6/6160/SJU/ FI/P LUIS MUNOZ MARIN INTL, SAN JUAN, PR. VOR OR GPS RWY 26 AMDT 18...MISSED APCH...CLIMB TO 2000 THEN CLIMBING RIGHT TURN TO 3000 VIA SJU R–004 TO CARIB INT/SJU 15 DME AND HOLD N RT 184 INBOUND. THIS BECOMES VOR OR GPS RWY 26 AMDT 18A.

SAN JUAN

LUIS MUNOZ MARIN INTL
Puerto Rico
NDB RWY 10 AMDT 5...
FDC Date: 08/16/96
FDC 6/6189/SJU/ FI/P LUIS MUNOZ MARIN INTL, SAN JUAN, PR. NDB RWY 10 AMDT 5...MISSED APCH...CLIMB TO 2000 THEN CLIMBING LEFT TURN TO 3000 VIA SJU R–004 TO CARIB INT/SJU 15 DME AND HOLD N RT 184 INBOUND. THIS BECOMES NDB RWY 10 AMDT 5A.

SAN JUAN

LUIS MUNOZ MARIN INTL
Puerto Rico
ILS RWY 8 AMDT 15...
FDC Date: 08/16/96
FDC 6/6190/SJU/ FI/P LUIS MUNOZ MARIN INTL, SAN JUAN, PR. ILS RWY 8 AMDT 15...MISSED APCH...CLIMB TO 2000 THEN CLIMBING LEFT TURN TO 3000 VIA SJU R–004 TO CARIB INT/SJU 15 DME AND HOLD N RT 184 INBOUND. THIS BECOMES ILS RWY 8 AMDT 15A.

SAN JUAN

LUIS MUNOZ MARIN INTL
Puerto Rico
RNAV RWY 10 AMDT 7...
FDC Date: 08/16/96
FDC 6/6195/SJU/ FI/P LUIS MUNOZ MARIN INTL, SAN JUAN, PR. RNAV RWY 10 AMDT 7...MISSED APCH...CLIMB TO 2000 THEN CLIMBING LEFT TURN TO 3000 VIA SJU R–004 TO CARIB INT/SJU 15 DME AND HOLD N RT 184 INBOUND. THIS BECOMES RNAV RWY 10 AMDT 7A.

SAN JUAN

LUIS MUNOZ MARIN INTL
Puerto Rico
ILS RWY 10 AMDT 4...
FDC Date: 08/19/96
FDC 6/6286/SJU/ FI/P LUIS MONOZ MARIN INTL, SAN JUAN, PR. ILS RWY 10 AMDT 4...MISSED APPROACH... CLIMB TO 2000, THEN CLIMBING LEFT TURN TO 3000 VIA SJU R–004 TO CARIB INT/ SJU 15 DME AND HOLD N, RT, 184 INBOUND. THIS BECOMES ILS RWY 10 AMDT 4A.

PROVIDENCE

THEODORE FRANCIS GREEN STATE
Rhode Island
VOR/DME OR GPS RWY 23 AMDT 6...
FDC Date: 08/20/96
FDC 6/6349/PVD/ FI/P THEODORE FRANCIS GREEN STATE, PROVIDENCE, RI. VOR/DME OR GPS RWY 23 AMDT 6...S–23... MDA 440/ HAT 389 ALL CATS. VSBY CATS A/B/ C RVR 4000. CIRCLING... CATS A/B MDA 560/HAA 505. CHANGE NOTE TO READ... FOR INOP MALSR INCREASE S–23 CATS A/B/C VSBY TO RVR 5000. CAT D VSBY TO RVR 6000. THIS IS VOR/DME OR GPS RWY 23 AMDT 6A.

DARLINGTON

DARLINGTON COUNTY JETPORT
South Carolina
NDB OR GPS RWY 23, ORIG. DELETE NOTE...
FDC Date: 08/08/96
FDC 6/5838/04J/ FI/P DARLINGTON COUNTY JETPORT, DARLINGTON, SC. NDB OR GPS RWY 23, ORIG. DELETE NOTE... FIRST 1200 FT RWY 23 AND FIRST 800 FT RWY 5 NOT LIGHTED. THIS IS NDB OR GRPS RWY 23, ORIG–A.

DARLINGTON

DARLINGTON COUNTY JETPORT
South Carolina
VOR/DME OR GPS–A, AMDT 6. DELETE NOTE...
FDC Date: 08/08/96
FDC 6/5839/04J/FI/P DARLINGTON COUNTY JETPORT, DARLINGTON, SC.

VOR/DME OR GPS–A, AMDT 6. DELETE NOTE... FIRST 800 FT RWY 5 AND FIRST 1200 FT RWY 23 NOT LIGHTED. THIS IS VOR/DME OR GPS–A, AMDT 6A.

FORT STOCKTON

FORT STOCKTON-PECOS COUNTY
Texas
GPS RWY 12, ORIG...
FDC Date: 08/19/96
FDC 6/6279/FST/ FI/P FORT STOCKTON-PECOS COUNTY, FORT STOCKTON, TX. GPS RWY 12, ORIG... REMOVE NOTE... OBTAIN LOCAL ALTIMETER ON CTAF, WHEN NOT RECEIVED PROCEDURE NOT AUTHORIZED. THIS IS GPS RWY 12, ORIG–A.

FORT WORTH

FORT WORTH MEACHAM INTL
Texas
ILS RWY 34R, ORIG...
FDC Date: 08/19/96
FDC 6/6296/FTW/ FI/P FORT WORTH MEACHAM INTL, FORT WORTH, TX. ILS RWY 34R. ORIG... GLIDEPATH ALTITUDE AT FAF 1860. IN THE PROFILE VIEW, AT THE THRESHOLD, DELETE I–UXT 0.3 DME. THIS IS ILS RWY 34R, ORIG–A.

DALLAS-FORT WORTH

DALLAS-FORT WORTH INTL
Texas
ILS RWY 17L, ORIG...
FDC Date: 08/20/96
FDC 6/6358/DFW/ FI/P DALLAS-FORT WORTH INTL, DALLAS-FORT WORTH, TX. ILS RWY 17L, ORIG... TAKE-OFF MINIMUMS STANDARD. THIS IS ILS RWY 17L, ORIG–A.

DALLAS-FORT WORTH

DALLAS-FORT WORTH INTL
Texas
ILS RWY 35R, ORIG...
FDC Date: 08/20/96
FDC 6/6359/DFW/FI/P DALLAS-FORT WORTH INTL, DALLAS-FORT WORTH, TX. ILS RWY 35R, ORIG... TAKE-OFF MINIMUMS STANDARD. CHANGE S–LOC 35R HAT TO 464 ALL CATS. CHANGE TDZE TO 576 FT. THIS IS ILS RWY 35R, ORIG–A.

BLUEFIELD

MERCER COUNTY
West Virginia
ILS RWY 23 AMDT 14A...
FDC Date: 08/19/96
FDC 6/6306/BLF/FI/P MERCER COUNTY, BLUEFIELD, WV, ILS RWY 23 AMDT 14A... ALTN MNMS NA. THIS IS ILS RWY 23 AMDT 14B.

BLUEFIELD

MERCER COUNTY
West Virginia
VOR/DME OR GPS RWY 23 AMDT 4...
FDC Date: 08/19/96
FDC 6/6310/BLF/ FI/P MERCER COUNTY, BLUEFIELD, WV. VOR/DME OR GPS RWY 23 AMDT 4... ALTN MNMS NA WHEN CLASS E AIRSPACE NOT IN-EFFECT. THIS IS VOR/DME OR GPS RWY 23 AMDT 4A.

BLUEFIELD

MERCER COUNTY
West Virginia
VOR RWY 23 AMDT 8...
FDC Date: 08/19/96
FDC 6/6322/BLF/ FI/P MERCER COUNTY, BLUEFIELD, WV. VOR RWY 23 AMDT 8... ALTN MNMS NA WHEN CLASS E AIRSPACE NOT IN EFFECT. THIS IS VOR RWY 23 AMDT 8A.

[FR Doc. 96–22544 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28665; Amdt. No. 1748]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase— Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription— Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulation (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP

amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air traffic control, Airports, Navigation (Air).

Issued in Washington, DC on August 23, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 917.213, 917.25, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective July 18, 1996*

Chico, CA, Chico Muni, ILS RWY 13L, Amdt 10

** * * Effective September 12, 1996*

Deadhorse, AK, Deadhorse, VOR/DME or TACAN RWY 4L, Orig

Deadhorse, AK, Deadhorse, VOR/DME or TACAN or GPS RWY 22L, Amdt 1

** * * Effective October 10, 1996*

Albertville, AL, The Albertville Muni-Thomas J. Brumlik Fld, GPS RWY 23, Orig

Brewton, AL, Brewton Muni, VOR/DME OR GPS RWY 30, Amdt 7

Carlisle, AR, Carlisle Muni, VOR/DME RWY 9, Amdt 1

Carlisle, AR, Carlisle Muni, GPS RWY 9, Orig

Newport, AR, Newport Muni, GPS RWY 36, Orig

Coolidge, AZ, Coolidge Muni, VOR/DME RWY 5, Orig

Coolidge, AZ, Coolidge Muni, GPS RWY 23, Orig

Phoenix, AZ, Phoenix-Deer Valley Muni, GPS RWY 7R, Orig

Oakland, CA, Metropolitan Oakland Intl, GPS RWY 11, Orig

Oakland, CA, Metropolitan Oakland Intl, GPS RWY 29, Orig

Washington, DC, Washington Dulles Intl, ILS/DME RWY 1L, Amdt 4

Boca Raton, FL, Boca Raton, GPS RWY 5, Orig

Marco Island, FL, Marco Island, VOR/DME OR GPS RWY 17, Amdt 6

Marco Island, FL, Marco Island, NDB OR GPS RWY 35, Amdt 6

Naples, FL, Naples Muni, VOR OR GPS RWY 5, Amdt 5

Naples, FL, Naples Muni, VOR OR GPS RWY 23, Amdt 6

Naples, FL, Naples Muni, NDB RWY 5, Amdt 7

Naples, FL, Naples Muni, NDB RWY 23, Amdt 8

Des Moines, IA, Des Moines Intl, ILS RWY 13L, Amdt 7

Marshfield, MA, Marshfield, NDB RWY 6, Amdt 4

Marshfield, MA, Marshfield, NDB OR GPS RWY 24, Amdt 1

Belmar-Farmingdale, NJ, Belmar/Allaire, LOC RWY 14, Orig

Belmar-Farmingdale, NJ, Belmar/Allaire, LOC/DME RWY 14, Orig, CANCELLED

Carlsbad, NM, Cavern City Air Trml, GPS RWY 21, Orig

Brockport, NY, Ledgedale Airpark, GPS RWY 28, Orig

Norwich, NY, Lt Warren Eaton, VOR/DME–A, Amdt 4

Norwich, NY, Lt Warren Eaton, GPS RWY 1, Orig

Norwich, NY, Lt Warren Eaton, VOR/DME RNAV OR GPS RWY 19, Amdt 2

Plattsburgh, NY, Clinton County, VOR/DME OR GPS–A, Amdt 1

Plattsburgh, NY, Clinton County, VOR OR GPS RWY 19, Amdt 2

Plattsburgh, NY, Clinton County, ILS RWY 1, Amdt 3

Weedsport, NY, Whitfords, VOR/DME–A, Orig

Albemarle, NC, Stanly County, GPS RWY 4, Orig

Beaufort, NC, Michael J. Smith Field, GPS RWY 14, Orig

Edenton, NC, Northeastern Rgnl, GPS RWY 1, Orig

Dickinson, ND, Dickinson Muni, VOR or GPS–A, Amdt 5

Dickinson, ND, Dickinson Muni, VOR/DME RNAV or GPS RWY 14, Amdt 5

Las Vegas, NV, North Las Vegas, GPS RWY 12, Orig

Las Vegas, NV, North Las Vegas, GPS RWY 30, Orig

Reno, NV, Reno/Tahoe Intl, ILS RWY 16R, Amdt 10

Oklahoma City, OK, Will Rogers World, ILS RWY 17L, Orig

Dalhart, TX; Dalhart Muni, GPS RWY 17, Orig

Dallas-Fort Worth, TX, Dallas-Fort Worth International, NDB OR GPS RWY 17R, Amdt 7

Dallas-Fort Worth, TX, Dallas-Fort Worth International, NDB OR GPS RWY 35C, Amdt 9

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 13R, Amdt 4

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 13R, Amdt 4

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 17R, Amdt 18

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 17R, Amdt 5

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 17C, Amdt 6

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 17C, Amdt 4

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 18R, Amdt 5

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 18R, Amdt 3

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 18L, Amdt 16

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 18L, Amdt 3

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 31R, Amdt 8

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 31R, Amdt 3

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 35L, Amdt 1

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 35L, Amdt 1

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 35C, Amdt 6

Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 35C, Amdt 4

Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 36R, Amdt 2
Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 36R, Amdt 1
Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 36L, Amdt 5
Dallas-Fort Worth, TX, Dallas-Fort Worth International, CONVERGING ILS RWY 36L, Amdt 3
Del Rio, TX, Del Rio Intl, GPS RWY 13, Orig
Forth Worth, TX, Luck Field, VOR/DME OR GPS–A, Amdt 1, CANCELLED
Levelland, TX, Levelland Muni, GPS RWY 17, Orig
Levelland, TX, Levelland Muni, GPS RWY 35, Orig
Longview, TX, Gregg County, RADAR–1, Amdt 3 CANCELLED
Palacios, TX, Palacios Muni, GPS RWY 13, Orig
Tyler, TX, Tyler Pounds Field, GPS RWY 31, Orig
Barre-Montpelier, VT, Edward F. Knapp State, NDB RWY 35, Amdt 3, CANCELLED
Barre-Montpelier, VT, Edward F. Knapp State, VOR RWY 35, Amdt 3
Barre-Montpelier, VT, Edward F. Knapp State, VOR/DME RWY 35, Amdt 1
Barre-Montpelier, VT, Edward F. Knapp State, ILS RWY 17, Amdt 5
Danville, VA, Danville Regional, VOR RWY 2, Amdt 13
Danville, VA, Danville Regional, VOR RWY 20, Amdt 1
Danville, VA, Danville Regional, ILS RWY 2, Amdt 2
Danville, VA, Danville Regional, GPS RWY 20, Orig
Richmond/Ashland, VA, Hanover County Muni, GPS RWY 16, Orig

** * *Effective December 5, 1996*

Columbia, CA, Columbia, GPS RWY 35, Orig
Richlands, VA, Tazewell County, GPS RWY 25, Orig

** * *Effective Upon Publication*

Greenville, SC, Donaldson Center, NDB or GPS RWY 5, Amdt 5
Greenville, SC, Donaldson Center, ILS RWY 5, Amdt 4

Note: The FAA published a Procedure in Docket No. 28657, Amdt No. 1745 to Part 97 of the Federal Aviation Regulations (Vol 61, FR No. 160, Page 42553, dated 16 August 1996 Section 97.25 Effective 10 Oct 96 which is hereby amended:

Change effective date to PROPOSED 10 OCT 96 for the following procedure:

Amarillo, TX, Amarillo Intl, LDA/DME RWY 22, Orig.

[FR Doc. 96–22543 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1215

RIN 2700–AA29

Tracking and Data Relay Satellite System (TDRSS)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is revising Appendix A to reflect the estimated service rates in 1997 dollars for Tracking and Data Relay Satellite System (TDRSS) standard services, based on NASA escalation estimates. 14 CFR Part 1215 sets forth the policy governing the TDRSS services provided to non-U.S. Government users and the reimbursement for rendering such services. The TDRSS represents a major investment by the U.S. Government with the primary goal of providing improved communications and tracking services to spacecraft in low earth orbit or to mobile terrestrial users such as aircraft or balloons.

EFFECTIVE DATE: September 5, 1996.

ADDRESSES: Network Operations Branch, Code 532, Goddard Space Flight Center, Greenbelt, Maryland 20770.

FOR FURTHER INFORMATION CONTACT: Roger Flaherty, 301–286–8422.

SUPPLEMENTARY INFORMATION: This regulation was first published in the **Federal Register** on March 9, 1983 (48 FR 9845). Each year since that time, 14 CFR Part 1215 has been amended by revising Appendix A to reflect the rate changes for the appropriate Calendar Years (CY). Since this revision of Appendix A to 14 CFR Part 1215 reflects the rate changes for CY 1997 and involves NASA management procedures and decisions, no public comment is required.

The National Aeronautics and Space Administration has determined that this rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities, and it is not a major rule as defined in Executive Order 12866.

Due to the advent of commercial launch service customers, an addendum to Appendix A is required to reflect rates for service rendered under the Commercial Space Launch Act (CSLA). Due to statutory requirements, the rates are slightly different for CSLA customers.

List of Subjects in 14 CFR Part 1215

Satellites, Tracking and Data Relay Satellite System, Communications equipment, Government contract.

For reasons set out in the Preamble, 14 CFR Part 1215 is amended as follows:

PART 1215—TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS)

1. The authority citation for 14 CFR Part 1215 continues to read as follows:

Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, as amended, 42 U.S.C. 2473; 49 U.S.C. 2601.

2. Appendix A is revised to read as follows:

Appendix A—Estimated Service Rates in 1997 Dollars for TDRSS Standard Services (Based on NASA Escalation Estimate)

TDRSS user service rates for services rendered in CY–97 based on current projections in 1997 dollars are as follows:

1. *Single Access Service*—Forward command, return telemetry, or tracking, or any combination of these, the base rate is $184.00 per minute for non-U.S. Government users.

2. *Multiple Access Forward Service*—Base rate is $42.00 per minute for non-U.S. Government users.

3. *Multiple Access Return Service*—Base rate is $13.00 per minute for non-U.S. Government users.

Due to the advent of commercial launch service customers, an addendum will be required to reflect rates for service rendered under the Commercial Space Launch Act (CSLA). Due to statutory requirements, the rates are slightly different for CSLA customers.

CSLA customer rates:

1. *Single Access Service*—Base rate is $180 per minute for CSLA users.

2. *Multiple Access Forward Service*—Base rate is $39 per minute for CSLA users.

3. *Multiple Access Return Service*—Base rate is $13 per minute for CSLA users.

Dated: August 29, 1996.

David W. Harris,

Acting Associate Administrator for Space Communications.

[FR Doc. 96–22674 Filed 9–4–96; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 136, 137, and 139

[Docket No. 91N–100S]

RIN 0910–AA19

Food Standards: Amendment of Standards of Identity for Enriched Grain Products to Require Addition of Folic Acid; Clarification

AGENCY: Food and Drug Administration, HHS.

ACTION: Clarification.

SUMMARY: The Food and Drug Administration (FDA) is clarifying how it intends to implement regulations that it issued in March 1996 that require that, by January 1, 1998, certain standardized enriched grain products be fortified with folic acid, with respect to foods to which this substance is to be added or that include ingredients to which this substance is to be added. Given that the U.S. Public Health Service (PHS) has recommended that women of childbearing age consume at least 0.4 milligrams (mg) (400 micrograms (mcg)) of folic acid daily to reduce their risk of having a pregnancy affected with spina bifida or other neural tube defects, FDA encourages firms to initiate the required fortification before the 1998 effective date of the regulations. To facilitate initiation of fortification for firms who elect to voluntarily fortify foods in a manner that is consistent with the new folic acid fortification requirements, the agency is unlikely to enforce the ingredient declaration and nutrition labeling requirements of the Federal Food, Drug, and Cosmetic Act (the act) with respect to this nutrient until after January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Felicia B. Satchell, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION:

I. Background

A. Folic Acid Requirements for Standardized Foods

In September 1992, PHS recommended that all women of childbearing age in the United States consume 0.4 mg (400 mcg) of folic acid daily to reduce their risk of having a pregnancy affected with spina bifida or other neural tube defects (Ref. 2). In response to the PHS recommendation, FDA issued regulations in the **Federal Register** of March 5, 1996 (61 FR 8781), that require that by January 1, 1998, certain standardized enriched grain products be fortified with folic acid (hereinafter referred to as the 1996 fortification final rule). Affected foods are enriched bread, rolls, and buns (21 CFR 136.115); enriched flour (21 CFR 137.165); enriched self-rising flour (21 CFR 137.185); enriched corn meals (21 CFR 137.260); enriched farina (21 CFR 137.305); enriched rice (21 CFR 137.350); enriched macaroni products (21 CFR 139.115); enriched nonfat milk macaroni (21 CFR 139.122); and enriched noodle products (21 CFR 139.155) and, by cross-reference, the standards of identity for enriched bromated flour (21 CFR 137.160), enriched vegetable macaroni products (21 CFR 139.135), and enriched vegetable noodle products (21 CFR 139.165).

B. Effective Date

In the **Federal Register** of October 14, 1993 (58 FR 53305), FDA published a proposed rule entitled "Food Standards: Amendment of the Standards of Identity for Enriched Grain Products to Require Addition of Folic Acid" (hereinafter referred to as the 1993 fortification proposal). In the 1996 fortification final rule, FDA advised that many comments had expressed concern over the statement in the 1993 fortification proposal that the final rule would become effective 1 year after publication. The comments addressed both manufacturing and labeling issues. Comments explained that it would be difficult and impractical to synchronize the addition of a folic acid-fortified enriched cereal-grain product to a food with the availability of labels for that food that have been revised to declare folic acid in the ingredient statement and, where necessary, in the nutrition label. These comments pointed out that enrichment nutrients are generally not added to each product separately but are added, for example, to thousands of pounds of flour at the flour mill. The flour is sold to manufacturers as an ingredient, and this ingredient is used in many different products. Thus, the comments asserted that, as a matter of economic necessity, the enrichment of all products using the ingredient occurs at the same time, regardless of the availability of new labeling.

To resolve the problems of coordinating fortification with labeling, comments requested an effective date for the fortification requirement of 2 years or more from the date of publication of the final rule adopting that requirement. Further, comments pointed out that any less time to comply with the fortification requirement would create economic burdens on firms because large inventories of labels would have to be discarded. However, the comments did not provide data concerning the extent of the economic burdens from discarded label inventory. A few comments suggested that the agency permit folic acid to be added to the product without requiring declaration in the ingredient statement and the nutrition label.

In the preamble to the 1996 fortification final rule, FDA acknowledged the significance of the logistical concerns regarding label changes that must accompany the addition of folic acid to enriched cereal-grain products and the resultant addition of folic acid to the foods in which these products are used as ingredients. FDA stated that it was persuaded that it should provide 2 years for manufacturers to implement the label and formulation changes required by the 1996 fortification final rule. The agency concluded that a 2-year period should allow manufacturers time to exhaust current packaging inventory and to add folic acid to the statement of ingredients and nutrition label as other changes are made to update package labeling. Furthermore, the agency pointed out that a 2-year period is consistent with the amount of time given for implementation of the requirements of the Nutrition Labeling and Education Act of 1990 (the 1990 amendments). Thus, the effective date of this final rule was established as January 1, 1998.

The agency noted, however, that compliance with the requirements established in this final rule could begin immediately, provided that the label accurately reflects that folic acid has been added to the product. FDA explained that it would not permit folic acid fortification without label declaration because, traditionally, it has not permitted manufacturers who change their formulas by adding or deleting ingredients to use labels that do not reflect this fact. Furthermore, the agency believed that it was establishing an effective date that would provide manufacturers ample time to ensure that products enriched with folic acid are labeled in compliance with the regulations. The agency also reminded manufacturers that it considered stickers an acceptable means to correct labels.

C. Problems With Folate Labeling

After the March 1996 regulations requiring that standardized enriched

grain foods be fortified with folic acid were issued, the National Pasta Association (NPA) submitted a request (Ref. 1) that, at least until January 1, 2000, the agency permit folic acid addition to products without requiring declaration in the ingredient statement. NPA stated that such flexibility was urgently needed because, without it, manufacturers of all affected standardized enriched grain foods would suffer tremendous financial losses.

More specifically, NPA stated that pasta manufacturers would lose millions of dollars of label inventory. NPA advised that the logistical problems regarding label changes that must accompany folic acid fortification were not fully resolved by the agency's extension of the effective date until 1998 or by the agency's explicit permission for using stickering to correct ingredient lists on labels. NPA explained that the industry still faces high costs from labels that must be discarded, because coordinating folic acid fortification with labeling changes is a monumental task. NPA stated that once folic acid is added to a raw material that serves as an ingredient in food, all products using that material will include the substance, but it is not possible to change all labels for such products at the same time. Furthermore, because firms must regularly replenish label supplies, NPA stated that, without the requested labeling flexibility, firms would face losing the same level of label inventory, regardless of when the regulations take effect. NPA stated that its members had advised that about 5,000 pasta products would have label inventories costing more than $27 million that would have to be discarded when the regulations take effect.

In addition, NPA advised that using stickering to correct ingredient lists on labels would not resolve logistical problems regarding label changes because many companies would have to purchase special machines for stickering. A machine would have to be purchased for each packaging line, and pasta manufacturers typically have multiple packaging lines. NPA stated that each machine would cost about $10,000. In addition to these costs, NPA stated that production problems would be created by stickering. NPA explained that it is generally not practicable to cover the ingredient statement on pasta packaged in a folding carton because of the high speed of the cartoners and the manner in which the cartons are oriented as they move through the packaging line. Stickers would have to be applied to cartons before they enter the packaging line with significant loss of packaging efficiency. Production could be drastically reduced.

NPA explained that stickering would also not be practicable on pasta packaged in bags because stickers cannot be affixed to the package film without making the film significantly thicker. A thicker film could not be wound tightly on the packaging spool. Also, the stickers would not move smoothly through the forming tubes on the baggers. If manufacturers tried to sticker the bags after filling, they could not reliably cover existing ingredient information, given the speed of the packaging line and the fact that the bags are neither flat nor consistently oriented after they are filled.

Furthermore, NPA asked whether the effective date ultimately designated for fortification of standardized enriched grain products would apply to products labeled on or after that date or to products introduced into interstate commerce on or after that date. NPA suggested that the agency should adopt the former approach for consistency with the effective date established in the 1990 amendments, ease of enforcement, equity between small and large manufacturers, and maximization of cost savings derived from a delayed effective date.

II. The Agency's Position

Given the more specific information that was provided by NPA regarding folic acid label changes, the logistical problems with these changes, and the costs associated with label inventories that would have to be discarded, FDA has reviewed its position regarding the effective date of these regulations. FDA recognizes that its allowance, without label flexibility, of nearly 2 years for compliance with the fortification requirements did not resolve significant problems associated with formulation and label changes, and that there are significant reasons for flexibility in label declaration of folate content, at least pending the effective date of the regulations requiring fortification. These reasons are listed as follows:

(1) Among firms that add folic acid to their foods themselves (e.g., flour manufacturers), the raw material is commonly fortified in large batches, and the fortified material is then used in numerous products. Because each product requires at least one label (e.g., often a firm will pack one product for several companies, each of which uses a different label), numerous labels will have to be corrected once fortification begins. If all these labels have to be changed at once, existing label inventories would have to be discarded. Even if it were possible to change all (perhaps hundreds) labels at once, firms would logically postpone fortification as long as possible to allow for depletion of label inventory.

(2) For firms that do not themselves perform all folic acid fortification of the ingredients in the products they manufacture, the logistics of coordinating label changes with fortification are even more complicated. These firms have little or no control over when the fortification of ingredients with folic acid is to begin. Suppliers of ingredients that are to be fortified with folic acid are likely to initiate fortification at different times. In many, if not most, situations, firms may be advised of the fortification only through the ingredient list that comes from the supplier. Firms will thus have significant difficulty anticipating when label stocks that do not list folic acid as an ingredient will have to be depleted. Firms also will have difficulty anticipating how far in advance of the 1998 effective date new label stocks will be needed. Thus, many firms will likely incur costs associated with discarding label stocks. Also, where suppliers fortify early, some firms may not have new label stocks that appropriately reflect the composition of their food.

(3) Where firms purchase an enriched ingredient from multiple suppliers, planning for depletion of old label stock and for acquiring new label stock will present particular problems. Some ingredient shipments may be fortified with folic acid, others may not. Consequently, such firms will be faced with having to switch back and forth between old and new label stocks. Where enriched ingredient shipments are pooled into an automatic bulk handling system, folic acid-enriched and non-folic acid-enriched ingredients will be commingled. The commingled ingredient may not conform to fortification requirements, and both old and new label stocks may be inappropriate as a result.

(4) NPA has presented logical reasons why stickering will not provide a practicable way to correct lists of ingredients and nutrient declarations on old labels because of adverse impact on manufacturing productivity.

(5) NPA has provided data concerning the extent of the economic burden from discarded label inventory in the pasta industry. For that industry, the costs appear to be substantial. Pasta manufacturers are not likely to be the only firms affected by the problems associated with the folic acid label changes and the logistical problems and costs associated with these changes. Thus, costs from discarded label inventory may be much higher than the

$27 million that NPA estimated. Such costs will surely be passed on to consumers.

Although NPA has demonstrated that significant problems will be presented by the transition to fortification of enriched grains with folic acid, it has not explained why the effective date should be changed from January 1, 1998, to January 1, 2000. If firms have flexibility to use existing label stocks that do not have folic acid ingredient labeling until January 1, 1998, most of the cost burdens on these firms should be eliminated. The only continuing concern would be if label suppliers could not meet the demand for new labels by January 1, 1998. However, neither NPA nor the comments on the 1993 fortification proposal indicated that large numbers of firms would be faced with such a situation. To the contrary, the agency knows of no reason why most firms cannot acquire new label stocks by that date.

On May 23, 1996, the March of Dimes wrote to FDA that the desire to begin to fortify early was widespread in the industry, but that many firms were not doing so because fortifying their foods would mean that they could not use up existing label stocks (Ref. 3). The March of Dimes suggested that if the agency provided flexibility in the use of label supplies, it would make it more likely that firms would proceed with folic acid fortification at an earlier date, thereby helping to reduce a woman's risk of having a pregnancy affected with spina bifida or other neural tube defects.

Given this significant benefit from folic acid fortification and the significant difficulties in label modification as folic acid is being phased into enriched grain products, FDA advises that, until the amendments to the standards of identity for enriched grain products are effective on January 1, 1998, it is unlikely to take regulatory action against enriched grain products, or products that contain enriched grain products, because the ingredient list in the labeling of such foods fails to include folic acid, or because the nutrition label fails to accurately declare the level of folate, unless folate claims are made for the product. If folate claims are made FDA will expect the food to comply fully with all applicable labeling requirements.

With respect to NPA's request for clarification of the applicability of the effective date, FDA advises that the January 1, 1998, effective date for fortification of standardized enriched grain products applies to the date such products are initially introduced into interstate commerce. FDA does not agree with the NPA suggestion that the effective date should be tied to the date that products are labeled. The agency has for many years used the date of initial introduction into interstate commerce as the effective date for compliance with regulations. Using the date of initial introduction into interstate commerce is a more efficient enforcement approach because this date is easier to determine (e.g., from shipping documents) than the date the food was labeled (from manufacturers' records). Even though the effective date established by the 1990 amendments was the date on which the label was applied to the food, there is no indication in that law or its legislative history that Congress intended that provision to change FDA's approach to effective dates for other labeling requirements from the one the agency has traditionally used.

III. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Centers for Disease Control and Prevention, "Recommendations for the Use of Folic Acid to Reduce the Number of Cases of Spina Bifida and Other Neural Tube Defects," in *Morbidity and Mortality Weekly Reports*, 41, 1–7, 1992.

2. Kinnaird, Jula J., letter to F. Edward Scarbrough, April 18, 1996.

3. Howse, Jennifer L., letter to Secretary Donna Shalala, May 23, 1996.

Dated: August 23, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–22606 Filed 9–04–96; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 177

[Docket No. 84F–0330]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a copolymer of ethyl acrylate, methyl methacrylate, and methacrylamide in combination with melamine-formaldehyde resin as a coating for polyethylene phthalate films intended for use in contact with food. This action is in response to a petition filed by ICI Americas, Inc.

DATES: Effective September 5, 1996; written objections and requests for a hearing by October 7, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3083.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of October 26, 1984 (49 FR 43111), FDA announced that a food additive petition (FAP 4B3786) had been filed by ICI Americas, Inc., Wilmington, DE 19897. The petition proposed that the food additive regulations be amended to provide for the safe use of a copolymer of ethyl acrylate, methyl methacrylate, and methacrylamide in combination with melamine-formaldehyde resin for use in contact with food in coatings for polyethylene phthalate films as defined by § 177.1630(a) (21 CFR 177.1630(a)).

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of unreacted ethyl acrylate, 1,4-dioxane, and ethylene oxide, all of which are carcinogenic impurities resulting from the manufacture of the additive. Residual amounts of reactants and manufacturing aids, such as ethyl acrylate, 1,4-dioxane, and ethylene oxide, are commonly found as contaminants in chemical products, including food additives.

II. Determination of Safety

Under the so-called "general safety clause" of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The food additives anticancer or Delaney clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive, *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984).

III. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, a copolymer of ethyl acrylate, methyl methacrylate, and methacrylamide in combination with melamine-formaldehyde resin, will result in exposure to the additive of no greater than 50 parts per billion (ppb) in the daily diet (Ref. 1).

FDA does not ordinarily consider chronic toxicological testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and has determined that these data support the safety of the additive under the intended conditions of use.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime risk presented by the carcinogenic chemicals that may be present as impurities in the additive. This risk evaluation of the carcinogenic impurities has two aspects: (1) Assessment of the worst-case exposure to the impurities from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. Ethyl Acrylate

FDA has estimated the hypothetical worst-case exposure to ethyl acrylate from the petitioned use of the additive in coatings for polyethylene phthalate films to be 8 parts per trillion (ppt) of the daily diet or 24 nanograms per person per day (ng/person/day) (Refs. 1 and 3). The agency used data from the National Toxicology Program report (No. 259:1986), a bioassay on ethyl acrylate, to estimate the upper-bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of the additive (Ref. 4). The results of the bioassay demonstrated that ethyl acrylate was carcinogenic for rats and mice under the conditions of the study. The test material induced squamous cell neoplasms in both sexes of F344/N rats and B6C3F1 mice when administered by gavage in corn oil.

Based on the estimated worst-case exposure to ethyl acrylate of 24 ng/person/day, FDA estimates that the upper-bound limit of individual lifetime risk from exposure to ethyl acrylate from the use of the subject additive is 1.9×10^{-9} (or 2 in 1 billion) (Ref. 5). Because of the numerous conservative assumptions used in calculating the exposure, the actual lifetime-averaged individual exposure to ethyl acrylate is expected to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm from exposure to ethyl acrylate would result from the proposed use of the additive.

B. Ethylene Oxide

FDA has estimated the hypothetical worst-case exposure to ethylene oxide from the petitioned use of the additive in coatings for polyethylene phthalate films to be 0.04 ppt of the daily diet or 0.12 ng/person/day (Refs. 1 and 3). The agency used data from a carcinogenesis bioassay on ethylene oxide, conducted for the Institute of Hygiene, University of Mainz, Germany, to estimate the upper-bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of the additive (Ref. 6). The results of the bioassay on ethylene oxide demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas of the forestomach and carcinoma in situ of the glandular stomach.

Based on the estimated worst-case exposure to ethylene oxide of 0.12 ng/person/day, FDA estimates that the upper-bound limit of individual lifetime risk from exposure to ethylene oxide from the use of the subject additive is 2.2×10^{-10} (or 2 in 10 billion) (Ref. 5). Because of the numerous conservative assumptions used in calculating the exposure, the actual lifetime-averaged individual exposure to ethylene oxide is expected to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm from exposure to ethylene oxide would result from the proposed use of the additive.

C. 1,4-Dioxane

FDA has estimated the hypothetical worst-case exposure to 1,4-dioxane from the petitioned use of the additive in coatings for polyethylene phthalate films to be 0.04 ppt of the daily diet or 0.12 ng/person/day (Refs. 1 and 3). The agency used data from a carcinogenesis bioassay on 1,4-dioxane, conducted by the National Cancer Institute, to estimate the upper-bound lifetime human risk from exposure to this chemical stemming from the proposed use of the additive (Ref. 7). The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas and hepatocellular tumors in female rats.

Based on the estimated worst-case exposure to 1,4-dioxane of 0.12 ng/person/day, FDA estimates that the upper-bound limit of individual lifetime risk from exposure to 1,4-dioxane from the use of the subject additive is 4.2×10^{-12} (or 4 in 1 trillion) (Ref. 5). Because of the numerous conservative assumptions used in calculating the exposure, the actual lifetime-averaged individual exposure to 1,4-dioxane is expected to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm from exposure to ethylene oxide would result from the proposed use of the additive.

D. Formaldehyde

FDA's review of the subject petition indicates that the additive may contain trace amounts of formaldehyde as an impurity. The potential carcinogenicity of formaldehyde was reviewed by the Cancer Assessment Committee (the Committee) of FDA's Center for Food Safety and Applied Nutrition. The Committee noted that for many years formaldehyde has been known to be a carcinogen by the inhalation route, but it concluded that these inhalation studies are not appropriate for assessing the potential carcinogenicity of formaldehyde in food. The Committee's conclusion was based on the fact that the route of administration (inhalation) is not relevant to the safety of formaldehyde residues in food and the fact that tumors were observed only locally at the portal of entry (nasal

turbinates). In addition, the agency has received literature reports of two drinking water studies on formaldehyde: (1) A preliminary report of a carcinogenicity study purported to be positive by Soffritti et al. (1989), conducted in Bologna, Italy (Ref. 8) and a negative study by Til et al. (1989), conducted in The Netherlands (Ref. 9). The Committee reviewed both studies and concluded, concerning the Soffritti study, "* * * that data reported were unreliable and could not be used in the assessment of the oral carcinogenicity of formaldehyde" (Ref. 10). This conclusion is based on a lack of critical detail in the study, questionable histopathologic conclusions, and the use of unusual nomenclature to describe the tumors. Based on the Committee's evaluation, the agency has determined that there is no basis to conclude that formaldehyde is a carcinogen when ingested.

E. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of ethyl acrylate, ethylene oxide, and 1,4-dioxane present as impurities in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low level at which ethyl acrylate, ethylene oxide, and 1,4-dioxane may be expected to remain as impurities following production of the additive, the agency would not expect the impurities to become components of food at other than extremely small levels; and (2) the upper-bound limits of lifetime risk from exposure to the impurities, even under worst-case assumptions, are very low, in the range of less than 4 in 1 trillion to 2 in 1 billion.

IV. Conclusion

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive in coating polyethylene phthalate films is safe, that it will achieve its intended technical effect, and that the regulations in § 177.1630 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum dated September 20, 1984, from the Food Additive Chemistry Evaluation Branch (HFF–458), to the Petitions Control Branch (HFF–334), entitled "FAP 4B3786–ICI Americas, Inc. Copolymer coating for polyethylene phthalate films complying with § 177.1630(c). Submission dated 7/30/84 (Rohm & Haas)."

2. Kokoski, C. J., "Regulatory Food Additive Toxicology" in "Chemical Safety Regulation and Compliance," edited by F. Homburger, and J. K. Marquis, S. Karger, New York, pp. 24–33, 1985.

3. Memorandum dated October 30, 1992, from the Food and Color Additives Review Section (HFF–415), to the Indirect Additives Branch (HFF–335), concerning FAP 4B3786—ICI Americas, Inc.—exposures acrylamide and methacrylamide, ethyl acrylate, and formaldehyde.

4. "Carcinogenesis Studies of Ethyl Acrylate (CAS Reg. No. 140–88–5) in F–344/N Rats and B6C3F¹ Mice" (gavage studies), National Toxicology Program, Technical Report Series, No. 259, December 1986.

5. Memorandum, "Report of the Quantitative Risk Assessment Committee," July 1, 1993.

6. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2–Propylene Oxide Upon Intragastric Administration to Rats," *British Journal of Cancer*, 46:924–933, 1982.

7. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI–CG–TR–80, 1978.

8. Soffritti, M., C. Maltoni, F. Maffei, and R. Biagi, "Formaldehyde: An Experimental Multipotential Carcinogen," *Toxicology and Industrial Health*, vol. 5, No. 5:699–730, 1989.

9. Til, H. P., R. A. Woutersen, V. J. Feron, V. H. M. Hollanders, H. E. Falke, and J. J. Clary, "Two-Year Drinking-Water Study of Formaldehyde in Rats," *Food Chemical Toxicology*, vol. 27, No. 2, pp. 77–87, 1989.

10. Memorandum of Conferences concerning "Formaldehyde," Meeting of the Cancer Assessment Committee, FDA, April 24, 1991, and March 4, 1993.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before October 7, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.1630 is amended in paragraph (e)(4) by alphabetically adding a new substance to paragraph (iii) in the "List of Substances and Limitations" to read as follows:

§ 177.1630 Polyethylene phthalate polymers.

* * * * *

(e) * * *

(4) * * *

List of Substances and Limitations

* * * * *

(iii) * * *

Acrylic copolymers (CAS Reg. No. 30394–86–6): Prepared by reaction of ethyl acrylate (CAS Reg. No. 140–88–5), methyl methacrylate (CAS Reg. No. 80–62–6), and methyacrylamide (CAS Reg. No. 79–39–0) blended with melamine-formaldehyde resin (CAS Reg. No. 68002–20–0). For use in coatings for polyethylene phthalate films complying with paragraph (a) of this section.

* * * * *

Dated: August 23, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–22695 Filed 9–4–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfadimethoxine/Ormetoprim Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The approved NADA provides for oral use of sulfadimethoxine/ormetoprim tablets in dogs for the treatment of certain bacterial skin and soft tissue infections (wounds and abscesses). The supplement adds the treatment of certain bacterial urinary tract infections. This product is limited to veterinary prescription use.

EFFECTIVE DATE: September 5, 1996

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed supplemental NADA 100–929, which provides for oral use of Primor® (sulfadimethoxine/ormetoprim) tablets in dogs for the treatment of urinary tract infections caused by *Escherichia coli, Staphylococcus* spp., and *Proteus mirabilis* susceptible to the combination of sulfadimethoxine/ormetoprim in addition to its approved use for skin and soft tissue infections (wounds and abscesses) caused by strains of *S. aureus* and *E. coli* susceptible to sulfadimethoxine/ormetoprim. This product is limited to use by or on the order of a licensed veterinarian. The supplement is approved as of August 5, 1996, and the regulations are amended in 21 CFR 520.2220d to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of marketing exclusivity beginning August 5, 1996, because the supplement contains reports of new clinical or field investigations (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant. Marketing exclusivity applies only to use in treating urinary tract infections.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.2220d [Amended]

2. Section 520.2220d *Sulfadimethoxine-ormetoprim tablets* is amended in paragraph (c)(2) by adding the phrase "and urinary tract infections caused by *Escherichia coli, Staphlococcus* spp., and *Proteus mirabilus*" after "*Escherichia coli*".

Dated: August 23, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–22694 Filed 9–4–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8029]

Furnishing Statements Required With Respect to Certain Substitute Payments; Correction

AGENCY: Internal Revenue Services (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 8029), which were published in the **Federal Register** on Wednesday, June 5, 1985 (50 FR 23676) relating to statements required to be furnished by brokers and information returns of brokers.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION CONTACT: Donna Welch, (202) 622–4910, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under sections 6042, 6045 and 6049 of the Internal Revenue Code.

Need for Correction

The final regulations (TD 8029) omitted instructions to remove § 1.6045–2T and the entry for the OMB control number. It is the intent of this document to make these removals as of the publication of the final regulations.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Correcting Amendment to Regulations

Accordingly, 26 CFR parts 1 and 602 are corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

§ 1.6045–2T [Removed]

Par. 2. Section 1.6045–2T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by removing the entry for § 1.6045–2T from the table.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–22592 Filed 9–4–96; 8:45 a.m.]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[DEA–136C]

Redelegation of Functions; Delegation of Authority to Drug Enforcement Administration Official

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Under delegated authority, the Deputy Administrator of the Drug Enforcement Administration (DEA), Department of Justice, is amending the Appendix to Subpart R of the Justice Department regulations to make a technical correction to reflect a change in the position classification series for DEA Diversion Investigators.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: On October 1, 1995, Drug Enforcement Administration Diversion Investigators were converted from the Office of Personnel Management position classification series 1810 to series 1801. Section 3(b) of the Appendix to Subpart R is being amended to reflect that change by removing the reference to series 1810 and replacing it with series 1801.

The Deputy Administrator certifies that this action will have no impact upon entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601). Pursuant to Executive Order 12866, this is not a significant regulatory action since it relates only to the organization of functions within DEA. Accordingly, it has not been reviewed by the Office of Management and Budget and does not require certification under Executive Order 12778. This action has been analyzed in accordance with Executive Order 12616. It has been determined that this matter has no federalism implications which would require preparation of a federalism assessment.

List of Subjects in 28 CFR Part 0

Authority Delegations (Government Agencies), Organizations and functions (Government Agencies).

For the reasons set forth above, and pursuant to the authority vested in the Deputy Administrator of the Drug Enforcement Administration by 28 CFR 0.100 and 0.104, and 21 U.S.C. 871, title 28 of the Code of Federal Regulations, part 0, appendix to subpart R, Redelegation of Functions, is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301: 28 U.S.C. 509, 510, 515–519.

2. In the Appendix to subpart R, Section 3(b) remove the words "series 1810" and replace them with the words "series 1801".

Dated: August 28, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–22707 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AE94

Schedule for Rating Disabilities; Respiratory System

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends that portion of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities that addresses the Respiratory System. The intended effect of this action is to update the respiratory portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances which have occurred since the last review.

DATES: This amendment is effective October 7, 1996.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: As part of its first comprehensive review of the rating schedule since 1945, VA published a proposal to amend 38 CFR 4.96 and 4.97, which address the respiratory system. The proposal was published in the **Federal Register** of January 19, 1993 (58 FR 4962–69). Interested persons were invited to submit written comments on or before March 22, 1993. We received comments from Paralyzed Veterans of America, Disabled American Veterans, Veterans of Foreign Wars, the American Legion, several VA employees, and one member of the general public.

One commenter suggested a need for a zero percent level for all conditions.

On October 6, 1993, VA revised its regulation addressing the issue of zero percent evaluations (38 CFR 4.31) to authorize assignment of a zero percent evaluation for any disability in the rating schedule when minimum requirements for a compensable evaluation are not met. In general, that regulatory provision precludes the need for zero percent criteria for every condition. VA believes that it is useful to include a zero percent evaluation only if it is necessary to give the rating board clear and unambiguous instructions on rating where it might otherwise be unclear whether commonly occurring minor findings warrant a zero percent or higher evaluation.

One commenter suggested that the proposed revision would discriminate against veterans whose initial evaluations would be assigned under a new and deliberalized schedule.

Significant medical advances have occurred since the last comprehensive review of the rating schedule, and it is appropriate to take these advances into account in revising the rating schedule. Doing so is, in fact, one of the primary reasons for conducting this review. In our judgment, veterans will not be discriminated against by having their disabilities evaluated under criteria which reflect the effects of those medical advances. For veterans evaluated under the former criteria, Congress amended 38 U.S.C. 1155 to prohibit a reduction in a veteran's disability rating because of a readjustment of the rating schedule

unless an improvement in the disability has been shown.

One commenter stated that rating schedule revisions appear to be based on optimum success in overcoming the effects of disease rather than average impairment.

VA disagrees. 38 U.S.C. 1155 directs that "ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations." The word "average," as used in the statute, refers to the "usual or normal kind, amount, quantity, rate, etc." ("Webster's New World Dictionary," Third College Edition). To the extent possible, we have based our changes on average or usual or normal courses of disease and recovery.

The previous schedule provided a two-year period of total evaluation following the cessation of treatment for malignant neoplasms of the respiratory tract (DC 6819). As with malignant neoplasms in other revised sections of the rating schedule, we proposed that a 100-percent rating continue following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure, with a mandatory examination six months following cessation of treatment. Before any change in evaluation based upon the examination can be made, the provisions of § 3.105(e) must be implemented, and evaluation is made on residuals if there has been no metastasis or recurrence. We received a number of comments about that proposed change. One commenter said that six months is not a long enough convalescence.

We believe that an examination six months following the cessation of treatment affords sufficient time for convalescence and stabilization of residuals, particularly since the rule requires only an examination, not a reduction, at that time. If the results of that or any subsequent examination warrant a reduction in evaluation, the reduction will be implemented under the provisions of 38 CFR 3.105(e), which require a 60-day notice before VA reduces an evaluation and an additional 60-day notice before the reduced evaluation takes effect. The revised procedure, by requiring an examination, will not only assure that all residuals are documented, but also that the veteran receives timely notice of any proposed action and an expanded opportunity to present evidence showing that the proposed action should not be taken or should be mitigated. In our judgment, this method will better ensure that actual residual disabilities and recuperation times are taken into account because they will be documented on the required examination, and the veteran will have better opportunities to present evidence demonstrating the current level of disabilities.

We have revised the note under DC 6819 for the sake of clarity and consistency. We have added to the note a direction to rate on residuals, if there has been no local recurrence or metastasis, in order to make these provisions consistent with the revised provisions for malignancies of the genitourinary system. This is not a substantive change.

One commenter felt that applying § 3.105(e) will cause administrative problems and will significantly lengthen the period of a total evaluation when claims are received months or years after surgery. He felt that a retroactive increase to 100 percent simultaneously with the initiation of due process under § 3.105(e) to determine the extent of residual disability would be inconsistent.

Since § 3.105(e) applies only to reductions in "compensation payments currently being made," it does not apply where a total evaluation is assigned and reduced retroactively.

When the proposed rule was published, we cited improvements in the administration of chemotherapy and radiation therapy as one reason for eliminating a fixed convalescent period. One commenter requested that we justify our statement that chemotherapy has improved.

While the first effective drugs for treating cancer were introduced in the mid and late 1940's, the results were disappointing because responses were incomplete and of short duration, and doses were limited by toxicity ("Cecil Textbook of Medicine" 1118 (James B. Wyngaarden, M.D. et al. eds., 19th ed. 1992)). In 1945 there was only one drug known to be effective—nitrogen mustard. Today there are nearly 50 chemotherapeutic agents in use. The dose and frequency of administration of the newer agents often differ from those of earlier agents, and the actions of some of the newer agents are more targeted in their actions, so that side effects may be fewer and treatment shorter than before. In use since the 1960's, combination chemotherapy has also marked a turning point in the effective treatment of neoplastic disease ("Harrison's Principles of Internal Medicine" 1587 (Jean D. Wilson, M.D. et al. eds., 12th ed. 1991)).

Another commenter stated that the proposed changes in convalescence should be justified by medical experts or text citations and that our medical consultants should be named.

As part of the process of reviewing the rating schedule, we contracted with an outside consultant, Abt Associates Incorporated, to submit recommendations for revisions to those portions of the rating schedule dealing with the respiratory system. We also received advice and suggestions from physicians in the Veterans Health Administration, and we consulted standard medical and surgical textbooks, including "Harrison's Principles of Internal Medicine" (Jean D. Wilson, M.D. et al. eds., 12th ed. 1991), "Cecil Textbook of Medicine" (James B. Wyngaarden, M.D. et al. eds., 19th ed. 1992), and "The Merck Manual," (16th ed. 1992). The convalescent periods adopted in this change represent, in our judgment, based on sound medical advice, neither the longest nor the shortest periods that any individual patient might require for recovery, but the usual or normal periods during which a normal patient, under normal circumstances, would be expected to recover from a specific condition or surgical procedure. For the unusual case where a longer convalescence is needed, the provisions of §§ 4.29 and 4.30 allow an extension of convalescence.

One commenter said that the reductions in the revision appear to be on a purely economic basis.

This review was carried out from a medical perspective. Its purpose is to ensure that the rating schedule uses current medical terminology and unambiguous criteria, and that it reflects medical advances which have occurred since the last review. Cost cutting was not an issue.

One commenter suggested that we revise the title of DC 6522, allergic rhinitis, to "allergic or vasomotor rhinitis" because both conditions exhibit the same manifestations and are at times indistinguishable.

We agree and have revised the title of DC 6522 accordingly.

Another commenter, without giving his reasons, suggested that we combine DC's 6510 through 6514 (the codes for chronic pansinusitis, ethmoid sinusitis, frontal sinusitis, maxillary sinusitis, and sphenoid sinusitis) into a single code for sinusitis.

Retaining a separate code for each of the sinuses will allow statistical tracking of disease of individual sinuses. Since the commenter gave no reason for suggesting the change, and no substantial advantage to either the veteran or the rating board is evident, we have kept separate codes.

One commenter felt that subjective descriptors like "marked" under DC's 6522 (allergic rhinitis), 6523 (chronic rhinitis), and 6516 (laryngitis), and "abundant" in DC 6601 (bronchiectasis) in the proposed revision should be eliminated for the sake of objectivity.

VA agrees, and we have revised the criteria accordingly. In some cases we have simply removed subjective terms such as "marked" and "mild" when they did not substantively explain or clarify the evaluation criteria. In other cases, we have supplied objective definitions of terms. In still others, establishing more objective and unambiguous criteria required greater modification of the proposed criteria, and these changes will be discussed under the affected diagnostic codes.

In the case of chronic laryngitis (DC 6516), removing "marked" and "moderate" required additional changes in the criteria to distinguish the 10- and 30-percent levels. We proposed a ten-percent evaluation for moderate hoarseness with inflammation of cords or mucous membrane and a thirty-percent evaluation for marked hoarseness with pathological changes such as inflammation of cords or mucous membrane, thickening or nodules of cords, or submucous infiltration. We have revised the requirements for a ten-percent evaluation to hoarseness with inflammation of cords or mucous membrane and for a thirty-percent evaluation to hoarseness with thickening or nodules of cords, polyps, submucous infiltration, or pre-malignant changes on biopsy. This clarifies the criteria for the given percentages.

For several conditions with nasal obstruction: septum, nasal, deviation of (DC 6502), allergic or vasomotor rhinitis (DC 6522), and bacterial rhinitis (DC 6523), we proposed a ten-percent evaluation if there is "marked" interference with breathing space. We replaced that subjective criterion with "more than 50-percent obstruction of nasal passage on both sides or complete obstruction on one side" for a ten-percent evaluation in all three conditions. This clarifies the criteria for the given percentages.

In the general rating formula for sinusitis, the criteria included such subjective terms as "severe symptoms," "frequently incapacitating recurrences," and "frequent severe headaches." We proposed a 100-percent evaluation for "following radical surgery with chronic osteomyelitis, or; severe symptoms after repeated surgeries." We proposed a 30-percent evaluation for "frequently incapacitating recurrences, and frequent severe headaches, and purulent discharge or crusting reflecting purulence." We proposed a ten-percent level for "infrequent headaches with discharge or crusting or scabbing." We have revised these criteria by specifying the frequency of incapacitating or non-incapacitating episodes of sinusitis per year and the specific symptoms for the various levels. For example, we changed the criteria for a 30-percent evaluation to a requirement for three or more incapacitating episodes per year of sinusitis requiring prolonged (lasting four to six weeks) antibiotic treatment, or; more than six non-incapacitating episodes per year of sinusitis characterized by headaches, pain, and purulent discharge or crusting. The change is to clarify the criteria.

One commenter, while agreeing with the removal of ambiguous words such as "severe," urged that the rules not be made too concrete.

We believe that providing clear and objective criteria is the best way to assure that disabilities will be evaluated fairly and consistently. At the same time we are aware that there must be some flexibility in application of the criteria because patients do not commonly present as textbook models of disease. Rating boards are required to assess all the evidence of record before determining a disability evaluation and must use their judgment in determining, for example, which level of evaluation is more appropriate when there is conflicting information. Therefore, no matter how objective the criteria, an element of judgment in their application remains.

We proposed criteria for bronchiectasis (DC 6601) that included "severe" hemoptysis, "chronic" antibiotic usage, and "chronic recurrent" pneumonia. One commenter said that the words "severe," "chronic," and "chronic recurrent" are not objective and that in fact they are unnecessary.

VA agrees. However, simply eliminating those adjectives would not have left appropriate criteria, so we have revised the criteria to make them more objective. We have specified the required duration of incapacitating episodes of infection or frequency of antibiotic usage for each level of severity of bronchiectasis. At the 60- and 30-percent levels, we also provided alternative objective criteria based on such symptoms as cough, purulent sputum, and weight loss. Our change is to clarify the criteria for the evaluation of bronchiectasis.

The previous schedule used a variety of symptoms, signs, and X-ray findings to evaluate pulmonary diseases. We proposed that many be evaluated, at least in part, on criteria based on the results of pulmonary function tests (PFT's). One commenter, concerned that a single set of PFT's on a given day might not accurately represent the veteran's usual condition, recommended that VA place greater emphasis on interpreting examination reports in light of all evidence of record and require that test results be reviewed by a pulmonary disease specialist or by the medical specialist on the rating board.

Rating boards are required by § 4.2 to evaluate all evidence of record before assigning an evaluation. It is highly unlikely that the results of a single set of PFT's would be the only available evidence on which to evaluate the level of severity of a pulmonary condition. Current clinical information, treatment records, previous examination reports, and other laboratory results are generally available for consideration. Rating boards seek medical consultation when they feel it is necessary. The medical consultant to the rating board is readily available for information and advice, and the rating board may request an examination by a pulmonary disease specialist when it feels it is needed. It would be both impractical and unnecessary to consult with a pulmonary disease specialist on every case in which PFT's have been conducted.

One commenter suggested that the criteria in the previous rating schedule for evaluating respiratory diseases be retained as a backup for cases where pulmonary function testing is not available.

The equipment for carrying out PFT's is widely available, but if an examining facility is not equipped for the tests, the examination will need to be conducted at another facility, as is the case with other specialized testing, such as for vision or hearing. VA therefore does not believe retention of the previous criteria as backup is necessary.

Another commenter stated that pulmonary function testing is contraindicated in certain instances for medical reasons, such as a history of spontaneous pneumothorax, a hole in the tympanic membrane, or a recent history of active tuberculosis, and that provisions are therefore needed for evaluating these conditions when PFT's cannot be done.

The Veterans Health Administration has advised us that the medical conditions listed by the commenter do not contraindicate pulmonary function testing. The major limiting factor in carrying out such testing is the inability of some patients to follow directions, as

might occur, for example, in individuals who are severely ill following a stroke. Even in such individuals, the new criteria allow assignment of a total evaluation for respiratory disease because there are a number of criteria warranting a 100-percent evaluation, including cor pulmonale, right ventricular hypertrophy, and respiratory failure, that can be assessed without the need for patient cooperation. As under the previous criteria, for a small number of patients with a less severe respiratory disease, an evaluation may have to be deferred until pulmonary function testing is feasible.

Machines that are used for disability testing purposes must meet the calibration standards of The American Thoracic Society, which are internationally accepted. This assures that the basis of evaluations will be the most accurate and consistent measurements possible.

We proposed a 100-percent level of evaluation for larynx, stenosis of, (DC 6520) if there is either a Forced Expiratory Volume in one second (FEV–1) of less than 40-percent predicted, or a permanent tracheostomy, and a 60-percent evaluation if there is an FEV–1 of 40- to 55-percent predicted. We proposed a 100-percent evaluation for chronic bronchitis (DC 6600), pulmonary emphysema (DC 6603), chronic obstructive pulmonary disease (DC 6604) and restrictive lung diseases if there is an FEV–1 of less than 40-percent predicted, a ratio of FEV–1 to Forced Vital Capacity (FVC) less than 40-percent, a DLCO less than 40-percent predicted, maximum exercise capacity less than 15 ml/kg/min oxygen consumption, cor pulmonale (right heart failure), right ventricular hypertrophy, pulmonary hypertension, episode(s) of acute respiratory failure, or a requirement for outpatient oxygen therapy. We proposed a 60-percent evaluation for the same group of conditions if there is an FEV–1 of 40- to 55-percent predicted, an FEV–1/FVC of 40- to 55-percent, a DLCO of 40- to 55-percent predicted, or maximum oxygen consumption of 15 to 20 ml/kg/min. We proposed a 100-percent evaluation for bronchial asthma (DC 6602) if there is an FEV–1 less than 40-percent predicted, an FEV–1/FVC less than 40-percent, more than one attack per week with episodes of respiratory failure, or daily use of systemic high dose corticosteroids or immuno-suppressive medication, and a 60-percent evaluation if there is an FEV–1 of 40- to 55-percent predicted, an FEV–1 of 40- to 55-percent, at least monthly visits to a physician for exacerbations, or intermittent courses of systemic corticosteroids.

One commenter said that the levels of reduction of pulmonary function for the 60- and 100-percent evaluation levels of DC's 6520, 6600, 6602, 6603, 6604, and 6844 (one of the restrictive lung conditions) that we proposed are extreme and do not represent average impairments.

VA disagrees. The criteria we have provided for a 100-percent evaluation for these conditions are consistent with the criteria used by the American Thoracic Society for its "severely impaired (unable to meet the physical demands of most jobs)" category. This is not more stringent than the requirement for "dyspnea at rest" or "dyspnea on slight exertion," which were among the criteria for a 100-percent level of evaluation for many pulmonary conditions in the previous schedule. We also provided alternative requirements for a 100-percent evaluation, such as heart failure, that are consistent with criteria for this level in other sections of the rating schedule. The criteria we have provided for 60 percent are proportionately lower than those for the 100-percent level.

One commenter questioned what values will be assigned as normals in PFT's.

Normal values of PFT's, for VA purposes, are those that exceed the requirements for a 10-percent evaluation, and those levels are also consistent with the American Thoracic Society standards for normal values except in the case of the FEV–1/FVC ratio, where we include the 75- to 80-percent level in the criteria that warrant a ten-percent evaluation. Although the American Thoracic Society uses an evaluation of 75 percent as the normal level of the FEV–1/FVC ratio, two widely used medical textbooks use other normals: Cecil (374) uses "80 percent," and Harrison (1035) uses "approximately 75 to 80 percent." Therefore, our designation of over 80 percent as normal is consistent with current medical teaching.

The same commenter recommended that we specify that pulmonary function be tested before bronchodilatation in order to reflect ordinary conditions of life.

VA disagrees. The American Lung Association/American Thoracic Society Component Committee on Disability Criteria recommends testing for pulmonary function after optimum therapy. The results of such tests reflect the best possible functioning of an individual and are the figures used as the standard basis of comparison of pulmonary function. Using this standard testing method assures consistent evaluations.

One commenter stated that, while pulmonary function testing provides a very accurate picture of functional impairment of the respiratory system, compensation should be based on the limitation of earning capacity.

The determination of compensation based on limitation of earning capacity is not inconsistent with the use of objective PFT's. A major objective of the rating schedule revision is to provide criteria that are accurate, consistent, and unambiguous. The widespread use and acceptance of PFT's (American Thoracic Society, American Medical Association, etc.) indicates their value in assessing the severity of pulmonary diseases. Their usefulness lies in part in the fact that they correlate with the functional impairment that an individual experiences. The more severe the pulmonary disease, the more abnormal one or more PFT's are likely to be, and the more interference there is likely to be with occupational functioning. Using PFT's as a means of evaluation fulfills to as great an extent as is possible, the desire for evaluation criteria that allow accuracy and consistency and that are not ambiguous. The commenter offered no alternative suggestions for criteria to evaluate pulmonary disease.

One commenter felt that PFT's should be the exclusive basis for evaluating lung disorders because they are strictly objective.

VA disagrees. While we have used the results of pulmonary function tests as evaluation criteria when they are appropriate, they are not suitable for the evaluation of all lung conditions. Asthma, for example, is an episodic condition that may exhibit normal PFT's at most times despite significantly disabling disease, and it therefore requires other criteria for its evaluation, such as the need for a certain type or frequency of treatment.

One commenter, noting that we had proposed to assign most lung disorders (restrictive lung diseases, chronic bronchitis, asthma, emphysema, chronic obstructive pulmonary disease, and bronchiectasis) evaluation levels of 10, 30, 60, and 100 percent, but interstitial lung diseases levels of 0, 10, 40, 70, and 100 percent, said that it would be more logical and consistent to assign all lung conditions the same evaluation levels. Another commenter stated that lung conditions with similar impairments of lung functions should receive similar ratings. He suggested listing FEV–1, FVC, FEV–1/FVC, and DLCO under all lung diseases requiring PFT's, as recommended by the American

Thoracic Society and found in the AMA Guides.

Individual categories of pulmonary disorders often affect the results of one PFT more than another. Our non-VA panel of specialist consultants felt that FEV–1 and the ratio of FEV–1 to FVC are good indicators of the level of severity of many pulmonary diseases, but that the FVC and DLCO are more appropriate PFT's to evaluate interstitial diseases. The American Medical Association's "Guides to the Evaluation of Permanent Impairment," Third Edition, Revised (1990), says that "for interstitial lung disease, the FVC has proved to be a reliable and valid index of significant impairment," and it goes on to say that the DLCO is especially useful in detecting abnormalities that limit gas transference, such as emphysema or interstitial fibrosis of the lung parenchyma. A standard medical textbook (Cecil, 401), says that the ratio of FEV–1 to FVC may be normal or increased in interstitial disease. It is therefore not useful as a criterion to evaluate the severity of this type of disease. Our use of the proposed criteria is thus consistent with the effects of the various conditions on PFT's.

Regarding the comment about using the same evaluation levels for all lung disorders, VA agrees that there is no compelling reason to use evaluation levels for interstitial lung disease that differ from those used for the majority of other lung diseases. We have, therefore, for the sake of greater consistency, revised the criteria for interstitial lung disease by substituting 30- and 60-percent levels for the 40- and 70-percent levels. This required adjustments in the FVC and DLCO levels used as criteria, both because of the changed evaluation levels and to make them correspond with the PFT criteria for other pulmonary conditions. We also removed the zero-percent evaluation for consistency.

One commenter said that while an FEV–1 above 80 percent is considered normal in the proposed revision of the respiratory disease section of the rating schedule, the Veterans Health Administration's "Physician's Guide for Disability Evaluation Examinations" (a manual that gives guidance to examining physicians who do compensation and pension examinations) states that 83 percent is normal, and these figures are inconsistent.

The "Physician's Guide" is meant to insure that all necessary tests are performed and that all findings are provided for diagnosis and/or evaluation to meet the specific requirements of the Schedule for Rating Disabilities and related programs. It is available to VA and fee basis examiners conducting examinations for VA disability benefits. The current version of the Guide (revised 1994), which is computerized and no longer available in printed form, does not provide lists of normal PFT results. The examining physician is required to obtain PFT's where the criteria call for them but need not interpret the results since the criteria themselves contain the actual figures that warrant various evaluations. As with any examination, it is incumbent upon the rating board to return to the examiner reports that lack information necessary to apply the provisions of the rating schedule (see 38 CFR 4.2).

We proposed notes under DC's 6600 (chronic bronchitis), 6603 (pulmonary emphysema), 6604 (chronic obstructive pulmonary disease) and under the general rating formula for restrictive lung diseases outlining the requirements for home oxygen. One commenter said that the requirements for home oxygen are too specific and should be flexible enough to allow for a physician's assessment that the patient needs oxygen. Another commenter said that the term "home oxygen" is confusing because many use oxygen away from home and the requirement for oxygen may be temporary, pending stabilization or during an acute illness.

VA agrees that the decision to use home oxygen should be a medical, not a rating, decision, and we have therefore deleted the note explaining the technical requirements for home oxygen. We proposed that "meets requirements for home oxygen" be one of the criteria for the 100-percent level of the conditions listed above, but the preferred current term for such treatment is "outpatient oxygen therapy," and we have revised the language accordingly.

A commenter asked how VA will deal with results of PFT's from non-VA facilities that are at variance with VA test results.

This potential problem is not unique to the area of PFT's. Any laboratory test may show different results when performed on the same individual in the same facility at different times or when the same test is performed on the same individual at more than one facility. Rating boards are required to consider and reconcile all evidence of record, and at times they may seek additional testing or a medical opinion to help reconcile differences.

One commenter suggested we assign a minimum evaluation of 10 percent for any lung disorder if the patient must take daily medication.

VA disagrees. Because of the broad range of pulmonary conditions and medications used to treat them, a 10-percent evaluation would not necessarily be warranted in all cases on the basis of daily medication alone. For example, daily use of an expectorant or cough medicine would not necessarily be indicative of a condition warranting a ten-percent level of evaluation.

We proposed to add sarcoidosis (DC 6846) to the rating schedule with evaluation levels of 0, 30, and 60 percent. We received two comments about this change. One stated that while the criteria of pulmonary involvement with fever, weight loss, and night sweats requiring high dose systemic corticosteroids for control establish a 60-percent level of evaluation in the case of sarcoidosis, similar criteria (active infection with systemic symptoms such as fever, night sweats, weight loss, or hemoptysis) establish a 100-percent evaluation for bacterial infections of the lung (DC's 6822, 6823, and 6824). He felt that the criteria described should be considered totally disabling for both conditions.

VA agrees that some of the criteria we had proposed for the 60-percent level of sarcoidosis are more consistent with total disability. We have therefore revised the criteria for the 60-percent evaluation level and added a 100-percent evaluation level. We have made fever, night sweats, and weight loss part of the criteria for the 100-percent level and pulmonary disease requiring systemic high dose (therapeutic) steroids for control of the criterion for the 60-percent level. We also slightly revised the 30 percent criteria by adding "maintenance" in parentheses as a description of the steroid therapy and removed "mild" modifying symptoms because it is a subjective term, and whether maintenance or therapeutic doses of steroid are used makes a clearer differentiation of the level of severity.

The other commenter stated that it will be difficult to establish service connection for sarcoidosis on a presumptive basis if there is no ten-percent level, because presumptive service connection requires that a condition be manifest to a degree of ten percent or more within one year of discharge.

The evaluation levels we provide for various conditions are meant to reflect the ordinary levels of severity that may be seen in those conditions, and we do not provide ten-percent evaluation levels in order to aid presumptive service connection. The proposed evaluation criteria for sarcoidosis included 30- and 60-percent evaluation levels, and either of those levels would

establish presumptive service connection if present within one year of discharge. Sarcoidosis may also be evaluated under other criteria, however, as indicated in a note following the evaluation criteria. Therefore, a 10-percent level, as well as other levels of evaluation, may be assigned under DC 6600 (chronic bronchitis) based on the results of pulmonary function tests, or under skin disease, eye disease, etc., when there is extra-pulmonary involvement.

One commenter suggested that we add a diagnostic code and evaluation criteria for asbestosis. He suggested that we evaluate the condition based on its restrictive aspects, X-ray changes, and pleural changes.

VA agrees that asbestosis is a common enough disease in the veteran population to warrant its own diagnostic code. We have therefore removed asbestosis from the list of pneumoconioses in DC 6832 and have added asbestosis as DC 6833. It will be evaluated under the general rating formula for interstitial diseases, as recommended by our panel of consultants. The X-ray changes unique to asbestosis are not necessarily related to the degree of disability but are helpful in establishing the fact of asbestos exposure. They therefore relate more to the issue of service connection rather than to evaluation, and we have not made them part of the evaluation criteria. We have adjusted the numbering of the proposed diagnostic codes following asbestosis to accommodate the added condition. We have changed the proposed DC's for histoplasmosis of lung from 6833 to 6834, coccidioidomycosis from 6834 to 6835, blastomycosis from 6835 to 6836, cryptococcosis from 6836 to 6837, aspergillosis from 6837 to 6838, mucormycosis from 6838 to 6839, diaphragm paralysis or paresis from 6839 to 6840, spinal cord injury with respiratory insufficiency from 6840 to 6841, kyphoscoliosis, pectus excavatum, pectus carinatum from 6841 to 6842, traumatic chest wall defect, pneumothorax, hernia, etc., from 6842 to 6843, post-surgical residual from 6843 to 6844, chronic pleural effusion or fibrosis from 6844 to 6845, sarcoidosis from 6845 to 6846, and sleep apnea from 6846 to 6847.

One commenter asked why we have not proposed to rate the disfigurement and disability from radical neck surgery under respiratory disorders.

Radical neck surgery is not appropriate for inclusion in the respiratory system section of the rating schedule because it primarily results in loss of muscle tissue (of the neck), subcutaneous tissue, and lymph nodes. There is ordinarily no effect on the respiratory system from such surgery. Disability from this loss of tissue can be most appropriately evaluated under diagnostic codes in other sections, such as DC 5322 (Muscle Group XXII, muscles of the front of the neck) or DC 7800 (disfiguring scars of the head, face, or neck).

We proposed that injuries to the pharynx (DC 6521) have a single evaluation level of 50 percent based on the presence of stricture or obstruction of the pharynx or nasopharynx or on paralysis or absence of the soft palate. A commenter said that the resulting symptoms are severe enough to be considered 60-percent disabling, equivalent to complete organic aphonia (DC 6519) or stenosis of larynx (DC 6520), which have both 60- and 100-percent evaluation levels.

VA disagrees. The impairments from these three conditions differ because they are in different locations. The major effect of pharyngeal and palatal injuries is swallowing difficulty rather than respiratory difficulty, and any resulting speech impairment is not likely to approach the level of aphonia. (A 50-percent evaluation for these injuries is comparable to the 50-percent evaluation criteria in the digestive system for severe esophageal stricture, permitting passage of liquids only.) Laryngeal stenosis, on the other hand, causes both respiratory and speech impairment. However, if there is a case where the impairment from pharyngeal injury more closely resembles aphonia or the effects of laryngeal stenosis, an evaluation analogous to one of those conditions may be used instead (§ 4.20). In our judgment, the criteria and level of evaluation we have provided are appropriate for most pharyngeal injuries, and there are adequate provisions for evaluating those few that may be more severe.

Note (1) under the proposed general rating formula for inactive pulmonary tuberculosis stated that when a veteran is placed on the 100-percent rating for inactive tuberculosis, the medical authorities will be appropriately notified of the fact, and of the necessity under 38 U.S.C. 356 to notify the Adjudication Division in the event of failure to submit to examination or to follow prescribed treatment. A commenter said that the citation of 38 U.S.C. 356, repealed by Public Law 90–493, should be followed by a notation that it is to be found as footnote 1 to section 1156 of title 38, United States Code.

We agree and have revised the note accordingly.

One commenter felt that there is inequity in the evaluation criteria for laryngectomy and partial aphonia because if partial aphonia allows a person to whisper, the rating is 60 percent while if laryngectomy allows a person to whisper, the rating is 100 percent.

VA disagrees. Disability resulting from a laryngectomy is not comparable to partial aphonia with an intact larynx. In the case of laryngectomy, a significant organ has been removed which has functions beyond that of speech. The larynx acts as the sphincter guarding the gateway to the trachea, and a laryngectomy produces a serious compromise of the respiratory tract, requiring a permanent tracheostomy. Partial aphonia may result from any of several causes, including inflammatory and benign neoplastic conditions, but since they affect speech without affecting respiration, we have retained the evaluation criteria as proposed.

Another comment regarding total laryngectomy (DC 6518) and complete organic aphonia (DC 6519) was that there should be a footnote at these codes as a reminder to consider special monthly compensation (SMC), which may be awarded for complete organic aphonia under the provisions of 38 CFR 3.350.

In our judgment, the rating agency should refer directly to the complex and extensive regulations regarding special monthly compensation in § 3.350 whenever the question of special monthly compensation arises. However, in response to the comment, we have taken two steps to remind the rating board to consider the possibility of SMC. We added paragraph (c), "Special monthly compensation," to § 4.96 requiring the rating board to refer to § 3.350 any time it evaluates a claim involving complete organic aphonia; and we placed footnotes at DC's 6518 and 6519, conditions which may be associated with complete organic aphonia, instructing rating boards to review for entitlement to SMC. While those conditions clearly call for review for entitlement to SMC, there are other conditions in this portion of the rating schedule where there might also be entitlement to SMC. The lack of a footnote does not relieve the rating board of the responsibility of recognizing additional circumstances where SMC might be warranted. We believe that the combination of the regulatory requirement contained in the note and the footnotes is the best method of making sure that potential entitlement to SMC is considered.

In view of the addition of paragraph (c) to § 4.96, we have changed the title

of this section to "Special provisions regarding evaluation of respiratory conditions," which is more descriptive of its current contents.

The previous rating schedule had separate diagnostic codes and evaluations for pneumonectomy (60 percent under DC 6815) and lobectomy (50 percent if bilateral, and 30 percent if unilateral, under DC 6816). We proposed that all pulmonary post-surgical residuals, including lobectomy and pneumonectomy, be evaluated under DC 6843, post-surgical residual, as restrictive lung disease, based on the objective findings of PFT's. One commenter said this change is an arbitrary decrease because no advancement in medical science can change the degree of disability resulting from such surgery.

VA does not concur. Since there is an objective method to measure residual breathing impairment, it is more equitable to use that method so that evaluation of the residuals of any type of lung resection is made on the actual residuals found. The previous schedule did not provide evaluations for residuals more severe than the levels specified under those codes. It required, for example, that lobectomy be bilateral to qualify for a 50-percent level of impairment. Under the revised criteria, a veteran will be assigned an evaluation according to the level of disability reflected by the PFT's, whatever the extent of the surgery. This will assure that veterans with comparable residual pulmonary disabilities are consistently evaluated.

We proposed that chronic lung abscess (DC 6824) be evaluated under a general rating formula for bacterial infections of the lung and directed that post-surgical residuals and post-treatment fibrosis and scars be rated as chronic bronchitis (DC 6600). One commenter pointed out that there may be other types of residuals besides fibrosis and scars, such as thoracoplasty, lobectomy, or purulent pleurisy, and suggested that the residuals be rated as appropriate.

We agree, and have revised the statement under DC 6824 to read: "Depending on the specific findings, rate residuals as interstitial lung disease, restrictive lung disease, or, when obstructive lung disease is the major residual, as chronic bronchitis (DC 6600)."

The previous schedule called for a 100-percent rating for one year following the date of inactivity of active pulmonary tuberculosis (DC 6731). We proposed that once pulmonary tuberculosis becomes inactive, it be evaluated on the residual scar or fibrosis as chronic bronchitis (DC 6600). Three commenters objected to the change. One said that eliminating a period of convalescence when there is a new worldwide outbreak of tuberculosis is questionable, one said that the change is not justifiable, and one said that we should provide a period of readjustment because individuals have difficulty finding employment after release from treatment for tuberculosis.

On further consideration, VA agrees that some provision for readjustment is appropriate, and we have revised DC 6731 to require that a mandatory examination be requested immediately after notification that active tuberculosis has become inactive. Any change in evaluation will be carried out under the provisions of § 3.105(e). This will assure that a total evaluation will continue for at least several months, which will provide a period of readjustment, and will also assure that the extent of any residual impairment has been documented by examination.

The third commenter stated that the proposal to rate residual scar or fibrosis of inactive tuberculosis (DC 6731) as chronic bronchitis (DC 6600) is too restrictive because there may be other residuals.

We agree, and have revised the statement under DC 6731 to read: "Depending on the specific findings, rate residuals as interstitial lung disease, restrictive lung disease, or, when obstructive lung disease is the major residual, as chronic bronchitis (DC 6600). Rate thoracoplasty as removal of ribs under DC 5297."

We proposed separate diagnostic codes for chronic bronchitis (DC 6600), pulmonary emphysema (DC 6603), and chronic obstructive pulmonary disease (DC 6604), with evaluation under identical criteria. One commenter suggested a single diagnostic code, "chronic obstructive pulmonary disease (bronchitis or emphysema)," for all of these conditions, since the proposed criteria are essentially identical.

VA disagrees. While pulmonary emphysema, chronic obstructive pulmonary disease (COPD), and chronic bronchitis often coexist and are sometimes hard to differentiate, they are not synonymous. COPD ordinarily refers to a combination of chronic obstructive bronchitis and emphysema (Cecil, 389), but the term is not always used precisely. Emphysema may be localized or generalized, and is not always categorized as COPD. Since an individual may receive a diagnosis of any of the three conditions, it is useful to have a separate diagnostic code for each entity for statistical purposes and to aid the rating board in selecting appropriate evaluation criteria.

We proposed to add spinal cord injury with respiratory insufficiency (DC 6840) as one of six restrictive lung diseases to be evaluated under a general rating formula. One commenter, without explaining how the conditions differ or offering an alternative for us to consider, suggested that spinal cord injury with respiratory insufficiency not be evaluated as a restrictive lung disease because ventilator dependency secondary to spinal cord injury is distinct from other lung diseases.

VA disagrees. The panel of non-VA specialists convened by a contract consultant included spinal cord injury with respiratory insufficiency among the restrictive pulmonary diseases. Cecil (377), in discussing restrictive pulmonary disease, includes those conditions that affect the chest wall or respiratory muscles. We have provided alternative criteria for restrictive lung disease at each evaluation level, and if any one of the criteria for a particular level is present, that level of evaluation can be assigned. A wide range of respiratory conditions with a predominantly restrictive effect can therefore be evaluated under our criteria, even though one condition might be reflected in an abnormality of one PFT more than another. As a result, our criteria are broad enough to encompass any likely functional impairment spinal cord injury with respiratory insufficiency may produce.

The previous rating schedule provided a one hundred-percent evaluation for six months following spontaneous pneumothorax (now DC 6843). We proposed to provide a convalescent period of three months following total pneumothorax. We received two comments objecting to this proposal. One commenter said that our statement in the preamble to the proposed revision that pneumothorax resolves sooner than six months is not supported by medical evidence, and the other said that decreasing the convalescent period may impede full recovery.

VA disagrees. "The Merck Manual," (731, 16th ed. 1992), states that a small pneumothorax requires no special treatment and that the air is reabsorbed in a few days. It also says that full absorption of a larger airspace may take two to four weeks, a period which can be shortened by the use of a tube for drainage. Cecil (450), states that a small pneumothorax is reabsorbed in 7 to 14 days and that larger ones may be treated with a tube for 2 to 4 days if very large, under tension, or very symptomatic. A persistent or complicated pneumothorax

may require surgery, and in that case, the provisions of § 4.30(b)(2) allow the rating board to assign convalescence for up to a total of six months. Therefore, it is our judgment that three months of convalescence is adequate in the average case.

We received one comment on avoiding pyramiding, the prohibited practice of evaluating the same disability under various diagnoses (see 38 CFR 4.14). The commenter suggested that we direct that DC 6520, stenosis of larynx, not be combined with other codes in this section because the criterion for airflow obstruction due to stenosis of the larynx is similar to those for disease of bronchi or lungs.

Stenosis of the larynx may be evaluated on the basis of the results of pulmonary function tests, if there is respiratory impairment, or as aphonia, when interference with speech is the main impairment. Only in cases of laryngeal stenosis where respiratory impairment is the basis of evaluation would it be pyramiding to combine such an evaluation with the evaluation of another pulmonary condition. Therefore, a strict prohibition against combining evaluations for stenosis of the larynx with evaluations for pulmonary conditions is not warranted. The statement in § 4.96, paragraph (a), stipulating that when there is lung or pleural involvement, DC's 6819 and 6920 will not be combined with each other or with DC's 6600 through 6817 or 6822 through 6847 is sufficient to alert the rating board to possible problems of pyramiding when evaluating pulmonary conditions.

The same commenter additionally said that, to prevent pyramiding, VA should state that evaluations under DC's 6520 (stenosis of larynx), 6511, 6512, 6513, and 6514 (sinusitis in various locations) should not be combined with one another and likewise that evaluations under DC's 6522, 6523, and 6524 (rhinitis of various types) should not be combined with one another.

In VA's judgment, there is no need to specifically prohibit pyramiding of the various codes for sinusitis or rhinitis as the commenter suggests. The rating board is required in general by § 4.14 not to pyramid disabilities. The board must use its judgment as to whether a single evaluation encompasses all disability present or not. A specific prohibition might be useful if all conditions involved always had the same manifestations, but this is not true of either sinusitis or rhinitis.

The commenter went on to say that, alternatively, § 4.96 could be amended to state that it does not remove the prohibition against pyramiding that may apply to other diagnostic codes.

VA disagrees. Such an amendment is not necessary because § 4.14, which prohibits the practice of "pyramiding," applies to the entire rating schedule, and all rating boards are required to follow it.

For further clarity, we have revised the criteria for pulmonary vascular disease, DC 6817. We proposed that the criterion for 30 percent be "acute pulmonary embolism with residual symptoms," and we changed that language to "symptomatic following resolution of acute pulmonary embolism." We proposed that the criterion at the zero-percent level be "resolved pulmonary thromboembolism with no residual symptoms," and we changed that language to "asymptomatic, following resolution of pulmonary thromboembolism." These do not represent substantive changes. Because pulmonary vascular disease may result in residuals other than those included in the proposed criteria, such as chronic pleural thickening, for the sake of completeness, we added a note under DC 6817 directing to evaluate other residuals under the most appropriate diagnostic code.

In the proposed regulation for chronic bronchitis (DC 6600), pulmonary emphysema (DC 6603), chronic obstructive pulmonary disease (DC 6604), and restrictive lung diseases, we inadvertently omitted an upper level of DLCO that would warrant a ten percent evaluation. We have corrected this oversight in the final regulation by making the DLCO requirement for the 10-percent evaluation "66- to 80-percent predicted."

An additional change we made for the sake of completeness was the addition of a note following DC 6504, nose, loss of part of, or scars, stating that this disability may alternatively be evaluated as DC 7800, disfiguring scars of the head, face, or neck.

We made minor editorial changes in language in several cases, such as changing "rate" to "evaluate" and "applicable" to "appropriate", but these are not substantive changes.

VA appreciates the comments submitted in response to the proposed rule, which is now adopted with the amendments noted above.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: May 13, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155.

Subpart B—Disability Ratings

2. In § 4.96, the section heading and paragraph (a) are revised, and paragraph (c) is added to read as follows:

§ 4.96 Special provisions regarding evaluation of respiratory conditions.

(a) *Rating coexisting respiratory conditions.* Ratings under diagnostic codes 6600 through 6817 and 6822 through 6847 will not be combined with each other. Where there is lung or pleural involvement, ratings under diagnostic codes 6819 and 6820 will not be combined with each other or with diagnostic codes 6600 through 6817 or 6822 through 6847. A single rating will be assigned under the diagnostic code which reflects the predominant disability with elevation to the next higher evaluation where the severity of the overall disability warrants such elevation. However, in cases protected by the provisions of Pub. L. 90–493, the graduated ratings of 50 and 30 percent for inactive tuberculosis will not be elevated.

* * * * *

(c) *Special monthly compensation.* When evaluating any claim involving complete organic aphonia, refer to § 3.350 of this chapter to determine whether the veteran may be entitled to special monthly compensation. Footnotes in the schedule indicate

conditions which potentially establish entitlement to special monthly compensation; however, there are other conditions in this section which under certain circumstances also establish entitlement to special monthly compensation.

(Authority: 38 U.S.C. 1155)

3. Section 4.97 is revised to read as follows:

§ 4.97 Schedule of ratings—respiratory system.

	Rating
DISEASES OF THE NOSE AND THROAT	
6502 Septum, nasal, deviation of:	
Traumatic only,	
With 50-percent obstruction of the nasal passage on both sides or complete obstruction on one side	10
6504 Nose, loss of part of, or scars:	
Exposing both nasal passages	30
Loss of part of one ala, or other obvious disfigurement	10
Note: Or evaluate as DC 7800, scars, disfiguring, head, face, or neck.	
6510 Sinusitis, pansinusitis, chronic.	
6511 Sinusitis, ethmoid, chronic.	
6512 Sinusitis, frontal, chronic.	
6513 Sinusitis, maxillary, chronic.	
6514 Sinusitis, sphenoid, chronic.	
General Rating Formula for Sinusitis (DC's 6510 through 6514):	
Following radical surgery with chronic osteomyelitis, or; near constant sinusitis characterized by headaches, pain and tenderness of affected sinus, and purulent discharge or crusting after repeated surgeries	50
Three or more incapacitating episodes per year of sinusitis requiring prolonged (lasting four to six weeks) antibiotic treatment, or; more than six non-incapacitating episodes per year of sinusitis characterized by headaches, pain, and purulent discharge or crusting	30
One or two incapacitating episodes per year of sinusitis requiring prolonged (lasting four to six weeks) antibiotic treatment, or; three to six non-incapacitating episodes per year of sinusitis characterized by headaches, pain, and purulent discharge or crusting	10
Detected by X-ray only	0
Note: An incapacitating episode of sinusitis means one that requires bed rest and treatment by a physician.	
6515 Laryngitis, tuberculous, active or inactive.	
Rate under §§ 4.88c or 4.89, whichever is appropriate.	
6516 Laryngitis, chronic:	
Hoarseness, with thickening or nodules of cords, polyps, submucous infiltration, or pre-malignant changes on biopsy	30
Hoarseness, with inflammation of cords or mucous membrane	10
6518 Laryngectomy, total.	[1] 100
Rate the residuals of partial laryngectomy as laryngitis (DC 6516), aphonia (DC 6519), or stenosis of larynx (DC 6520).	
6519 Aphonia, complete organic:	
Constant inability to communicate by speech	[1] 100
Constant inability to speak above a whisper	60
Note: Evaluate incomplete aphonia as laryngitis, chronic (DC 6516).	
6520 Larynx, stenosis of, including residuals of laryngeal trauma (unilateral or bilateral):	
Forced expiratory volume in one second (FEV–1) less than 40 percent of predicted value, with Flow-Volume Loop compatible with upper airway obstruction, or; permanent tracheostomy	100
FEV–1 of 40- to 55-percent predicted, with Flow-Volume Loop compatible with upper airway obstruction	60
FEV–1 of 56- to 70-percent predicted, with Flow-Volume Loop compatible with upper airway obstruction	30
FEV–1 of 71- to 80-percent predicted, with Flow-Volume Loop compatible with upper airway obstruction	10
Note: Or evaluate as aphonia (DC 6519).	
6521 Pharynx, injuries to:	
Stricture or obstruction of pharynx or nasopharynx, or; absence of soft palate secondary to trauma, chemical burn, or granulomatous disease, or; paralysis of soft palate with swallowing difficulty (nasal regurgitation) and speech impairment	50
6522 Allergic or vasomotor rhinitis:	
With polyps	30
Without polyps, but with greater than 50-percent obstruction of nasal passage on both sides or complete obstruction on one side	10
6523 Bacterial rhinitis:	
Rhinoscleroma	50
With permanent hypertrophy of turbinates and with greater than 50-percent obstruction of nasal passage on both sides or complete obstruction on one side	10
6524 Granulomatous rhinitis:	
Wegener's granulomatosis, lethal midline granuloma	100
Other types of granulomatous infection	20
DISEASES OF THE TRACHEA AND BRONCHI	
6600 Bronchitis, chronic:	
FEV–1 less than 40 percent of predicted value, or; the ratio of Forced Expiratory Volume in one second to Forced Vital Capacity (FEV–1/FVC) less than 40 percent, or; Diffusion Capacity of the Lung for Carbon Monoxide by the Single Breath Method (DLCO (SB)) less than 40-percent predicted, or; maximum exercise capacity less than 15 ml/kg/min oxygen consumption (with cardiac or respiratory limitation), or; cor pulmonale (right heart failure), or; right ventricular hypertrophy, or; pulmonary hypertension (shown by Echo or cardiac catheterization), or; episode(s) of acute respiratory failure, or; requires outpatient oxygen therapy	100

	Rating
FEV–1 of 40- to 55-percent predicted, or; FEV–1/FVC of 40 to 55 percent, or; DLCO (SB) of 40- to 55-percent predicted, or; maximum oxygen consumption of 15 to 20 ml/kg/min (with cardiorespiratory limit)	60
FEV–1 of 56- to 70-percent predicted, or; FEV–1/FVC of 56 to 70 percent, or; DLCO (SB) 56- to 65-percent predicted	30
FEV–1 of 71- to 80-percent predicted, or; FEV–1/FVC of 71 to 80 percent, or; DLCO (SB) 66- to 80-percent predicted	10
6601 Bronchiectasis:	
With incapacitating episodes of infection of at least six weeks total duration per year	100
With incapacitating episodes of infection of four to six weeks total duration per year, or; near constant findings of cough with purulent sputum associated with anorexia, weight loss, and frank hemoptysis and requiring antibiotic usage almost continuously	60
With incapacitating episodes of infection of two to four weeks total duration per year, or; daily productive cough with sputum that is at times purulent or blood-tinged and that requires prolonged (lasting four to six weeks) antibiotic usage more than twice a year	30
Intermittent productive cough with acute infection requiring a course of antibiotics at least twice a year	10
Or rate according to pulmonary impairment as for chronic bronchitis (DC 6600).	
Note: An incapacitating episode is one that requires bedrest and treatment by a physician.	
6602 Asthma, bronchial:	
FEV–1 less than 40-percent predicted, or; FEV–1/FVC less than 40 percent, or; more than one attack per week with episodes of respiratory failure, or; requires daily use of systemic (oral or parenteral) high dose corticosteroids or immuno-suppressive medications	100
FEV–1 of 40- to 55-percent predicted, or; FEV–1/FVC of 40 to 55 percent, or; at least monthly visits to a physician for required care of exacerbations, or; intermittent (at least three per year) courses of systemic (oral or parenteral) corticosteroids	60
FEV–1 of 56- to 70-percent predicted, or; FEV–1/FVC of 56 to 70 percent, or; daily inhalational or oral bronchodilator therapy, or; inhalational anti-inflammatory medication	30
FEV–1 of 71- to 80-percent predicted, or; FEV–1/FVC of 71 to 80 percent, or; intermittent inhalational or oral bronchodilator therapy	10
Note: In the absence of clinical findings of asthma at time of examination, a verified history of asthmatic attacks must be of record.	
6603 Emphysema, pulmonary:	
FEV–1 less than 40 percent of predicted value, or; the ratio of Forced Expiratory Volume in one second to Forced Vital Capacity (FEV–1/FVC) less than 40 percent, or; Diffusion Capacity of the Lung for Carbon Monoxide by the Single Breath Method (DLCO (SB)) less than 40-percent predicted, or; maximum exercise capacity less than 15 ml/kg/min oxygen consumption (with cardiac or respiratory limitation), or; cor pulmonale (right heart failure), or; right ventricular hypertrophy, or; pulmonary hypertension (shown by Echo or cardiac catheterization), or; episode(s) of acute respiratory failure, or; requires outpatient oxygen therapy.	100
FEV–1 of 40- to 55-percent predicted, or; FEV–1/FVC of 40 to 55 percent, or; DLCO (SB) of 40- to 55-percent predicted, or; maximum oxygen consumption of 15 to 20 ml/kg/min (with cardiorespiratory limit)	60
FEV–1 of 56- to 70-percent predicted, or; FEV–1/FVC of 56 to 70 percent, or; DLCO (SB) 56- to 65-percent predicted	30
FEV–1 of 71- to 80-percent predicted, or; FEV–1/FVC of 71 to 80 percent, or; DLCO (SB) 66- to 80-percent predicted	10
6604 Chronic obstructive pulmonary disease:	
FEV–1 less than 40 percent of predicted value, or; the ratio of Forced Expiratory Volume in one second to Forced Vital Capacity (FEV–1/FVC) less than 40 percent, or; Diffusion Capacity of the Lung for Carbon Monoxide by the Single Breath Method (DLCO (SB)) less than 40-percent predicted, or; maximum exercise capacity less than 15 ml/kg/min oxygen consumption (with cardiac or respiratory limitation), or; cor pulmonale (right heart failure), or; right ventricular hypertrophy, or; pulmonary hypertension (shown by Echo or cardiac catheterization), or; episode(s) of acute respiratory failure, or; requires outpatient oxygen therapy.	100
FEV–1 of 40- to 55-percent predicted, or; FEV–1/FVC of 40 to 55 percent, or; DLCO (SB) of 40- to 55-percent predicted, or; maximum oxygen consumption of 15 to 20 ml/kg/min (with cardiorespiratory limit)	60
FEV–1 of 56- to 70-percent predicted, or; FEV–1/FVC of 56 to 70 percent, or; DLCO (SB) 56- to 65-percent predicted	30
FEV–1 of 71- to 80-percent predicted, or; FEV–1/FVC of 71 to 80 percent, or; DLCO (SB) 66- to 80-percent predicted	10

DISEASES OF THE LUNGS AND PLEURA—TUBERCULOSIS
Ratings for Pulmonary Tuberculosis Entitled on August 19, 1968

6701 Tuberculosis, pulmonary, chronic, far advanced, active	100
6702 Tuberculosis, pulmonary, chronic, moderately advanced, active	100
6703 Tuberculosis, pulmonary, chronic, minimal, active	100
6704 Tuberculosis, pulmonary, chronic, active, advancement unspecified	100
6721 Tuberculosis, pulmonary, chronic, far advanced, inactive.	
6722 Tuberculosis, pulmonary, chronic, moderately advanced, inactive.	
6723 Tuberculosis, pulmonary, chronic, minimal, inactive.	
6724 Tuberculosis, pulmonary, chronic, inactive, advancement unspecified.	
General Rating Formula for Inactive Pulmonary Tuberculosis: For two years after date of inactivity, following active tuberculosis, which was clinically identified during service or subsequently	100
Thereafter for four years, or in any event, to six years after date of inactivity	50
Thereafter, for five years, or to eleven years after date of inactivity	30
Following far advanced lesions diagnosed at any time while the disease process was active, minimum	30
Following moderately advanced lesions, provided there is continued disability, emphysema, dyspnea on exertion, impairment of health, etc	20
Otherwise	0
Note (1): The 100-percent rating under codes 6701 through 6724 is not subject to a requirement of precedent hospital treatment. It will be reduced to 50 percent for failure to submit to examination or to follow prescribed treatment upon report to that effect from the medical authorities. When a veteran is placed on the 100-percent rating for inactive tuberculosis, the medical authorities will be appropriately notified of the fact, and of the necessity, as given in footnote 1 to 38 U.S.C. 1156 (and formerly in 38 U.S.C. 356, which has been repealed by Public Law 90–493), to notify the Adjudication Division in the event of failure to submit to examination or to follow treatment.	

	Rating
Note (2): The graduated 50-percent and 30-percent ratings and the permanent 30 percent and 20 percent ratings for inactive pulmonary tuberculosis are not to be combined with ratings for other respiratory disabilities. Following thoracoplasty the rating will be for removal of ribs combined with the rating for collapsed lung. Resection of the ribs incident to thoracoplasty will be rated as removal.	
Ratings for Pulmonary Tuberculosis Initially Evaluated After August 19, 1968	
6730 Tuberculosis, pulmonary, chronic, active	100
Note: Active pulmonary tuberculosis will be considered permanently and totally disabling for non-service-connected pension purposes in the following circumstances: (a) Associated with active tuberculosis involving other than the respiratory system. (b) With severe associated symptoms or with extensive cavity formation. (c) Reactivated cases, generally. (d) With advancement of lesions on successive examinations or while under treatment. (e) Without retrogression of lesions or other evidence of material improvement at the end of six months hospitalization or without change of diagnosis from "active" at the end of 12 months hospitalization. Material improvement means lessening or absence of clinical symptoms, and X-ray findings of a stationary or retrogressive lesion.	
6731 Tuberculosis, pulmonary, chronic, inactive: Depending on the specific findings, rate residuals as interstitial lung disease, restrictive lung disease, or, when obstructive lung disease is the major residual, as chronic bronchitis (DC 6600). Rate thoracoplasty as removal of ribs under DC 5297.	
Note: A mandatory examination will be requested immediately following notification that active tuberculosis evaluated under DC 6730 has become inactive. Any change in evaluation will be carried out under the provisions of § 3.105(e).	
6732 Pleurisy, tuberculous, active or inactive: Rate under §§ 4.88c or 4.89, whichever is appropriate.	
NONTUBERCULOUS DISEASES	
6817 Pulmonary Vascular Disease: Primary pulmonary hypertension, or; chronic pulmonary thromboembolism with evidence of pulmonary hypertension, right ventricular hypertrophy, or cor pulmonale, or; pulmonary hypertension secondary to other obstructive disease of pulmonary arteries or veins with evidence of right ventricular hypertrophy or cor pulmonale	100
Chronic pulmonary thromboembolism requiring anticoagulant therapy, or; following inferior vena cava surgery without evidence of pulmonary hypertension or right ventricular dysfunction	60
Symptomatic, following resolution of acute pulmonary embolism	30
Asymptomatic, following resolution of pulmonary thromboembolism	0
Note: Evaluate other residuals following pulmonary embolism under the most appropriate diagnostic code, such as chronic bronchitis (DC 6600) or chronic pleural effusion or fibrosis (DC 6844), but do not combine that evaluation with any of the above evaluations.	
6819 Neoplasms, malignant, any specified part of respiratory system exclusive of skin growths	100
Note: A rating of 100 percent shall continue beyond the cessation of any surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residuals.	
6820 Neoplasms, benign, any specified part of respiratory system. Evaluate using an appropriate respiratory analogy.	
Bacterial Infections of the Lung	
6822 Actinomycosis. 6823 Nocardiosis. 6824 Chronic lung abscess. General Rating Formula for Bacterial Infections of the Lung (diagnostic codes 6822 through 6824): Active infection with systemic symptoms such as fever, night sweats, weight loss, or hemoptysis	100
Depending on the specific findings, rate residuals as interstitial lung disease, restrictive lung disease, or, when obstructive lung disease is the major residual, as chronic bronchitis (DC 6600).	
Interstitial Lung Disease	
6825 Diffuse interstitial fibrosis (interstitial pneumonitis, fibrosing alveolitis). 6826 Desquamative interstitial pneumonitis. 6827 Pulmonary alveolar proteinosis. 6828 Eosinophilic granuloma of lung. 6829 Drug-induced pulmonary pneumonitis and fibrosis. 6830 Radiation-induced pulmonary pneumonitis and fibrosis. 6831 Hypersensitivity pneumonitis (extrinsic allergic alveolitis). 6832 Pneumoconiosis (silicosis, anthracosis, etc.). 6833 Asbestosis. General Rating Formula for Interstitial Lung Disease (diagnostic codes 6825 through 6833): Forced Vital Capacity (FVC) less than 50-percent predicted, or; Diffusion Capacity of the Lung for Carbon Monoxide by the Single Breath Method (DLCO (SB)) less than 40-percent predicted, or; maximum exercise capacity less than 15 ml/kg/min oxygen consumption with cardiorespiratory limitation, or; cor pulmonale or pulmonary hypertension, or; requires outpatient oxygen therapy	100
FVC of 50- to 64-percent predicted, or; DLCO (SB) of 40- to 55-percent predicted, or; maximum exercise capacity of 15 to 20 ml/kg/min oxygen consumption with cardiorespiratory limitation	60
FVC of 65- to 74-percent predicted, or; DLCO (SB) of 56- to 65-percent predicted	30

	Rating
FVC of 75- to 80-percent predicted, or; DLCO (SB) of 66- to 80-percent predicted	10
Mycotic Lung Disease	
6834 Histoplasmosis of lung.	
6835 Coccidioidomycosis.	
6836 Blastomycosis.	
6837 Cryptococcosis.	
6838 Aspergillosis.	
6839 Mucormycosis.	
General Rating Formula for Mycotic Lung Disease (diagnostic codes 6834 through 6839):	
Chronic pulmonary mycosis with persistent fever, weight loss, night sweats, or massive hemoptysis	100
Chronic pulmonary mycosis requiring suppressive therapy with no more than minimal symptoms such as occasional minor hemoptysis or productive cough	50
Chronic pulmonary mycosis with minimal symptoms such as occasional minor hemoptysis or productive cough	30
Healed and inactive mycotic lesions, asymptomatic	0
Note: Coccidioidomycosis has an incubation period up to 21 days, and the disseminated phase is ordinarily manifest within six months of the primary phase. However, there are instances of dissemination delayed up to many years after the initial infection which may have been unrecognized. Accordingly, when service connection is under consideration in the absence of record or other evidence of the disease in service, service in southwestern United States where the disease is endemic and absence of prolonged residence in this locality before or after service will be the deciding factor.	
Restrictive Lung Disease	
6840 Diaphragm paralysis or paresis.	
6841 Spinal cord injury with respiratory insufficiency.	
6842 Kyphoscoliosis, pectus excavatum, pectus carinatum.	
6843 Traumatic chest wall defect, pneumothorax, hernia, etc.	
6844 Post-surgical residual (lobectomy, pneumonectomy, etc.).	
6845 Chronic pleural effusion or fibrosis.	
General Rating Formula for Restrictive Lung Disease (diagnostic codes 6840 through 6845):	
FEV–1 less than 40 percent of predicted value, or; the ratio of Forced Expiratory Volume in one second to Forced Vital Capacity (FEV–1/FVC) less than 40 percent, or; Diffusion Capacity of the Lung for Carbon Monoxide by the Single Breath Method (DLCO (SB)) less than 40-percent predicted, or; maximum exercise capacity less than 15 ml/kg/min oxygen consumption (with cardiac or respiratory limitation), or; cor pulmonale (right heart failure), or; right ventricular hypertrophy, or; pulmonary hypertension (shown by Echo or cardiac catheterization), or; episode(s) of acute respiratory failure, or; requires outpatient oxygen therapy	100
FEV–1 of 40- to 55-percent predicted, or; FEV–1/FVC of 40 to 55 percent, or; DLCO (SB) of 40- to 55-percent predicted, or; maximum oxygen consumption of 15 to 20 ml/kg/min (with cardiorespiratory limit)	60
FEV–1 of 56- to 70-percent predicted, or; FEV–1/FVC of 56 to 70 percent, or; DLCO (SB) 56- to 65-percent predicted	30
FEV–1 of 71- to 80-percent predicted, or; FEV–1/FVC of 71 to 80 percent, or; DLCO (SB) 66- to 80-percent predicted	10
Or rate primary disorder.	
Note (1): A 100-percent rating shall be assigned for pleurisy with empyema, with or without pleurocutaneous fistula, until resolved.	
Note (2): Following episodes of total spontaneous pneumothorax, a rating of 100 percent shall be assigned as of the date of hospital admission and shall continue for three months from the first day of the month after hospital discharge.	
Note (3): Gunshot wounds of the pleural cavity with bullet or missile retained in lung, pain or discomfort on exertion, or with scattered rales or some limitation of excursion of diaphragm or of lower chest expansion shall be rated at least 20-percent disabling. Disabling injuries of shoulder girdle muscles (Groups I to IV) shall be separately rated and combined with ratings for respiratory involvement. Involvement of Muscle Group XXI (DC 5321), however, will not be separately rated.	
6846 Sarcoidosis:	
Cor pulmonale, or; cardiac involvement with congestive heart failure, or; progressive pulmonary disease with fever, night sweats, and weight loss despite treatment	100
Pulmonary involvement requiring systemic high dose (therapeutic) corticosteroids for control	60
Pulmonary involvement with persistent symptoms requiring chronic low dose (maintenance) or intermittent corticosteroids	30
Chronic hilar adenopathy or stable lung infiltrates without symptoms or physiologic impairment	0
Or rate active disease or residuals as chronic bronchitis (DC 6600) and extra-pulmonary involvement under specific body system involved.	
6847 Sleep Apnea Syndromes (Obstructive, Central, Mixed):	
Chronic respiratory failure with carbon dioxide retention or cor pulmonale, or; requires tracheostomy	100
Requires use of breathing assistance device such as continuous airway pressure (CPAP) machine	50
Persistent day-time hypersomnolence	30
Asymptomatic but with documented sleep disorder breathing	0

[1] Review for entitlement to special monthly compensation under § 3.350 of this chapter.

[FR Doc. 96–22593 Filed 9–4–96; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7648]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Acting Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region II				
New York:				
Ticonderoga, town of, Essex County	361159	Apr. 15, 1975, Emerg.; May 17, 1988, Reg.; Sept. 6, 1996, Susp.	Sept. 6, 1996	Sept. 6, 1996.
Wellsville, village of, Allegany County	360036	May 10, 1975, Emerg.; July 17, 1978, Reg.; Sept. 6, 1996, Susp.	.....do	Do.
Region III				
West Virginia: Danville, town of, Boone County	540230	July 1, 1975, Emerg.; Apr. 16, 1991, Reg.; Sept. 6, 1996, Susp.	.....do	Do.
Region V				
Indiana: Brownstown, town of, Jackson County	180317	Jan. 29, 1976, Emerg.; Jan. 3, 1985, Reg.; Sept. 6, 1996, Susp.	.....do	Do.
Minnesota: Cannon Falls, city of, Goodhue County	270141	Apr. 5, 1974, Emerg.; Jan. 2, 1981, Reg.; Sept. 6, 1996, Susp.	.....do	Do.
Region II				
New York:				
Dresden, town of, Washington County	361410	Jan. 25, 1977, Emerg.; July 3, 1986, Reg.; Sept. 20, 1996, Susp.	Sept. 20, 1996	Sept. 20, 1996.
Hillburn, village of, Rockland County	360683	June 18, 1975, Emerg.; Jan. 6, 1982, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Region III				
Pennsylvania: Shirley, township of, Huntingdon County	421700	Feb. 4, 1976, Emerg.; Aug. 15, 1989, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Region IV				
Florida: Bay County, unincorporated areas	120004	May 12, 1975, Emerg.; July 2, 1981, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Region V				
Indiana: Scottsburg, city of, Scotts County	180234	Apr. 7, 1975, Emerg.; Aug. 19, 1985, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Michigan: Hartland, township of, Livingston County	260784	Nov. 25, 1986, Emerg.; May 17, 1989, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Ohio: Riverside, city of, Montgomery County	390416	May 12, 1976, Emerg.; Dec. 15, 1981, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Region VI				
New Mexico:				
Albuquerque, city of, Bernalillo County	350002	Sept. 9, 1974, Emerg.; October 14, 1983, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Bernalillo County, unincorporated areas	350001	Aug. 26, 1974, Emerg.; Sept. 15, 1983, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Tijeras, village of, Bernalillo County	350135	July 9, 1975, Emerg.; Jan. 6, 1983, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Region X				
Alaska: Fairbanks North Star, borough of, Fairbanks North Star Borough.	025009	May 15, 1970, Emerg.; June 25, 1969, Reg.; Sept. 20, 1996, Susp.	.....do	Do.
Washington: Skagit County, unincorporated areas	530151	June 25, 1971, Emerg.; Jan. 3, 1985, Reg.; Sept. 20, 1996, Susp.	Sept. 29, 1989	Do.

Code for reading third column: Emerg.-Emergency; Reg.-Regular; Rein.-Reinstatement; Susp.-Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: August 22, 1996.

Richard W. Krimm,

Acting Associate Director, Mitigation Directorate.

[FR Doc. 96–22670 Filed 9–4–96; 8:45 am]

BILLING CODE 6718–05–P

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

45 CFR Part 2400

Fellowship Program Requirements

AGENCY: James Madison Memorial Fellowship Foundation.

ACTION: Final rule.

SUMMARY: The following are revised regulations governing the annual competition for James Madison Fellowships and the obligations of James Madison Fellows. These regulations update and replace several aspects of the the Foundation's existing regulations as implemented by the James Madison Memorial Fellowship Act of 1986. These revised regulations govern the qualifications and applications of candidates for fellowships; the selection of Fellows by the Foundation; the graduate programs Fellows must pursue; the terms and conditions attached to awards; the Foundation's annual Summer Institute on the Constitution; and related requirements and expectations regarding fellowships.

DATES: September 5, 1996.

ADDRESSES: James Madison Memorial Fellowship Foundation, 2000 K Street, NW, Suite 303, Washington, DC 20006–1809.

FOR FURTHER INFORMATION CONTACT: Lewis F. Larsen, (202) 653–8700.

SUPPLEMENTARY INFORMATION: The reason for the changes to the Foundation's regulations comes as a result of the Foundation's desire to clarify several of the rules and regulations which James Madison Fellows must observe when accepting their fellowships. Although many of the changes are minor insertions of words and punctuation, this document specifically expands the definition section to include further detailed definitions on Credit Hour Equivalent, Incomplete, Repayment, Satisfactory Progress, Stipend, Teaching Obligation, Termination and Withdrawal. The Foundation now encourages James Madison Fellows to choose a graduate program which does not include the writing of a thesis. Graduate programs for which Fellows may apply have been broadened to include political science. Finally, a section entitled "Teaching Obligation" was added to further clarify the obligation to teach, required by the Foundation once each fellow has earned a master's degree.

The Foundation did not receive any comments regarding these regulations during the public comment period.

List of Subjects in 45 CFR Part 2400

Education, Fellowships.

Dated: August 26, 1996.

Paul A. Yost, Jr.,

President.

For the reasons set forth in the preamble and under authority of 20 U.S.C. 4501 *et seq.*, Chapter XXIV, Title 45 of the Code of Federal Regulations is amended by revising part 2400 to read as follows:

CHAPTER XXIV—JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Part 2400—Fellowship Program Requirements

Authority: 20 U.S.C. 4501 et seq.

Subpart A—General

§ 2400.1 Purposes.

(a) The purposes of the James Madison Memorial Fellowship Program are to:

(1) Provide incentives for master's degree level graduate study of the history, principles, and development of the United States Constitution by outstanding in-service teachers of American history, American government, social studies, and political science in grades 7–12 and by outstanding college graduates who plan to become teachers of the same subjects; and

(2) Strengthen teaching in the nation's secondary schools about the principles, framing, ratification, and subsequent history of the United States Constitution.

(b) The Foundation may from time to time operate its own programs and undertake other closely-related activities to fulfill these goals.

§ 2400.2 Annual competition.

To achieve its principal purposes, the Foundation holds an annual national competition to select teachers in grades 7–12, college seniors, and college graduates to be James Madison Fellows.

§ 2400.3 Eligibility.

Individuals eligible to apply for and hold James Madison Fellowships are United States citizens, United States nationals, or permanent residents of the Northern Mariana Islands who are:

(a) Teachers of American history, American government, social studies, or political science in grades 7–12 who:

(1) Are teaching full time during the year in which they apply for a fellowship;

(2) Are under contract, or can provide evidence of being under prospective contract, to teach full time as teachers of American history, American government, social studies, or political science in grades 7–12;

(3) Have demonstrated records of willingness to devote themselves to civic responsibilities and to professional and collegial activities within their schools and school districts;

(4) Are highly recommended by their department heads, school heads, school district superintendents, or other supervisors;

(5) Qualify for admission with graduate standing at accredited universities of their choice that offer master's degree programs allowing at least 12 semester hours or their equivalent of study of the origins, principles, and development of the Constitution of the United States and of its comparison with the constitutions of other forms of government;

(6) Are able to complete their proposed courses of graduate study within five calendar years from the commencement of study under their fellowships, normally through part-time study during summers or in evening or weekend programs;

(7) Agree to attend the Foundation's four-week Summer Institute on the Constitution, normally during the summer following the commencement of study under their fellowships; and

(8) Sign agreements that, after completing the education for which the fellowship is awarded, they will teach American history, American government, social studies, or political science full time in secondary schools for a period of not less than one year for each full academic year of study for which assistance was received, preferably in the state listed as their legal residence at the time of their fellowship award. For the purposes of this provision, a full academic year of study is the number of credit hours determined by each university at which Fellows are studying as constituting a full year of study at that university. Fellows' teaching obligations will be figured at full academic years of study; and when Fellows have studies for partial academic years, those years will be rounded upward to the nearest one-half year to determine Fellows' total teaching obligations.

(b) Those who aspire to become full-time teachers of American history, American government, social studies, or political science in grades 7–12 who:

(1) Are matriculated college seniors pursuing their baccalaureate degrees full time and will receive those degrees no later than August 31st of the year of the fellowship competition in which they apply or prior recipients of baccalaureate degrees;

(2) Plan to begin graduate study on a full-time basis;

(3) Have demonstrated records of willingness to devote themselves to civic responsibilities;

(4) Are highly recommended by faculty members, deans, or other persons familiar with their potential for graduate study of American history and government and with their serious intention to enter the teaching profession as secondary school teachers of American history, American government, social studies, or political science in grades 7–12;

(5) Qualify for admission with graduate standing at accredited universities of their choice that offer master's degree programs that allow at least 12 semester hours or their equivalent of study of the origins, principles, and development of the Constitution of the United States and of its comparison with the constitutions and history of other forms of government;

(6) Are able to complete their proposed courses of graduate study in no more than two calendar years from the commencement of study under their fellowships, normally through full-time study;

(7) Agree to attend the Foundation's four-week Summer Institute on the Constitution, normally during the summer following the commencement of study under their fellowships; and

(8) Sign an agreement that, after completing the education for which the fellowship is awarded, they will teach American history, American government, social studies, or political science full time in secondary schools for a period of not less than one year for each full academic year of study for which assistance was received, preferably in the state listed as their legal residence at the time of their fellowship award. For the purposes of this provision, a full academic year of study is the number of credit hours determined by each university at which Fellows are studying as constituting a full year of study at that university. Fellows' teaching obligations will be figured at full academic years of study; and when Fellows have studies for partial academic years, those years will be rounded upward to the nearest one-half year to determine Fellows' total teaching obligations.

§ 2400.4 Definitions.

As used in this part:

Academic year means the period of time in which a full-time student would normally complete two semesters, two trimesters, three quarters, or their equivalent of study.

Act means the James Madison Memorial Fellowship Act.

College means an institution of higher education offering only a baccalaureate degree or the undergraduate division of a university in which a student is pursuing a baccalaureate degree.

Credit Hour Equivalent means the number of graduate credit hours obtained in credits, courses or units during a quarter, a trimester, or a semester which are needed to equal a specific number of semester graduate credit hours.

Fee means a typical and usually non-refundable charge levied by an institution of higher education for a service, privilege, or use of property which is *required* for a Fellow's enrollment and registration.

Fellow means a recipient of a fellowship from the Foundation.

Fellowship means an award, called a James Madison Fellowship, made to a person by the Foundation for graduate study.

Foundation means the James Madison Memorial Fellowship Foundation.

Full-time study means study for an enrolled student who is carrying a full-time academic workload as determined by the institution under a standard applicable to all students enrolled in a particular educational program.

Graduate study means the courses of study beyond the baccalaureate level, which are offered as part of a university's master's degree program and which lead to a master's degree.

Incomplete means a course which the Foundation has paid for but the Fellow has received an incomplete grade or the Fellow has not received graduate credit for the course.

Institution of higher education has the meaning given in Section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

Junior Fellowship means a James Madison Fellowship granted either to a college senior or to a college graduate who has received a baccalaureate degree and who seeks to become a secondary school teacher of American history, American government, social studies, or political science for full-time graduate study toward a master's degree whose course of study emphasizes the framing, principles, history, and interpretation of the United States Constitution.

Master's degree means the first pre-doctoral graduate degree offered by a university beyond the baccalaureate degree, for which the baccalaureate degree is a prerequisite.

Matriculated means formally enrolled in a master's degree program in a university.

Repayment means if the fellowship is relinquished by the fellow or is terminated by the Foundation prior to the completion of the Fellow's degree, and/or the Fellow fails to fulfill the teaching obligation after the graduate degree is awarded, the Fellow must repay to the Foundation all Fellowship

costs received plus interest at a rate of 6% per annum and, if applicable, reasonable collection fees.

Resident means a person who has legal residence in the state, recognized under state law. If a question arises concerning a Fellow's state of residence, the Foundation determines, for the purposes of this program, of which state the person is a resident, taking into account the Fellow's place of registration to vote, his or her parent's place of residence, and the Fellow's eligibility for in-state tuition rates at public institutions of higher education.

Satisfactory progress for a Junior Fellow means the completion of the number of required courses normally expected of full-time master's degree candidates at the university that the Fellow attends, with grades acceptable to that university, in not more than two calendar years from the commencement of that study. Satisfactory progress for a Senior Fellow means the completion each year of a specific number of required courses in the Fellow's master's degree program, as agreed upon each year with the Foundation and outlined on the Plan of Study form, with grades acceptable to the Fellow's university, in not more than five calendar years from the commencement of that study.

Secondary school means grades 7 through 12.

Senior means a student at the academic level recognized by an institution of higher education as being the last year of study before receiving the baccalaureate degree.

Senior Fellowship means a James Madison Fellowship granted to a secondary school teacher of American history, American government, social studies, or political science for part-time graduate study toward a master's degree whose course of study emphasizes the framing, principles, history, and interpretation of the United States Constitution.

State means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and, until adoption of its Compact of Free Association, the Republic of Palau.

Stipend means the amount paid by the Foundation to a Fellow or on his or her behalf to pay the allowable costs of graduate study which have been approved under the fellowship.

Teaching Obligation means that a Fellow, upon receiving a master's degree, must teach American history, American government, social studies, or political science on a full-time basis to students in secondary school for a period of not less than one year for each year for which financial assistance was received.

Term means the period—semester, trimester, or quarter—used by an institution of higher education to divide its academic year.

Termination means the non-voluntary ending of a fellowship by the Foundation when the Fellow has not complied with the rules and regulations of the fellowship or has not made satisfactory progress in his or her program of study.

University means an institution of higher education that offers post-baccalaureate degrees.

Withdrawal means the voluntary relinquishment or surrender of a Fellowship by the Fellow.

Subpart B—Application

§ 2400.10 Application.

Eligible applicants for fellowships must apply directly to the Foundation.

§ 2400.11 Faculty Representatives.

Each college and university that chooses to do so may annually appoint or reappoint a faculty representative who will be asked to identify and recruit fellowship applicants on campus, publicize the annual competition on campus, and otherwise assist eligible candidates in preparation for applying. In order to elicit the appointment of faculty representatives, the Foundation will each year request the head of each college and university campus to appoint or reappoint a faculty representative and to provide the Foundation with the name, business address, and business telephone number of a member of its faculty representative on forms provided for that purpose.

Subpart C—Application Process

§ 2400.20 Preparation of application.

Applications, on forms mailed directly by the Foundation to those who request applications, must be completed by all fellowship candidates in order that they be considered for an award.

§ 2400.21 Contents of application.

Applications must include for

(a) Senior Fellowships:

(1) Supporting information which affirms an applicant's wish to be considered for a fellowship; provides information about his or her background, interests, goals, and the school in which he or she teaches; and includes a statement about the applicant's educational plans and specifies how those plans will enhance his or her career as a secondary school teacher of American history, American government, social studies, or political science;

(2) An essay of up to 600 words that explains the importance of the study of the Constitution to:

(i) Young students;

(ii) The applicant's career aspirations and his or her contributions to public service; and

(iii) Citizenship generally in a constitutional republic;

(3) The applicant's proposed course of graduate study, including the name of the degree to be sought, the required courses to be taken, as well as information about the specific degree sought;

(4) Three evaluations, one from an immediate supervisor, that attest to the applicant's strengths and abilities as a teacher in grades 7–12; and

(5) A copy of his or her academic transcript.

(b) Junior Fellowships:

(1) Supporting information which affirms an applicant's wish to be considered for a fellowship; provides information about the applicant's background, interests, goals, and the college which he or she attends or attended; and includes a statement about the applicant's educational plans and specifies how those plans will lead to a career as a teacher of American history, American government, social studies, or political science in grades 7–12;

(2) An essay of up to 600 words that explains the importance of the study of the Constitution to:

(i) Young students;

(ii) The applicant's career aspirations and his or her contribution to public service; and

(iii) Citizenship generally in a constitutional republic;

(3) Applicant's proposed course of graduate study, including the name of the degree sought, the name of the required courses to be taken, and information about the specific degree sought;

(4) Three evaluations that attest to the applicant's academic achievements and to his or her potential to become an outstanding secondary school teacher; and

(5) A copy of his or her academic transcript.

§ 2400.22 Application deadline.

Completed applications must be received by the Foundation no later than March 1st of each year preceding the start of the academic year for which candidates are applying.

Subpart D—Selection of Fellows

§ 2400.30 Selection criteria.

Applicants will be evaluated, on the basis of materials in their applications, as follows:

(a) Demonstrated commitment to teaching American history, American government, social studies, or political science at the secondary school level;

(b) Demonstrated intention to pursue a program of graduate study that emphasizes the Constitution and to offer classroom instruction in that subject;

(c) Demonstrated record of willingness to devote themselves to civic responsibility;

(d) Outstanding performance or potential of performance as classroom teachers;

(e) Academic achievements and demonstrated capacity for graduate study; and

(f) Proposed courses of graduate study, especially the nature and extent of their subject matter components, and their relationship to the enhancement of applicants' teaching and professional activities.

§ 2400.31 Selection process.

(a) An independent Fellow Selection Committee will evaluate all valid applications and recommend to the Foundation the most outstanding applicants from each state for James Madison Fellowships.

(b) From among candidates recommended for fellowships by the Fellow Selection Committee, the Foundation will name James Madison Fellows. The selection procedure will assure that at least one James Madison Fellow, junior or senior, is selected from each state in which there are at least two legally resident applicants who meet the eligibility requirements set forth in § 2400.3 and are judged favorably against the selection criteria in § 2400.30.

(c) The Foundation may name, from among those applicants recommended by the Fellow Selection Committee, an alternate or alternates for each fellowship. An alternate will receive a fellowship if the person named as a James Madison Fellow declines the award or is not able to pursue graduate study as contemplated at the time the fellowship was accepted. An alternate may be named to replace a Fellow who declines or relinquishes an award until, but no later than, March 1st following the competition in which the alternate has been selected.

(d) Funds permitting, the Foundation may also select, from among those recommended by the Fellow Selection Committee, Fellows at large.

Subpart E—Graduate Study

§ 2400.40 Institutions of graduate study.

Fellowship recipients may attend any accredited university in the United States with a master's degree program offering courses or training that emphasize the origins, principles, and development of the Constitution of the United States and its comparison with the constitutions and history of other forms of government.

§ 2400.41 Degree programs.

(a) Fellows may pursue a master's degree in history or political science (including government or politics), the degree of Master of Arts in Teaching in history or political science (including government or politics), or a related master's degree in education that permits a concentration in American history, American government, social studies, or political science. Graduate degrees under which study is excluded from fellowship support are indicated in § 2400.63.

(b) A master's degree pursued under a James Madison Fellowship may entail either one or two years or their equivalent of study, according to the requirements of the university at which a Fellow is enrolled.

§ 2400.42 Approval of Plan of Study.

The Foundation must approve each Fellow's Plan of Study. To be approved, the plan must:

(a) On a part-time or full-time basis lead to a master's degree in history or political science, the degree of Master of Arts in Teaching in history or political science, or a related master's degree in education that permits a concentration in American history, American government, social studies, or political science;

(b) Include courses, graduate seminars, or opportunities for independent study in topics directly related to the framing and history of the constitution of the United States;

(c) Be pursued at a university that assures a willingness to accept up to 6 semester hours of accredited transfer credits from another graduate institution for a Fellow's satisfactory completion of the Foundation's Summer Institute on the Constitution. For the Foundation's purposes, these 6 semester hours may be included in the required minimum of 12 semester hours or their equivalent of study of the United States Constitution; and

(d) Be pursued at a university that encourages the Fellow to enhance his or her capacities as a teacher of American history, American government, social studies, or political science and to continue his or her career as a secondary school teacher. The Foundation reserves the right to refuse to approve a Fellow's Plan of Study at a university that will not accept on transfer the 6 credits for the Institute.

§ 2400.43 Required courses of graduate study.

(a) To be acceptable to the Foundation, those courses related to the Constitution referred to in § 2400.43(b) must amount to at least 12 semester or 18 quarter hours or their credit hour equivalent of study of topics directly related to the United States Constitution. More than 12 semester hours or their credit hour equivalent of such study is strongly encouraged.

(b) The courses that fulfill the required minimum of 12 semester hours or their credit hour equivalent of study of the United States Constitution must cover one or more of the following subject areas:

(1) The history of colonial America leading up to the framing of the Constitution;

(2) The Constitution itself, its framing, the history and principles upon which it is based, its ratification, the *Federalist Papers*, Anti-Federalist writings, and the Bill of Rights;

(3) The historical development of political theory, constitutional law, and civil liberties as related to the Constitution;

(4) Interpretations of the Constitution by the Supreme Court and other branches of the federal government;

(5) Debates about the Constitution in other forums and about the effects of constitutional norms and decisions upon American society and culture; and

(6) Any other subject clearly related to the framing, history, and principles of the Constitution.

(c) If a master's degree program in which a Fellow is enrolled requires a master's thesis in place of a course or courses, the Fellow will have the option of writing the thesis based on the degree requirements. The preparation of a master's thesis should not add additional required credits to the minimum number of credits required for the master's degree. If a Fellow must write a thesis, the topic of the thesis must relate to subjects concerning the framing, principles, or history of the United States Constitution. If the Fellow can choose between two degree tracks, a thesis track or a non-thesis track, the Foundation strongly encourages the non-thesis track.

§ 2400.44 Commencement of Graduate Study.

(a) Fellows may commence study under their fellowships as early as the

summer following the announcement of their award. Fellows are normally expected to commence study under their fellowships in the fall term of the academic year following the date on which their award is announced. However, as indicated in § 2400.6, they may seek to postpone the commencement of fellowship study under extenuating circumstances.

(b) In determining the two- and five-year fellowship periods of Junior and Senior Fellows respectively, the Foundation will consider the commencement of the fellowship period to be the date on which each Fellow commences study under a fellowship.

§ 2400.45 Special consideration: Junior Fellows' Plan of Study.

Applicants for Junior Fellowships who seek or hold baccalaureate degrees in education are strongly encouraged to pursue master's degrees in history or political science. Those applicants who hold undergraduate degrees in history, political science, government, or any other subjects may take some teaching methods and related courses, although the Foundation will not pay for them unless they are required for the degree for which the Fellow is matriculated. The Foundation will review each proposed Plan of Study for an appropriate balance of subject matter and other courses based on the Fellow's goals, background, and degree requirements.

§ 2400.46 Special consideration: second master's degree.

The Foundation may award Senior Fellowships to applicants who are seeking their second master's degrees providing that the applicants' first master's degree was obtained at least five years prior to the year in which the applicants would normally commence study under a fellowship. In evaluating applications from individuals intending to pursue a second master's degree, the Fellow Selection Committee will favor those applicants who are planning to become American history, American government, social studies, or political science teachers after having taught another subject and applicants whose initial master's degree was in a subject different from that sought under the second master's degree.

§ 2400.47 Summer Institute's relationship to fellowship.

Each year, the Foundation offers, normally during July, a four-week graduate-level Institute on the principles, framing, ratification, and implementation of the United States Constitution at an accredited university in the Washington, DC area. The Institute is an integral part of each fellowship.

§ 2400.48 Fellows' participation in the Summer Institute.

Each Fellow is required as part of his or her fellowship to attend the Institute, normally during the summer following the Fellow's commencement of graduate study under a fellowship.

§ 2400.49 Contents of the Summer Institute.

The principal element of the Institute is a graduate history course, "Foundations of American Constitutionalism." Other components of the Institute include study visits to sites associated with the lives and careers of members of the founding generation.

§ 2400.50 Allowances and Summer Institute costs.

For their participation in the Institute, Fellows are paid an allowance to help offset income foregone by their required attendance. The Foundation also funds the costs of the Institute and Fellows' round-trip transportation to and from the Institute site. The costs of tuition, required fees, books, room, and board entailed by the Institute will be paid for by the Foundation directly but may be offset against fellowship award limits if the credits earned for the Institute are included within the Fellows' degree requirements.

§ 2400.51 Summer Institute accreditation.

The Institute is accredited for six graduate semester credits by the university at which it is held. It is expected that the universities at which Fellows are pursuing their graduate study will, upon Fellows' satisfactory completion of the Institute, accept these credits or their credit-hour equivalent upon transfer from the university at which the Institute is held in fulfillment of the minimum number of credits required for Fellows' graduate degrees. Satisfactory completion of the Institute will fulfill 6 of the Foundation's 12 semester credits required in graduate study of the history and development of the Constitution. Fellows, with the Foundation's assistance, are strongly encouraged to make good faith efforts to have their universities incorporate the Institute into their Plan of Study and accept the 6 Institute credits toward the minimum number of credits required for their master's degrees.

Subpart F—Fellowship Stipend

§ 2400.52 Amount of stipend.

Junior and Senior Fellowships carry a stipend of up to a maximum of $24,000 pro-rated over the period of Fellows' graduate study. In no case shall the stipend for a fellowship exceed $12,000 per academic year. Within this limit, stipends will be pro-rated over the period of Fellows' graduate study as follows: a maximum of $6,000 per academic semester or trimester of full-time study, and a maximum of $4,000 per academic quarter of full-time study. Stipends for part-time study will be pro rata shares of those allowable for full-time study.

§ 2400.53 Duration of stipend.

Stipends for Junior Fellowships may be payable over a period up to 2 calendar years of full-time graduate study, and those for Senior Fellowships may be payable over a period of not more than 5 calendar years of part-time graduate study, beginning with the dates under which Fellows commence their graduate study under their fellowships. However, the duration of stipend payments will be subject to the maximum payment limits, the length of award time limits, and the completion of the minimum degree requirements, whichever occurs first.

§ 2400.54 Use of stipend.

Stipends shall be used only to pay the costs of tuition, required fees, books, room, and board associated with graduate study under a fellowship. The costs allowed for a Fellow's room and board will be the amount the Fellow's university reports to the Foundation as the cost of room and board for a graduate student if that student were to share a room at the student's university. If no shared graduate housing exists, then costs for regular shared student housing will be used. If no campus housing exists, the equivalent room and board costs at neighboring universities will be used. Stipends for room, board, and books will be pro-rated for Fellows enrolled in study less than full time. The Foundation will not reimburse Fellows for any portion of their master's degree study, that Fellows may have completed prior to the commencement of their fellowships. Nor will the Foundation reimburse Fellows for any credits acquired above the minimum number of credits required for the degree. If a Fellow has already taken and paid for courses that can be credited toward the Fellow's graduate degree under a fellowship, those must be credited to the degree; the remaining required courses will be paid for by the Foundation.

§ 2400.55 Certification for stipend.

In order to receive a fellowship stipend, a Fellow must submit the following nine items in writing:

(a) An acceptance of the terms and conditions of the fellowship including a completed certificate of compliance form;

(b) Evidence of admission to an approved graduate program;

(c) Certified copies of undergraduate and, if any, graduate transcripts;

(d) A certified payment-request form indicating the estimated costs for tuition, required fees, books, room, and board;

(e) a photo copy of the university's bulletin of cost information;

(f) the amount of income from any other grants or awards;

(g) information about the Fellow's degree requirements, including the number of required credits to fulfill the degree;

(h) a statement of the university's willingness to accept the transfer of 6 credits toward the Fellow's degree requirements for the Fellow's satisfactory completion of the Summer Institute (see § 2400. 51); and

(i) a full Plan of Study over the duration of the fellowship, including information on the contents of required courses. Senior Fellows must provide evidence of their continued full-time employment as teachers in grades 7–12.

§ 2400.56 Payment of stipend.

Payment for tuition, required fees, books, room, and board subject to the limitations in § 2400.52 through § 2400.55 and § 2400.59 through § 2400.60 will be paid to each Fellow at the beginning of each term of enrollment upon the Fellow's submission of a completed Payment Request Form and the University bulletin of cost information.

§ 2400.57 Termination of stipend.

(a) The Foundation may suspend or terminate the payment of a stipend if a Fellow fails to meet the criteria set forth in § 2400.40 through § 2400.44 and § 2400.60, except as provided for in § 2400.61. Before it suspends or terminates a fellowship under these circumstances, the Foundation will give notice to the Fellow, as well as the opportunity to be heard with respect to the grounds for suspension or termination.

(b) The Foundation will normally suspend the payment of a stipend if a Fellow has more than one grade of "Incomplete" in courses for which the Foundation has made payment to the Fellow.

§ 2400.58 Repayment of stipend.

(a) If a Fellow fails to secure a master's degree, fails to teach American history, American government, social studies, or political science on a full-time basis in a secondary school for at least one school year for each academic year for which assistance was provided under a fellowship, fails to secure fewer than 12 semester hours or their credit hour equivalent for study of the Constitution as indicated in § 2400.43(b), or fails to attend the Foundation's Summer Institute on the Constitution, the Fellow must repay all of the fellowship costs received plus interest at the rate of 6% per annum or as otherwise authorized and, if applicable, reasonable collection fees, as prescribed in Section 807 of the Act (20 U.S.C. 4506(b)).

(b) If a Fellow withdraws from the fellowship or has a fellowship terminated by the Foundation, the Foundation will seek to recover all fellowship funds which have been remitted to the Fellow or on his or her behalf under a fellowship.

Subpart G—Special Conditions

§ 2400.59 Other awards.

Fellows may accept grants from other foundations, institutions, corporations, or government agencies to support their graduate study or to replace any income foregone for study. However, the stipend paid by the Foundation for allowable costs indicated in § 2400.52 will be reduced to the extent these costs are paid from other sources, and in no case will fellowship funds be paid to Fellows to provide support in excess of their actual total costs of tuition, required fees, books, room, and board. The Foundation may also reduce a Fellow's stipend if the Fellow is remunerated for the costs of tuition under a research or teaching assistantship or a work-study program. In such a case, the Foundation will require information from a Fellow's university about the intended use of assistantship or work-study support before remitting fellowship payments.

§ 2400.60 Renewal of award.

(a) Provided that Fellows have submitted all required documentation and are making satisfactory academic progress, it is the intent of the Foundation to renew Junior Fellowship awards annually for a period not to exceed two calendar years or the completion of their graduate degrees, whichever comes first, and Senior Fellowships for a period not to exceed 5 calendar years (except when those periods have been altered because of changes in Fellows' Plan of Study as provided for in § 2400.64), or until a Fellow has completed all requirements for a master's degree, whichever comes first. In no case, however, will the Foundation continue payments under a fellowship to a Fellow who has reached the maximum payments under a fellowship as indicated in § 2400.52, or completed the minimum number of credits required for the degree. Although Fellows are not discouraged in taking courses in addition to those required for the degree or required to maintain full-time status, the Foundation will not in such cases pay for those additional courses unless they are credited to the minimum number of credits required for the degree.

(b) Fellowship renewal will be subject to an annual review by the Foundation and certification by an authorized official of the university at which a Fellow is registered that the Fellow is making satisfactory progress toward the degree and is in good academic standing according to the standards of each university.

(c) As a condition of renewal of awards, each Fellow must submit an annual activity report to the Foundation by July 15th. That report must indicate, through submission of a copy of the Fellow's most recent transcript, courses taken and grades achieved; courses planned for the coming year; changes in academic or professional plans or situations; any awards, recognitions, or special achievements in the Fellow's academic study or school employment; and such other information as may relate to the fellowship and its holder.

§ 2400.61 Postponement of award.

Upon application to the Foundation, a Fellow may seek postponement of his or her fellowship because of ill health or other mitigating circumstances, such as military duty, temporary disability, necessary care of an immediate family member, or unemployment as a teacher. Substantiation of the reasons for the requested postponement of study will be required.

§ 2400.62 Evidence of master's degree.

At the conclusion of graduate studies, each Fellow must provide a certified transcript which indicates that he or she has secured an approved master's degree as set forth in the Fellow's original Plan of Study or approved modifications thereto.

§ 2400.63 Excluded graduate study.

James Madison Fellowships do not provide support for study toward doctoral degrees, for the degree of master of arts in public affairs or public

administration, or toward the award of teaching certificates. Nor do fellowships support practice teaching required for professional certification or other courses related to teaching unless those courses are required for the degree. In those cases, however, the Foundation will provide reimbursement only toward those courses related to teaching that fall within the minimum number of courses required for the degree, not in addition to that minimum.

§ 2400.64 Alterations to Plan of Study.

Although Junior Fellows are expected to pursue full-time study and Senior Fellows to pursue part-time study, the Foundation may permit Junior Fellows with an established need (such as the need to accept a teaching position) to study part time and Senior Fellows with established need (such as great distance between the Fellow's residence and the nearest university, thus necessitating a full-time leave of absence from employment in order to study) to study full time.

§ 2400.65 Teaching obligation.

Upon receiving a Master's degree, each Fellow must teach American history, American government, social studies, or political science on a full-time basis to students in secondary school for a period of not less than one year for each academic year for which financial assistance was received. Each Fellow will be required to provide the Foundation with an annual certification from an official of the secondary school where the Fellow is employed indicating the teaching activities of the Fellow during the past year. This same certification will be required each year until the Fellow's teaching obligation is completed. Any teaching done by the Fellow prior to or during graduate studies does not count towards meeting this teaching obligation.

§ 2400.66 Completion of fellowship.

A Fellow will be deemed to have satisfied all terms of a fellowship and all obligations under it when the Fellow has completed no fewer than 12 graduate semester hours or the equivalent of study of the Constitution, formally secured the masters degree, attended the Foundation's Summer Institute on the Constitution, completed teaching for the number of years and fractions thereof required as a condition of accepting Foundation support for study, and submitted all required reports.

[FR Doc. 96–22525 Filed 9–4–96; 8:45 am]
BILLING CODE 8820–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 538

[Docket No. 94–96; Notice 3]

RIN 2127–AF18

Manufacturing Incentives for Alternative Fuel Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for reconsideration.

SUMMARY: This notice announces the denial of a petition for reconsideration of the agency's decision to set a 200 mile minimum driving range for dual fueled passenger automobiles other than electric vehicles.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590:

For non-legal issues: Ms. Henrietta L. Spinner, Consumer Programs Division, Office of Planning and Consumer Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590, (202) 366–4802.

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC–20, telephone (202) 366–5253, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Establishment of a Minimum Driving Range for Dual Fueled Vehicles

On April 2, 1996, NHTSA published a notice in the **Federal Register** (61 FR 14507) announcing a final rule establishing a minimum driving range for dual fueled vehicles other than electric vehicles. This notice also established gallons equivalent measurements for gaseous fuels other than natural gas and eliminated provisions relating to the granting of alternative range requirements for alternative fueled vehicles not powered by electricity.

The agency promulgated this rule in response to amendments in the Energy Policy Act of 1992 (EPACT) (P.L. 102–486) expanding the scope of the alternative fuels promoted by section 513 of the Motor Vehicle and Cost Savings Act (Cost Savings Act), now recodified as 49 U.S.C. § 32905. Section 32901(c), the replacement section for section 513(h)(2), requires dual fueled passenger automobiles to meet specified criteria, including meeting a minimum driving range, in order to qualify for special treatment in the calculation of their fuel economy for purposes of the CAFE standards.

One change made by EPACT concerning driving ranges was that, under section 32901(c), the minimum driving range set by NHTSA for dual fueled passenger automobiles other than electric vehicles could not be less than 200 miles. The EPACT amendments also provided that the agency may not, in response to petitions from manufacturers, set an alternative range for a particular model or models that is lower than 200 miles, except for electric vehicles.

The EPACT amendments necessitated amending Part 538. In response, the agency established gallons equivalent measurements for the wider range of alternative fuels included in the EPACT amendments and deleted provisions relating to the establishment of alternative minimum driving ranges for non-electric alternative-fueled vehicles. In regard to the minimum driving range, NHTSA concluded that both the text and the legislative history of these amendments indicated that the agency was required to set a minimum driving range of not less than 200 miles for all dual passenger automobiles other than electric vehicles.

II. Petition for Reconsideration of the Minimum Driving Range

On April 19, 1996, the agency received a petition from Volvo Cars of North America, Inc., (Volvo) requesting reconsideration of NHTSA's decision to set a minimum driving range of 200 miles for all dual fueled passenger automobiles other than electric vehicles.

Volvo's petition argues that a 200 mile driving range is too stringent for compressed natural gas (CNG) passenger automobiles. The petition indicates Volvo believes that attaining a 200 mile range in a CNG vehicle would require large fuel storage cylinders. These large cylinders, in Volvo's view, would increase vehicle weight and cost while reducing usable space in the vehicle. The combination of increased weight and cost with decreased utility would discourage consumers from purchasing these passenger automobiles.

III. Response To Petition for Reconsideration

In response to the petition, the agency has reconsidered its decision to set a 200 mile minimum driving range for non-electric dual fueled passenger automobiles when operating on an alternative fuel. As explained below, the

agency is, on reconsideration, reaffirming that decision.

The petition raises several points that are not disputed by NHTSA; however, the agency does not have the discretion to set a lower range for these vehicles. NHTSA's examination of the EPACT amendments and their legislative history indicates that the agency is required by the amendment to Section 513(h)(2) of the Cost Savings Act to set a minimum driving range of not less than 200 miles for all alternative fueled passenger automobiles other than electric vehicles. The agency does not dispute that the 200 mile minimum driving range will place increased fuel storage demands on gaseous fueled vehicles and that these increased demands, particularly in the case of CNG powered passenger automobiles, will increase weight and cost while decreasing usable vehicle space. Nonetheless, the explicit language of the EPACT amendments, the legislative history, and the congressional determination contained in those amendments to restrict the exemption from the minimum driving range requirements to electric passenger automobiles, compels the conclusion that NHTSA does not have the discretion to set the range below 200 miles. Accordingly, the agency is denying the petition.

Issued on: August 29, 1996.

Patricia Breslin,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 96–22539 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 61, No. 173
Thursday, September 5, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–03–AD]

Airworthiness Directives; Bell Helicopter Textron, Inc.—Manufactured Restricted Category Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. (BHTI)—manufactured restricted category Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P helicopters. This proposal would require a one-time inspection of the tail rotor slider (slider) to verify that it was manufactured with the correct outside diameter. This proposal is prompted by a United States (U.S.) Army Safety of Flight message that reports that some sliders may have been improperly manufactured with an undersized wall thickness by U.S. Army vendors. The actions specified by the proposed AD are intended to prevent fatigue failure of the slider, which could cause loss of tail rotor control and subsequent loss of control of the helicopter.

DATES: Comments must be received by November 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–03–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Uday Garadi, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5157, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–SW–03–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–03–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to BHTI-manufactured restricted category Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P helicopters, which would require, within 5 hours time-in-service after the effective date of this AD, a one-time inspection of the slider, P/N 204–010–720–3 or P/N 204–010–720–003, to verify that it has a correct outside diameter dimension, and was therefore manufactured with the correct wall thickness. The U.S. Army reports that some sliders may have been manufactured by U.S. Army vendors with a 30 percent undersized wall thickness. The reduced wall thickness will reduce the fatigue strength of the slider. This condition, if not corrected, could result in fatigue failure of the slider, which could cause loss of tail rotor control and subsequent loss of control of the helicopter.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTI-manufactured restricted category Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P helicopters of the same type design, the proposed AD would require, within 5 hours time-in-service after the effective date of this AD, a one-time inspection of the slider using a calibrated caliper or micrometer to verify that it has a correct minimum outside diameter dimension. If the outside diameter is less than 1.300 inches, removal and replacement with a slider that has an outside diameter of 1.300 inches or greater is required.

The FAA estimates that 80 helicopters of U.S. registry would be affected by this proposed AD, and that it would take 0.5 work hours per helicopter to accomplish the proposed inspection. The average labor rate is $60 per work hour. Replacement of the slider requires 8 hours, and required parts would cost approximately $72 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $46,560 if replacement of the slider is required in all of the fleet.

The regulations proposed herein would 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

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 a new airworthiness directive to read as follows:

California Department of Forestry; Erickson Air Crane Co.; Garlick Helicopters; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Smith Helicopters; Southwest Florida Aviation; West Coast Fabrications; Western International Aviation, Inc.; Williams Helicopter Technology, Inc.; and UNC Helicopters: Docket No. 96–SW–03–AD.

Applicability: Bell Helicopter Textron, Inc.-manufactured Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H UH–1L, and UH–1P helicopters, certificated in the restricted category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 5 hours time-in-service after the effective date of this AD, unless accomplished previously.

To prevent fatigue failure of the tail rotor slider (slider), which could cause loss of tail rotor control and subsequent loss of control of the helicopter, accomplish the following:

(a) Using a calibrated caliper or micrometer, measure the outside diameter of the splined shaft of the slider, part number (P/N) 204–010–720–3 or P/N 204–010–720–003, at two points that are 90 degrees apart on the outside circumference of the splined shaft, one-half to one inch from either end of the slider. If the outside diameter of the slider is less than 1.300 inches, remove the slider and replace it, prior to further flight, with a slider that has an outside diameter of 1.300 inches or greater.

(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, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(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 helicopter to a location where the requirements of this AD can be accomplished. Issued in Fort Worth, Texas, on August 27, 1996.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–22572 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AWP–20]

Proposed Amendment of Class E Airspace; Tonopah, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Tonopah, NV. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 15 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Tonopah Airport, Tonopah, NV.

DATES: Comments must be received on or before September 16, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 96–AWP–20, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96–AWP–20." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for

examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Tonopah, NV. The development of GPS SIAP at Tonopah Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 15 SIAP at Tonopah Airport, Tonopah, NV. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AWP NV E2 Tonopah, NV [Revised]

Tonopah Airport, NV
(Lat. 38°03'29"N, long. 117°05'22"W)
Tonopah VORTAC
(Lat. 38°01'50"N, long. 117°02'01"W)

Within a 4.3-mile radius of the Tonopah Airport and within 2 miles each side of the 358° bearing from the Tonopah Airport, extending from the 4.3-mile radius to 10.5 miles north of the Tonopah Airport and within 1.8 miles each side of the Tonopah VORTAC 115° radial, extending from the 4.3-mile radius to 8.7 miles southeast of the Tonopah VORTAC.

* * * * *

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

* * * * *

AWP NV E5 Tonopah, NV [Revised]

Tonopah Airport, NV
(Lat. 38°03'29"N, long, 117°05'22"W)
Tonopah VORTAC
(Lat. 38°01'50"N, long. 117°02'01"W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Tonopah Airport and that airspace northwest of the Tonopah Airport bounded by a line beginning at lat. 38°18'00"N, long. 117°17'30"W; thence eastbound to lat. 38°18'00"N, long. 117°03'00"W; thence southbound to lat. 38°07'30"N, long. 117°03'00"W; thence counterclockwise via the 4.3-mile radius of the Tonopah Airport to lat. 38°04'00"N, long. 117°11'00"W, thence north westbound to lat. 38°12'00"N, long. 117°17'00"W, northbound to the point of beginning. That airspace extending upward from 1,200 feet above the surface within the area beginning at lat. 37°53'00"N, long. 117°05'41"W; thence south westbound along the southeastern edge of V–135 to the 24-mile radius of the Tonopah VORTAC; thence clockwise along the 24-mile radius of the Tonopah VORTAC to the southern edge of V–244; thence eastbound along the southern edge of V–244 to the 20-mile radius of the Tonopah VORTAC; thence clockwise along the 20-mile radius of the Tonopah VORTAC to lat. 38°18'00"N, long. 117°17'30"W; thence eastbound to lat. 38°18'00"N, long. 117°00'00"W; thence southbound to lat. 38°14'00"N, long. 117°00'00"W; thence eastbound to lat. 38°17'00"N, long, 116°36'00"W; thence southbound to lat. 38°00'00"N, long. 116°33'00"W; thence westbound to lat. 37°59'30"N, long. 116°38'30"W; thence southbound to lat. 37°53'00"W, long. 116°38'30"W, thence to point of beginning.

* * * * *

Issued in Los Angeles, California, on August 8, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–22540 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AWP–16]

Proposed Establishment of Class E Airspace; Phoenix, Deer Valley Municipal Airport, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace area at Phoenix, Deer Valley Municipal Airport, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 07R at Phoenix-Deer Valley Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Phoenix-Deer Valley Municipal Airport, AZ.

DATES: Comments must be received on or before September 20, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 96–AWP–16, Air Traffic Division, P. O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION: .

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited ion the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96–AWP–16." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Available of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P. O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace area at Phoenix, Deer Valley Municipal Airport, AZ. The development of GPS SIAP at Phoenix-Deer Valley Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 07R SIAP at Phoenix-Deer Valley Municipal Airport, AZ. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface on the earth are published in Paragraph 6002 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executivo Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.09C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6002—Class E airspace areas designated as a surface area for an airport.

* * * * *

AWP AZ E2 Phoenix, Deer Valley Municipal Airport, AZ [New]

Phoenix, Deer Valley Municipal Airport, AZ (Lat. 33°41'18"N, long. 112°04'57"W)

Within 3 miles south and 2 miles north of the 287° bearing from the Deer Valley Municipal Airport extending from the 4.4-mile radius of the Deer Valley Municipal Airport to 9.2 miles west of the airport.

* * * * *

Issued in Los Angeles, California, on August 9, 1996.

James H. Snow,

Acting Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 96–22542 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would amend existing regulations governing the Agency's internal Exchange Visitor Waiver Review Board and requests for waiver of the two-year home-country physical presence requirement made by interested United States Government agencies on behalf of an exchange visitor. Changes in the regulations providing for the Agency's Waiver Review Board are proposed to reconcile them with Agency policy and to control the number of cases mandatorily referred to the Board. The Agency expects that the number of cases afforded Board review will be reduced. Changes to the regulations governing waiver requests by interested United States Government agencies are believed necessary to provide for uniform administration of such requests. The Agency anticipates that the proposed changes will increase administrative efficiency and speed of response and also ensure that multiple interested U.S. Government agency (or state) waiver requests on behalf of an individual exchange visitor are not processed.

DATES: Comments regarding this proposed rule will be accepted until November 4, 1996.

ADDRESSES: Comments may be mailed to Rulemaking Clerk, Room 700, Office of General Counsel, United States Information Agency, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, SW., Washington, DC 20547; Telephone, (202) 619–6829.

SUPPLEMENTARY INFORMATION: Under the aegis of the Exchange Visitor Program, some 175,000 foreign nationals come to this country to work, study, or train in the United States annually. As part of the public diplomacy efforts of the United States Government, these foreign nationals enter the United States as participants in the Exchange Visitor Program which seeks to promote peaceful relations and mutual understanding with other countries through educational and cultural exchange programs. Accordingly, many exchange visitors entering the United States are subject to a statutory provision, set forth at 8 U.S.C. 1182(e) (section 212(e) of the Immigration and Nationality Act), which requires that they return to their home country for a period of two years to share with their countrymen the knowledge, experience and impressions gained during their sojourn in the United States.

Foreign nationals entering the United States as Exchange Visitor Program participants are subject to the return home requirement if they: (i) Received U.S. or foreign government financing for any part of their studies or training in the U.S.; (ii) studied or trained in a field deemed of importance to their home government and such field is on the "skills list" maintained by the Agency in consultation with foreign governments; or, (iii) entered the U.S. to pursue graduate medical education or training. An exchange visitor subject to this requirement is not eligible for an H or L visa, or legal permanent resident status until the return-home requirement is fulfilled or waived.

If subject to the two-year return-home requirement, an exchange visitor may seek a waiver of such requirement. The bases upon which a waiver may be granted are: (i) A no objection statement from visitor's home government; (ii) exceptional hardship to the visitor's U.S. citizen (or legal permanent resident) spouse or child; (iii) a request, on the visitor's behalf, by an interested United States Government agency; (iv) a reasonable fear of persecution if the visitor were to return to his or her home country; and, (v) a request by a state on behalf of an exchange visitor who has pursued graduate medical education or training in the U.S.

Interested U.S. Government Agency Waiver Requests

The Agency's Exchange Visitor Program Services, Waiver Review Branch, is responsible for processing waiver applications. Last year, this branch received approximately 6,000 waiver applications, approximately 95 percent of which were based upon either a no objection statement from the visitor's home government or a request from an interested government agency. Over the past four years, the number of interested government agency requests submitted to the Agency has increased approximately five-fold to some 1,700 annually for calendar year 1995.

The vast majority of interested government agency requests processed by the Agency involve foreign medical graduates who entered the United States to pursue graduate medical education or training. At present, the Department of Veterans Affairs, the Department of Housing and Urban Development, the Department of Agriculture, and the Appalachian Regional Commission will act as an interested government agency on behalf of a foreign medical graduate seeking a waiver of his or her two-year home-country physical presence requirement. In return for agency request, the foreign medical graduate must agree to practice patient care in a geographic area designated by the Secretary of Health and Human Services as either a Primary Care Health Professional Shortage Area ("HPSA"), or Medically Underserved Area ("MUA"), or psychiatric care in a Mental Health Professional Shortage Area or to work at a facility operated by the Department of Veterans Affairs.

For years, the Department of Veterans Affairs and the Appalachian Regional Commission were the only agencies making requests for waivers on behalf of these foreign medical graduates, but in the past three years the Department of Agriculture and the Department of Housing and Urban Development also have begun to act on their behalf. With the entry into the waiver process of these two additional agencies, inconsistency in the administration of waiver requests among the different agencies has created a degree of confusion in the administrative process. Further, foreign medical graduates have also pursued concurrent waiver requests with multiple agencies. These concurrent requests reflect conflicting commitments or are duplicative and are therefore inappropriate, waste limited administrative staff resources, and do not further the requesting agency's mission and policy objectives. Further, such concurrent requests are unfair to the communities named in the unapproved applications given the considerable expenditure of resources that local communities devote to the waiver process. Accordingly, the Agency proposes to amend § 514.44(c) to both provide uniformity to this process and prevent the filing of concurrent waiver requests.

Waiver Review Board

An increase in the number of interested government agency and "no objection" waiver requests has also placed an increased burden on the Agency's internal Waiver Review Board. Many of these waiver requests involve exchange visitors who have received government funding for part or all of their exchange activities. Current regulations require that such cases be referred to the Waiver Review Board if the government sponsor that has provided funding objects to the exchange visitor's receiving a waiver. Other circumstances that require automatic referral to the Waiver Review Board are set forth in 22 CFR 514.44(g).

Given the increased number of waiver requests and the questionable value to program goals added by the Waiver Review Board process in certain types of mandatorily-referred cases, the Agency has identified a need to streamline the waiver review process and to reduce significantly the number of waiver applications routinely or mandatorily referred to the Waiver Review Board for decision. Further, organizational and staffing changes within the Agency's Exchange Visitor Program Services unit have resulted in the abolishment of the position of Director, Exchange Visitor Program Services and an alteration of the duties of the Waiver Branch Chief. The loss of the Director position has, in turn, rendered certain procedures set forth in § 514.44 (g) and (h) no longer germane. Accordingly, the Agency proposes new provisions to reflect the administrative changes in the Waiver Review Branch and to adjust the existing requirement of automatic referral to the Board of certain cases.

Comment

The Agency invites comments regarding this proposed rule notwithstanding the fact that it is under no legal requirement to do so. The oversight and administration of the Exchange Visitor Program are deemed to be foreign affairs functions of the United States Government. The Administrative

Procedures Act, 5 U.S.C. 553(a)(1), (1989) specifically exempts foreign affairs functions from the rulemaking requirements of the Act.

The Agency extends a 60-day public comment period. In response to suggestions and requests from immigration practioners, the Agency is also requesting public comment on certain matters related to this proposed rule but not set forth therein. Specifically, the Agency welcomes comment regarding the need for and merits of non-compete and punitive damages clauses that are set forth in contracts between local health facilities and foreign medical graduates receiving a waiver in order to work at such facility. These contractual clauses impose limitations upon the geographical area in which waiver recipients may practice medicine at the end of the employment contract and also penalize waiver recipients who fail to complete their contractual obligations by providing the health care facility the opportunity to pursue significant monetary damages against the waiver recipient. It is the Agency's belief that some, but not all, of these contracts contain such provisions and the Agency is accordingly interested in learning whether such provisions should be uniformly mandated. Further, based upon suggestions from the private bar, the Agency is interested in comment that discusses the need for and merits of an internal audit procedure for use by federal agencies or departments making interested government agency waiver requests. The Agency believes that such internal audit procedures could safeguard the integrity of the waiver request process.

In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does it have federal implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 22 CFR Part 514

Cultural Exchange programs.

Dated August 29, 1996.

R. Wallace Stuart,

Acting General Counsel.

Accordingly, 22 CFR part 514 is amended as follows:

PART 514—EXCHANGE VISITOR PROGRAM

1. The authority citation for part 514 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460: Reorganization Plan No 2 of 1977, 42 FR 62461, 3 CFR, 1977 Comp. p. 200; E.O. 12048 43 FR 13361, 3 CFR, 1978 Comp. p 168; USIA Delegation Order No, 85–5 (50 FR 27393).

2. Section 514.44 is amended by removing paragraph (h) and revising paragraphs (c) and (g) to read as follows:

§ 514.44 Two-year home-country physical presence requirement.

* * * * *

(c) *Requests for waiver made by an interested United States Government Agency.* (1) A United States Government agency may request a waiver of the two-year home-country physical presence requirement on behalf of an exchange visitor if such exchange visitor is actively and substantially involved in a program or activity sponsored by or of interest to such agency.

(2) A United States Government agency requesting a waiver shall submit its request in writing and fully explain why the grant of such waiver request would be in the public interest and the detrimental effect that would result to the program or activity of interest to the requesting agency if the exchange visitor is unable to continue his or her involvement with the program or activity.

(3) A request by a United States Government agency shall be signed by the head of the agency, or his or her designee, and shall include copies of all IAP–66 forms issued to the exchange visitor, his or her current address, and his or her country of nationality or last legal permanent residence.

(4) A request by a United States Government agency, excepting the Department of Veterans Affairs, on behalf of an exchange visitor who is a foreign medical graduate who entered the United States to pursue graduate medical education or training, and who is willing to provide primary patient care in a designated Primary Medical Car Health Professional Shortage Area, or a Medically Underserved Area, or psychiatric care in a Mental Health Professional Shortage Area, shall, in addition to the requirements set forth in § 514.44 (c)(2) and (3), include:

(i) A copy of the employment contract between the foreign medical graduate and the health care facility at which he or she will be employed. Such contract shall specify a term of employment of not less than three yeas and that the foreign medical graduate is to be employed by the facility for the purpose of providing primary medical care in a designated Primary Medical Care Health Professional Shortage Area or designated Medically Underserved Area ("MUA") or psychiatric care in a designated Mental Health Professional Shortage Area.

(ii) A statement, signed and dated by the head of the health care facility at which the foreign medical graduate will be employed, that the facility is located in an area designated by the Secretary of Health and Human services as a Medically Underserved Area or Primary Medical Care Health Professional Shortage Area or Mental Health Professional Shortage Area. The statement shall also list the Health Professional Shortage Area or Medically Underserved Area identifier number assigned to the area by the Secretary of Health and Human Services.

(iii) A statement, signed and dated by the foreign medical graduate exchange visitor that shall read as follows:

I, _____ (name of exchange visitor) hereby declare and certify, under penalty of the provisions of 18 U.S.C. 1101, that: (1) I have sought or obtained the cooperation of _____ (enter name of United States Government agency which will submit/is submitting an IGA request on behalf of the Exchange Visitor to obtain a waiver of the 2-year home residence requirement); and (2) I do not now have pending nor will I submit during the pendency of this request, another request to any United States Government department or agency or any State Department of Public Health, or equivalent, to act on my behalf in any matter relating to a waiver of my two-year home-country physician presence requirement.

(iv) Evidence that unsuccessful efforts have been made to recruit an American physical for the position to be filled by the exchange visitor.

(5) Except as set forth in § 514.44(g)(4), infra, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency and such recommendation shall be forwarded to the Commissioner.

* * * * *

(g) *The Exchange Visitor Waiver Review Board.* (1) The Exchange Visitor Waiver Review Board ("Board") shall consist of the following Agency officers:

(i) The Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee;

(ii) The Director of the geographic area office responsible for the geographical area of the waiver applicant, or his or her designee;

(iii) The Director of the Office of Congressional and Intergovernmental Affairs, or his or her designee;

(iv) The Director of the Office of Academic Exchange, or his or her designee; and

(v) The Director of the Office of Research, or his or her designee.

(2) A person who has had substantial prior involvement in a particular case referred to the Board may not be appointed to serve on the Board for that particular case unless the General Counsel determines that the individual's inclusion on the Board is otherwise necessary or practicably unavoidable.

(3) The Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, shall serve as Board Chairman. No designee under this paragraph (g)(3) shall serve for more than 2 years.

(4) Cases will be referred to the Board at the discretion of the Branch Chief, Waiver Review Branch, of the Agency's office of Exchange Visitor Program Services. The Waiver Review Branch shall prepare a summary of the particular case referred and forward it along with a copy of the relevant file to the Board Chairman. The Chief, Waiver Review Branch, or his or her designee, may, at the Chairman's discretion, appear and present facts related to the case but shall not participate in Board deliberations.

(5) The Chairman of the Board shall be responsible for convening the Board and distributing all necessary information to its members. Upon being convened, the Board shall review the case file and weigj the request against the program, policy, and foreign relations aspects of the case.

(6) At the conclusion of its review of the case, the Board shall make a written recommendation either to grant or to deny the waiver application. The written recommendation of a majority of the Board shall constitute the recommendation of the Board. Such recommendation shall be promptly transmitted by the Chairman to the Branch Chief, Waiver Review Branch.

(7) The recommendation of the Board in any case reviewed by it shall constitute the recommendation of the Agency and such recommendation shall be forwarded to the Commissioner by the Branch Chief, Waiver Review Branch.

[FR Doc. 96–22586 Filed 9–4–96; 8:45 am]
BILLING CODE 8230–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 35, 270, and 271

[FRL–5606–8]

Authorization of Indian Tribe's Hazardous Waste Programs Under RCRA Subtitle C; Proposed Rule; Notice of Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: notice of reopening of comment period.

SUMMARY: Since publication of the proposed rule for Authorization of Indian Tribe's Hazardous Waste Programs Under RCRA Subtitle C (61 FR 30471 (June 14, 1996)), EPA has received requests to extend the comment period. The Agency has reopened the comment period 30 days to September 12, 1996.

DATES: The comment period on the proposed rule for Authorization of Indian Tribe's Hazardous Waste Programs Under RCRA Subtitle C (61 FR 30471) is reopened from August 13, 1996 to September 12, 1996.

ADDRESSES: Commenters on the Subtitle C Indian Authorization Rule proposal must send an original and two copies of their comments referencing Docket Number F–96–AITP–FFFFF to: (1) If using regular US Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW., Washington, DC 20460, or (2) if using special delivery, such as overnight express service : RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. For other information regarding submitting comments electronically or viewing the comments received and supporting information, please refer to the proposed rule (61 FR 30471 (June 14, 1996)). The RCRA Information Center is located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia, and is open for public inspection and copying of supporting information for RCRA rules from 9 am to 4 pm, Monday through Friday, except for Federal holidays. The public must make an appointment to view docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Hotline is open Monday-Friday, 9 a.m. to 6 p.m., Eastern Standard Time. For more detailed information on specific aspects of the Subtitle C Indian Authorization rulemaking, contact Felicia Wright, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, phone (703) 308–8634 (or email: wright.felicia@epamail.epa.gov).

SUPPLEMENTARY INFORMATION: On June 14, 1996, EPA proposed Authorization of Indian Tribe's Hazardous Waste Programs Under RCRA Subtitle C. See 61 FR 30471. The Agency established a 60-day comment period and indicated that comments on the proposal would be accepted until August 13, 1996.

EPA received a written request to extend the comment period for the Subtitle C Indian Authorization proposal from the Navajo Nation and Morgan, Lewis & Bockius LLP on behalf of the FMC Corporation (FMC). The additional time requested was 30 days.

As justification for a time extension, the Navajo Nation pointed out that they need additional time to meet with the hazardous waste generator industries located on the Navajo Nation reservation to inform them of the proposed rule, and of the Navajo's plans to apply for authorization under a final rule. The extension will provide the Navajo Nation with adequate time to set up public meetings with the industries so that all parties may discuss the potential situation with the Navajo Nation and develop comments on the proposed rule to EPA. Similarly, FMC requested a time extension to better address the proposed rule in light of the complex legal issues relating to Indian Tribes.

The Agency has decided to grant an additional 30 days beyond the proposed 60-day comment period to allow stakeholders enough time to review the provisions of the rulemaking and to formulate comments and recommendations for the Agency's consideration in developing the final rule. The Agency believes that 90 days allows for sufficient time for commenters to analyze legal considerations, evaluate the proposal, and coordinate comments with others.

Dated: August 29, 1996.

Elliott P. Laws,

Assistant Administrator for the Office of Solid Waste and Emergency Response.

[FR Doc. 96–22658 Filed 9–4–96; 8:45 am]

BILLING CODE 6560–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5606–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent for Partial Deletion of the Harbor Island Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Lockheed Shipyard portion of the Harbor Island Superfund Site, known as Operable Unit (OU) No. 3, located in Seattle (King County), Washington, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion of the Harbor Island site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the NPL, published in the **Federal Register** on November 1, 1995 at (60 FR 55466).

This proposal for partial deletion pertains to OU No. 3, which is defined as the Lockheed Shipyard facility, located in the Harbor Island site. EPA bases its proposal to delete OU No. 3 on the determination by EPA and the State of Washington Department of Ecology (Ecology) that all appropriate actions under CERCLA have been implemented to protect health, welfare, and the environment at OU No. 3.

This partial deletion pertains only to OU No. 3 of the Harbor Island site. Response activities at OU Nos. 1, 2, 4, and 5 of this Site are not yet complete and these OUs will remain on the National Priorities List and are not subject of this partial deletion.

DATES: EPA will accept comments concerning its proposal for partial deletion for thirty days (30) after publication of this document in the **Federal Register** and a newspaper of record.

ADDRESSES: Comments may be mailed to: Mr. Keith Rose, Remedial Project Manager, U. S. Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop: ECL–111, Seattle, Washington 98101.

Comprehensive information on the Harbor Island site as well as information specific to this proposed partial deletion is available for review at the Harbor Island information repository at the following location: U.S. Environmental Protection Agency, Region 10, Environmental Cleanup Office Records Center, 1200 Sixth Avenue, Seattle, Washington 98101. Attn: Lynn Williams.

FOR FURTHER INFORMATION CONTACT: Keith Rose, U.S. EPA, 1200 Sixth Avenue, Mail Stop: ECL–111, Seattle, Washington 98101, (206) 553–7721.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The United States Environmental Protection Agency (EPA) Region 10 announces its intent to delete a portion of the Harbor Island site (Site) from the NPL, Appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this proposal. Sites listed on the NPL are those which present a significant risk to human health or the environment. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

This proposal for partial deletion pertains to OU No. 3, which consists of the Lockheed Shipyard in the Harbor Island site. OU No. 3 is located at 2929 16th Avenue Southwest, and is bounded on the north by the ARCO petroleum storage tank facility, on the east by 16th Avenue Southwest, on the south by the Fisher Mills facility, and on the west by the West Waterway of the Duwamish River.

Lockheed Martin, the Potentially Responsible Party for OU No. 3, completed a Remedial Investigation and feasibility study for this OU. EPA conducted a risk assessment of OU No. 3 as part of a Site-wide risk assessment conducted during the Site-wide Remedial Investigation. On June 28, 1994, EPA issued a Record of Decision (ROD) for OU No. 3. In September 1995, Lockheed Martin completed the remedial action selected in the ROD. EPA proposes to delete OU No. 3 because all appropriate CERCLA response activities have been completed in this OU. Response activities at OU Nos. 1, 2, 4, and 5 of this Site are not yet complete and these OUs will remain on the NPL and are not subject of this partial deletion.

EPA will accept comments concerning its intent for partial deletion for thirty days (30) after publication of this document in the **Federal Register** and a newspaper of record.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Lockheed Shipyard OU and explains how this OU meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites, where a release of hazardous substances have occurred, may be deleted from, or recategorized on the NPL, where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed response under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The Remedial Investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a portion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the area deleted if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or

revoke any person's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

The following procedures were used for the proposed deletion of OU No. 3 of the Harbor Island site:

(1) EPA has recommended the partial deletion and has prepared the relevant documents.

(2) The Washington State Department of Ecology has concurred with this partial deletion.

(3) Concurrent with this national Notice of Intent for Partial Deletion, a display ad has been published in a newspaper of record and has been distributed to appropriate federal, State, and local officials, and interested members of the community. These notices announce a thirty (30) day public comment period on the deletion, which commences on the date of publication of this document in the **Federal Register** and a newspaper of record.

(4) EPA has made all relevant documents available at the information repositories listed previously.

For deletion of the Lockheed Shipyard OU, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary in response to any significant public comments received.

Upon completion of the thirty (30) day public comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repositories listed previously.

If, after review of all public comments, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of deletion in the **Federal Register**. Deletion of OU 3 does not actually occur until the final Notice of Deletion is published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following summary provides the Agency's rationale for deletion of OU No. 3 of the Harbor Island site from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied:

A. Site Background

Harbor Island is a man-made island, of approximately 400 acres in size, located about one mile southwest of Seattle, in King County, Washington. Since its construction at the turn of the century, the island has been used for commercial and industrial activities including ship building and maintenance, cargo shipping, secondary lead smelting, bulk petroleum storage and transfer, and metal fabrication. Primary contaminants of concern at the Harbor Island site include arsenic, lead, mercury, PCBs, polynuclear aromatic hydrocarbons (PAHs), and petroleum products. The Harbor Island site was added to the NPL in 1983.

In order to expedite Superfund response actions at this large Site, EPA has divided the Site into five OUs:

(1) The Soil and Groundwater OU
(2) The Petroleum Storage Tank OU
(3) The Lockheed Shipyard OU
(4) The Shipyard Sediment OU
(5) The Island-wide Sediment OU

EPA has been investigating and making CERCLA response action decisions for each OU separately.

The Lockheed Shipyard OU is an 18 acre shipbuilding facility located on the west side of Harbor Island at 2929 16th Avenue Southwest. This OU is bounded on the north by the ARCO petroleum storage tank facility, on the east by 16th Avenue Southwest, on the south by the Fisher Mills facility, and on the west by the West Waterway of the Duwamish River. The Lockheed Shipyard was used as a shipbuilding facility from the 1930's until 1986. Shipbuilding activities included metal fabrication, sandblasting and painting. Paints used at this facility contained copper, lead, mercury, and zinc. The sandblast grit used at this facility contained arsenic and lead.

B. Response Actions Taken at the Lockheed Shipyard OU

A Remedial Investigation of the Lockheed Shipyard was completed in 1993 by Lockheed Martin, the Potentially Responsible Party. Based on data collected during the Remedial Investigation, a risk assessment was conducted to identify contaminants of concern, potential exposure pathways, and potential human health risks resulting from exposure to contaminants found at the Lockheed Shipyard. This risk assessment determined that the most significant potential human health risk was exposure to arsenic, lead, and PAHs through accidental ingestion of contaminated soil by industrial workers.

During the Remedial Investigation, high concentrations of petroleum products in the soil, referred to as "hot spots", were also identified at four locations on the Lockheed Shipyard OU. These petroleum hot spots were considered to be potential sources of contamination to the groundwater.

Contaminants found in the groundwater included benzene, tetrachloroethylene, copper, lead, and zinc. Since the groundwater at Harbor Island is not a drinking water source, groundwater contaminants do not pose a risk to human health. However, groundwater contaminants which reach the shoreline and enter the adjacent surface water are of concern because of their potential adverse effects on marine organisms. Groundwater modeling conducted during the Remedial Investigation indicate that it is unlikely that groundwater contaminants would reach the shoreline at concentrations exceeding the marine chronic criteria in less than 50 years.

A Record of Decision (ROD) for the Lockheed Shipyard OU was signed EPA's Regional Administrator on June 28, 1994. The ROD established cleanup levels for arsenic, lead, PAHs, and petroleum in soil based on standards in the State of Washington Model Toxics Control Act (MTCA). The ROD also established the marine chronic criteria as the cleanup goal for groundwater at the shoreline, which would be protective of marine organisms. The main components of the selected remedy were: (1) excavation and treatment of petroleum hot spot soil by thermal desorption, (2) placing three inches of asphalt over exposed soil contaminated above MTCA cleanup goals, (3) consolidating and capping sandblast grit on-site or disposing the grit off-site, and (4) monitoring groundwater quality semi-annually to verify that response actions taken will prevent groundwater contaminants from reaching the shoreline at concentrations which exceed the marine chronic criteria.

The selected remedy was completed by Lockheed Martin in September 1995. Confirmational soil sampling conducted after completing the remedy demonstrates that no significant risk to public health or the environment is posed by residual levels of contamination remaining in the soil. Groundwater monitoring conducted to date indicate that groundwater contaminant have not reached the shoreline at concentrations exceeding the marine chronic criteria. Semi-annual groundwater monitoring will be conducted at the Lockheed Shipyard until it is confirmed that groundwater contaminants will not exceed the

marine chronic criteria at the shoreline in the future.

C. Community Involvement

During the remedial activities at the Site, including the Lockheed Shipyard OU, EPA kept the community informed of its cleanup actions primarily through fact sheets, public meetings, and newspaper articles. EPA representatives met with facility owners and operators, local officials, and interested members of the community in order to develop a Community Relations Plan. EPA representatives also met several times with the Potentially Responsible Parties to discuss their potential liability for cleanup at the Site. A Proposed Plan for the Lockheed OU was issued on April 22, 1994, and subject to public comment for 30 days. This Proposed Plan was mailed to individuals on EPA's mailing list and was also announced in a local newspaper notice. EPA also held a public meeting on the Proposed Plan in EPA's regional office in Seattle on May 11, 1994. EPA responded to all comments received in the Responsiveness Summary, which is attached to the ROD.

D. Current Status

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "Responsible parties or other persons have implemented all appropriate response actions required." EPA, with concurrence of Ecology, believes that this criterion for deletion has been met for the Lockheed Shipyard OU. Groundwater quality will be monitored semi-annually to verify that response actions taken will prevent groundwater contaminants from reaching the shoreline at concentrations which exceed the marine chronic criteria. Five-year reviews will be conducted by EPA to evaluate trends in groundwater contamination until it has been determined that cleanup goals will not be exceeded at the shoreline and that additional groundwater monitoring is not necessary.

While EPA does not believe that any future response actions in OU No. 3 will be needed, if future conditions warrant such action, the proposed deletion area of the Harbor Island site remains eligible for future Fund-financed response actions. Furthermore, this partial deletion does not alter the status of OU Nos. 1, 2, 4, and 5 of the Site which are not proposed for deletion and remain on the NPL.

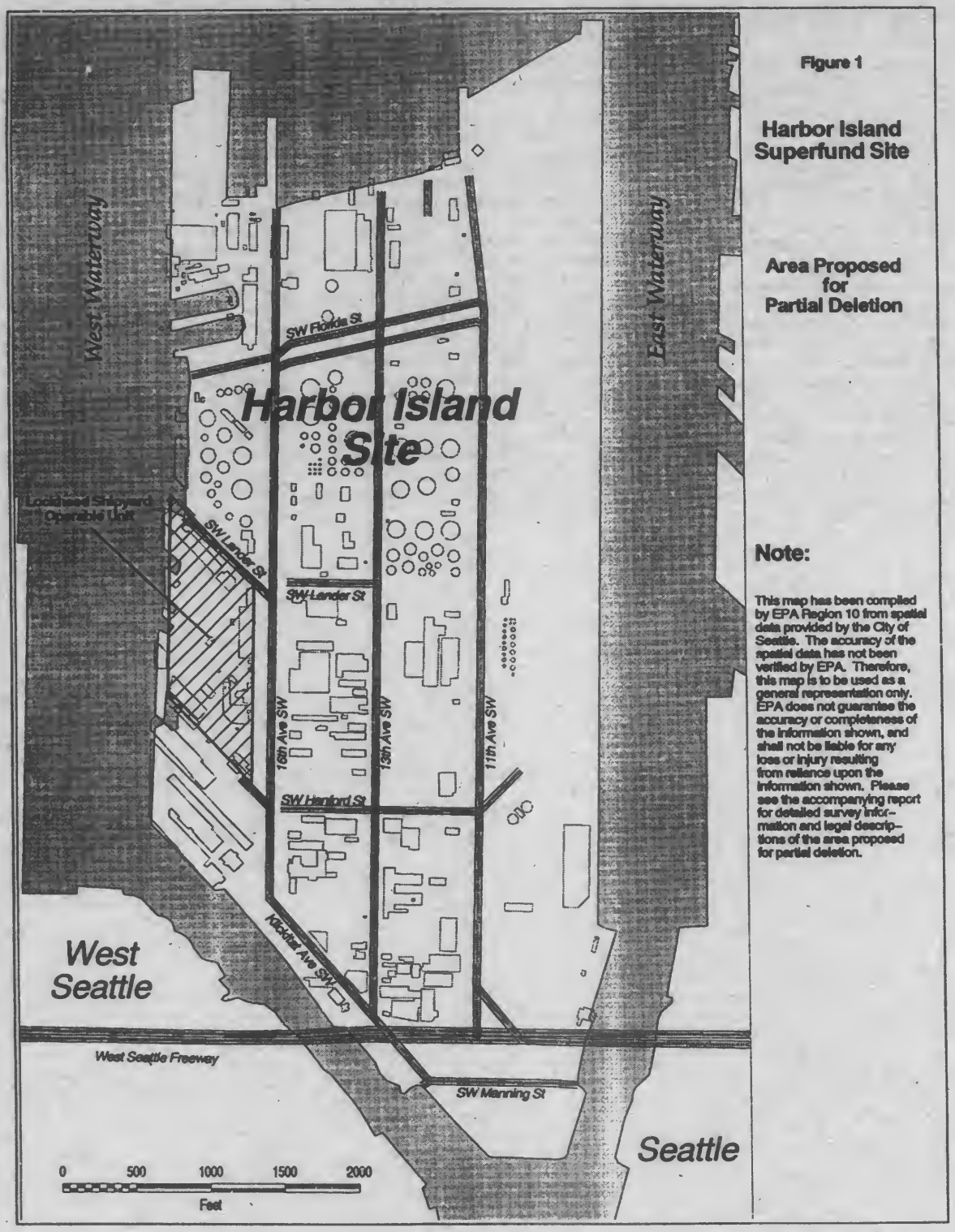
EPA, with concurrence from the State of Washington, has determined that all appropriate CERCLA response actions have been completed at OU No. 3 of the Harbor Island site and protection of human health and the environment has been achieved in this area. Therefore, EPA makes this proposal to delete only OU No. 3 of the Harbor Island Superfund site from the NPL.

Dated: August 28, 1996.

Charles E. Findley,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 10.

BILLING CODE 6560-50-P



[FR Doc. 96–22646 Filed 9–4–96; 8:45 am]
BILLING CODE 6560–50–C

40 CFR Part 300

[FRL–5558–9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete Ambler Asbestos site from the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Ambler Asbestos site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of Pennsylvania have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of this site from the NPL may be submitted on or before October 7, 1996.

ADDRESSES: Comments may be submitted to James J. Feeney, (3HW21), Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 566–3190.

Comprehensive information on this site is available for viewing at the Site information repositories at the following locations:

U.S. EPA, Region 3, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–5363

Wissahickon Valley Public Library, Ambler Branch, 209 Race Street, Ambler, PA 19002, (610) 646–1072

FOR FURTHER INFORMATION CONTACT: Mr. James J. Feeney (3HW21), U. S. Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–3190.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Environmental Protection Agency (EPA) Region 3 announces its intent to delete the Ambler Asbestos site, Montgomery County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this site from the NPL for thirty calendar days after publication of this notice in the **Federal Register.**

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR Section 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

(iv) In addition to the above, for all remedial actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, it is EPA's policy that sites should generally not be deleted from the NPL until at least one five-year review has been conducted following completion of all remedial actions at a site (except operation and maintenance), any appropriate actions have been taken to ensure that the site remains protective of public health and the environment, and the site meets EPA's deletion criteria as outlined above. EPA must also assure that five-year reviews will continue to be conducted at the site until no hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure. States may conduct five-year reviews pursuant to Cooperative Agreements or Superfund State Contracts with EPA, and submit five year review reports to EPA.

An exception to this requirement involves situations where a Consent Decree contains language specifically committing EPA to delete a site from the NPL upon completion of certain response activities. In such cases, EPA Regions must consult with EPA Headquarters prior to initiation of any deletion activities. However, such an exception would apply only to the general policy of not deleting sites before completion of the first five-year review, not to the requirement to conduct reviews. EPA would still need to assure that five-year reviews will be conducted at the site. Given the October 30, 1989 policy directive from the Acting Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER) regarding the performance of five-year reviews and their relationship to the deletion process, Consent Decrees should now require one five-year review following completion of the remedial action (except operation and maintenance) before deletion.

III. Deletion Procedures

In the NPL rulemaking published on October 15, 1984 (49 FR 40320), the Agency solicited and received comments on whether the notice of comment procedures followed for adding sites to the NPL should also be used before sites are deleted. Comments were also received in response to the amendments to the NCP proposed on February 12, 1985 (50 FR 5862). Deletion of sites from the NPL does not itself create, alter, or revoke any

individuals rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

EPA Region III will accept and evaluate public comments before making a final decision to delete. The Agency believes that deletion procedures should focus on notice and comment at the local level. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this site:

(i) EPA Region III has recommended deletion and has prepared the relevant documents.

(ii) The State of Pennsylvania has concurred with the deletion decision. Concurrent with this National Notice of Intent to Delete, local notice will be published in local newspapers and distributed to appropriate federal, state and local officials, and other interested parties. This local notice presents information on the site and announces the thirty (30) day public comment period on the deletion package.

(iii) The Region has made information supporting the proposed deletion available in the Regional Office and local site information repository.

The comments received during the notice and comment period will be evaluated before the final decision to delete. The Region will prepare a Responsiveness Summary, which will address significant comments received during the public comment period.

A deletion will occur after the EPA Regional Administrator places a notice in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region III.

IV. Basis for Intended Site Deletion

The Ambler Asbestos Superfund Site is composed of three piles of asbestos-containing wastes and a series of waste water settling and filter bed lagoons. The Site, which covers approximately twenty-five (25) acres, is located in the center of a mixed commercial/ residential area in Ambler, Pennsylvania.

Historically, the Site was owned by Keasbey & Mattison Company (K&M), a manufacturer of pharmaceuticals, such as Milk of Magnesia, and asbestos insulation products. K&M owned the site from the late 1800's to 1962, when it sold the property and operations in parcels. One parcel, including the CertainTeed Scrap Pile (also known as the Pipe Plant Pile), was sold to CertainTeed, Inc. That pile became Operable Unit Two (OU–2) of the Site. Nicolet Industries, Inc. purchased the remaining property, including the Locust Street Pile, the Plant Pile and the filter bed lagoons. Those two piles and the lagoons constitute Operable Unit One (OU–1) of the Site. The total volume of asbestos-containing waste in the piles is estimated to exceed 1.5 million cubic yards.

The Site came under the scrutiny of the EPA in 1971, and subsequent field investigations showed visible dust emissions that were determined to contain asbestos. In 1974, the State denied disposal permit applications and ordered both companies to stop dumping and to stabilize and cover the piles. CertainTeed stabilized the CertainTeed Scrap Pile with a vegetated soil cover in 1977. The Nicolet Corporation decontaminated and removed the equipment from the Locust Street playground in 1984. The Locust Street and Plant Piles were regraded and stabilized by EPA and Nicolet and the Site was partially fenced in removal actions undertaken in 1984 and 1989. The Site was proposed for inclusion on the Superfund National Priorities List October 10, 1984 and finalized on that list on June 6, 1986.

The Remedial Investigations and Feasibility Studies for the operable units were conducted separately by EPA and CertainTeed Corporation and showed the potential for exposure to airborne asbestos particles originating from the Site if the existing cover systems were not upgraded. Potential erosion of the Piles by the action of the Wissahickon and Stuart Farm Creeks was also identified. Remedies for the Operable Units were selected and described in separate Records of Decision issued September 3, 1988, for OU–1, and September 29, 1989, for OU–2.

Negotiations with the potentially responsible parties continued for the design and actual construction of the remedies selected for the operable units of the Site. Nicolet, however, dissolved in bankruptcy in 1988. Subsequently, T&N Industries, Inc. (T&N) was joined for CERCLA liability as the parent corporation of the former owner, K&M. Two parties, T&N and CertainTeed, entered into separate Consent Decrees for the Remedial Designs and Remedial Actions, under the oversight of EPA, of their respective operable units. Physical construction of the remedies for the Site was completed by the parties in October 1992 and both construction Remedial Action Reports were accepted by EPA on April 28, 1993.

The Remedial Action selected and constructed for OU–1 included draining and back-filling the lagoons, installing a semi-permeable cap and surface drainage system on the piles, and constructing an erosion control device; a concrete revetment installed on the west slope of the Locust Street Pile to inhibit the erosion of the stream bank and the pile by the action of the Wissahickon. The west slope of the pile abuts against and into the Wissahickon Creek along Butler Pike. The existing fences on the property were also moved and repaired to discourage trespassing and vandalism. This remedy eliminated the lagoons and stabilized the piles against erosion by wind, precipitation and the action of the Wissahickon, reducing the threat of release to the air or surface water, and potential exposure to airborne asbestos.

The Remedial Action selected and constructed for OU–2 included supplementing the existing soil cover, clearing and grading to promote proper surface drainage, revegetating the pile, and installing gabion boxes to reinforce the banks of the Stuart Farm Creek along the East slope of the pile. The existing fences on the property were upgraded and replaced to discourage trespassing and vandalism. A verification study was also conducted during the Remedial Design to determine the extent and source of metals contamination in the creek. That study showed no significant contamination attributable to the Site. This remedy stabilized the pile against erosion by wind, precipitation and the action of the Stuart Farm Creek, reducing the threat of release to the air or surface water, and potential exposure to airborne asbestos.

Separate long-term Operation and Maintenance (O&M) Plans were submitted and subsequently approved for each Operable Unit to ensure the continued integrity of the pile cover. There are no operating facilities. As such there will be only maintenance of the remedies, which will be performed by the Respondents. Inspections will be conducted to ensure the continuing maintenance of the security fence, gates, warning signs, cap system, cap vegetation and the constructed erosion and sedimentation control measures. Site inspections will also be conducted after major storm events that cause local flooding to ensure the integrity of all permanent erosion and sedimentation controls. Specific Maintenance will be triggered by the inspections and performed as necessary. The O&M Plans were prepared in sufficient detail to allow the EPA and the State of Pennsylvania to determine that the protectiveness of the remedy for the site will be maintained over time.

A statutory Five-Year Review of the selected Remedy is to be completed on or before July 27, 1997 to ensure that no

future threats to the public health or environment exist. Further Five-Year Reviews will be conducted pursuant to OSWER Directive 9355.7–02. "Structure and Components of Five-Year Reviews," or other applicable guidance where it exists.

The remedies selected for this Site have been implemented in accordance with the Records of Decision, as modified and expanded in the EPA-approved Remedial Designs for the two Operable Units. These remedies have resulted in the significant reduction of the long-term potential for release of asbestos fibers to the surrounding surface soils, the ambient air and the aquatic environment. Human health threats and potential environmental impacts have been minimized. EPA and the State of Pennsylvania find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, with concurrence of the State of Pennsylvania, believes that the criteria for deletion of this Site have been met. Therefore, EPA is proposing deletion of this Site from the NPL.

Dated: August 12, 1996.

Thomas J. Maslany,

Acting Regional Administrator, USEPA Region III.

[FR Doc. 96–22378 Filed 9–4–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[MM Docket No. 96–16, DA 96–1279]

Revision of Broadcast EEO Policies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: In *Streamlining Broadcast EEO Rules and Policies*, DA 96–1279, released August 9, 1996, (*Streamlining*), the Commission granted a motion for extension of time and for waiver of filing deadline concerning the Commission's *Order and Notice of Proposed Rule Making*, MM Docket No. 96–16, (*NPRM*). A group of organizations requested the extension of time and waiver of filing deadline due to difficulties resulting from staff shortages, computer failures, and "obtaining consensus" from each of the 20 participating organizations. In the interest of compiling a full record in the rulemaking, the Commission extended the dates for filing comments and reply comments.

DATES: Initial comments were due August 26, 1996; reply comments due September 25, 1996.

ADDRESSES: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Hope G. Cooper, Mass Media Bureau, Enforcement Division. (202) 418–1450.

SUPPLEMENTARY INFORMATION:

Adopted: August 9, 1996.

Released: August 9, 1996.

Comment Date: August 26, 1996.

Reply Comment Date: September 25, 1996.

1. On February 8, 1996, the Commission adopted an *Order and Notice of Proposed Rule Making*, 11 FCC Rcd 5154 (1996), 61 FR 9964 (March 12, 1996) (*NPRM*), which vacated the Commission's *EEO Forfeiture Policy Statement* and requested comment on proposals for amending the Commission's EEO Rule and policies. Comment and reply comment dates were established for April 30, 1996, and May 30, 1996, respectively.

2. On April 12, 1996, twenty organizations, including the Minority Media and Telecommunications Council (hereinafter "Petitioners"), filed a Motion for Extension of Time to file comments in response to the above-captioned proceeding.[1] On April 26, 1996, the Commission granted the Petitioners' request for extension of time.[2] The date for filing comments was extended to July 1, 1996, and the date for filing reply comments was extended to July 31, 1996.

3. On June 20, 1996, Petitioners filed a Motion for Further Extension of Time. Therein, Petitioners requested that we extend further the date for submission of comments in response to the NPRM by ten days, until July 11, 1996.[3] On June 26, 1996, we granted the Petitioners' request for extension of time to file comments and, on our own motion, extended the date for filing reply comments.[4] The date for filing comments was extended to July 11, 1996, and the date for filing reply comments was extended to August 12, 1996.

4. On August 5, 1996, the Petitioners filed a Further Motion for Extension of Time, and for Waiver of Filing Deadline. Therein, Petitioners request that the Commission waive the filing deadline for its comments and extend the reply comment deadline. In support of their request, Petitioners state that staff shortages, computer failures, and "obtaining consensus" from each of the 20 organizations, have presented difficulties in assembling their filing. They state that they need "approximately two weeks" to complete their research and file comments.

5. It is Commission policy that extensions of time not be routinely granted. *See* Section 1.46(a) of the Commission's Rules, 47 CFR Section 1.46(a). Petitioners have requested and received two extensions of time to file comments in this rulemaking. In addition, the instant motion was filed more than three weeks after the deadline for filing comments in this proceeding. Finally, Petitioners' failure to file comments in a timely manner is entirely attributable to matters under their control. Nevertheless, in the interest of compiling a full record in this rulemaking, we will accept comments through August 26, 1996. Consequently, we shall extend the deadline for filing reply comments to September 25, 1996. Petitioners are hereby advised that we do not contemplate further extensions of time in this proceeding.

6. *Accordingly, it is ordered that* the Further Motion for Extension of Time, and for Waiver of Filing Deadline is granted.

7. *It is further ordered* that comments will be accepted through August 26, 1996, and reply comments will be due on September 25, 1996.

8. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 4(i) and 303(r), and Sections 0.204(b), 0.283 and 1.46 of the Commission's Rules, 47 CFR Sections 0.204(b), 0.283 and 1.46.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

Editorial Note: This document was received at the Office of the Federal Register on August 29, 1996.

[FR Doc. 96–22533 Filed 9–4–96; 8:45 am]

BILLING CODE 6712–01–P

[1] *See* National Council of Churches *et al.*, Petition For Reconsideration and Clarification, MM Docket No. 96–16, filed April 11, 1996, at 1.

[2] FCC 96–198 (released: April 26, 1996), 61 FR 25183 (May 20, 1996).

[3] Minority Media and Telecommunications Council *et al.*, Motion For Further Extension of Time, MM Docket No. 96–16, filed June 20, 1996, at 1.

[4] 11 FCC Rcd 7624 (1996), 61 FR 37241 (July 17, 1996).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration (NHTSA)

49 CFR Part 531

[Docket No. 96–085; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

ACTION: Proposed decision.

SUMMARY: This proposed decision responds to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years 1998 and 1999 and that a lower alternative standard be established. In this document, NHTSA proposes that the requested exemption be granted and that an alternative standard of 16.3 mpg be established for MYs 1998 and 1999 for Rolls-Royce.

DATES: Comments on this proposed decision must be received on or before October 21, 1996.

ADDRESSES: Comments on this proposal must refer to the docket number and notice number in the heading of this notice and be submitted, preferably in ten copies, to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590:

For non-legal issues: Mr. P.L. Moore, Motor Vehicle Requirements Division, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590, (202) 366–5222.

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC–20, telephone (202) 366–5253, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Statutory Background

Pursuant to 49 U.S.C. section 32902(d), NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards if NHTSA concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. Under the statute, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining the maximum feasible average fuel economy, the agency is required under 49 U.S.C. 32902(f) to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy, and
(4) The need of the United States to conserve energy.

Section 32902(d)(2) permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard for each exempted manufacturer; (2) a separate average fuel economy standard applicable to each class of exempted automobiles (classes would be based on design, size, price, or other factors); or (3) a single standard for all exempted manufacturers.

Background Information on Rolls-Royce

Rolls-Royce is a small company concentrating wholly on the production of high quality, prestigious cars. Rolls-Royce markets cars under the Bentley and Rolls-Royce nameplates and currently seeks an exemption for both Bentley and Rolls-Royce cars. The annual production rate for these cars is less than 2,500 automobiles, of which one-third are sold in the United States. The corporate philosophy concentrates on this limited production as the only way to maintain their reputation for producing what is widely perceived as the best car in the world. It believes that its customers will continue to demand substantial cars, craftsman-built, using traditional materials and equipped to the highest standards. Rolls-Royce operates as an independent unit within the Vickers group of companies and is required to generate its own financial resources. The limited financial resources of this small company and its market position preclude Rolls-Royce from improving fuel economy by any means involving significant changes to the basic concept of a Rolls-Royce car.

Fuel economy improvements are particularly difficult in the short run. Rolls-Royce traditionally manufactures its own engine and bodies and is a very low volume manufacturer. Because of this integration of component manufacturing and low volume, model changes are much less frequent than with larger manufacturers. Rolls-Royce may manufacture a body shell for fifteen years before making a major change. The opportunities for improving fuel economy through changing the model mix are also quite limited as Rolls-Royce manufactures only one basic model in different configurations and all have similarly low fuel economy.

Rolls-Royce's ability to make long term fuel economy improvements is also very limited. Any change in the basic concept of its cars to reduce size or downgrade the specifications would not, according to the petitioner, be acceptable to its customers.

Nevertheless, Rolls-Royce states that it is making every effort to achieve the lowest possible fuel consumption consistent with meeting emission, safety, and other standards while maintaining customer expectations of its product. In the 18-year period from 1978, when Federal fuel economy standards were introduced, Rolls-Royce has achieved fuel economy improvements by substituting lighter weight components and tuning its powertrain while leaving basic features of the vehicles unchanged.

Rolls-Royce states that technical innovation and switching to lighter weight materials should result in worthwhile improvements in its vehicles. The company believes that it has been conscious of the need for weight saving for many years, and since the introduction of the Silver Shadow, has made many parts of aluminum. These include the engine block and cylinder heads, transmission and axle casings, doors, hood and deck lid.

In addition to discussing opportunities for weight reduction, Rolls-Royce also included in its petition discussions of improving its fuel economy through mix shifts, engine improvements, and drive train and transmission improvements.

Rolls-Royce's Petition

On December 15, 1995, Rolls-Royce petitioned NHTSA for an exemption from the average fuel economy standards for vehicles to be manufactured by Rolls-Royce in model years (MYs) 1998 and 1999. The petition also requested an alternative standard be established, not to exceed 16.3 mpg, for each model year, 1998 and 1999. A number of petitions have been filed by Rolls-Royce covering all model years from 1978. The last was submitted in November 1994, which resulted in Rolls-Royce being granted an exemption

from the generally applicable fuel economy standard for MY 1997.

Methodology Used to Project Maximum Feasible Average Fuel Economy Level for Rolls-Royce

Baseline Fuel Economy

To project the level of fuel economy which could be achieved by Rolls-Royce in MYs 1998 and 1999, the agency considered whether there were technical or other improvements that would be feasible for these Rolls-Royce vehicles, whether or not the company currently plans to incorporate such improvements in those vehicles. The agency reviewed the technological feasibility of any changes and their economic practicability.

NHTSA interprets "technological feasibility" as meaning that technology which would be available to Rolls-Royce for use on its MYs 1998 and 1999 automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, engine improvements, and drive line improvements.

The agency interprets "economic practicability" as meaning the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its MYs 1998 and 1999 automobiles. In assessing that capability, the agency has always considered market demand since it is an implicit part of the concept of economic practicability. Consumers need not purchase what they do not want.

In accordance with the concerns of economic practicability, NHTSA has considered only those improvements which would be compatible with the basic design concepts of Rolls-Royce automobiles. NHTSA assumes that Rolls-Royce will continue to produce a five-passenger luxury car. Hence, design changes that would make the cars unsuitable for five adult passengers with luggage or would remove items traditionally offered on luxury cars, such as air conditioning, automatic transmission, power steering, and power windows, were not examined. Such changes to the basic design could be economically impracticable since they might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

Mix Shift

Rolls-Royce has little opportunity for improving fuel economy by changing the model mix since it makes only one basic model in various configurations, all with similarly low fuel economy. The differences in fuel economy values among the different models available in MYs 1998 and 1999 will likewise be small. For the 1998 and 1999 model years, Rolls-Royce and Bentley cars will fall into five fuel economy configurations, three from the naturally aspirated engine family and two from the turbocharged engine family. The differences in fuel economy values between the different models are small, and the models with the lower projected fuel economies have significantly lower projected volumes. The Rolls-Royce model mix is essentially fixed by the market demand, and variations in sales percentages between the models would produce negligible improvement in CAFE.

Weight Reduction

Rolls-Royce is conscious of the need to improve automotive fuel economy of its passenger vehicles. For MYs 1998 and 1999, aerodynamic improvements to the basic Rolls-Royce platform are expected to yield some fuel economy benefits. However, Rolls Royce, being a small manufacturer of prestigious automobiles, cannot afford to change the design of its cars by downsizing since its customers desire traditional size cars.

Engine and Drivetrain Improvements

Rolls Royce has a tradition of attempting to reconcile improved fuel economy with its limited technical resources and a need for powerplants suitable for large heavy cars. Past developmental activities include test and evaluation of various technologies applied to the Rolls-Royce engine. These included the Texaco Controlled Combustion system, the Honda Compound Vortex Controlled Combustion system, diesel engines, cylinder disablement, increased engine displacement (to reduce NO_x emissions and permit timing for improved fuel economy), the May "Fireball" combustion chamber, and overall downsizing of the engine and car incorporating all new features including bodyshell, engine, transmission, and suspension. Each of these approaches was discarded in turn as failing to provide a feasible option for simultaneously meeting fuel economy and emission requirements, and exacting customer expectations.

For MYs 1998 and 1999, Rolls-Royce intends to implement several engine and drivetrain improvements. Changes to the induction and exhaust systems will produce greater efficiency. Other planned improvements will lower friction losses and further enhance fuel economy. Modified transmission shift patterns and torque converter characteristics will also result in improved economy. However, because of the nature of Rolls Royce automobiles and the need to retain large displacement engines, the fuel economy gains expected will not be large.

Effect of Other Motor Vehicle Standards

The Rolls-Royce petition cites several emission and safety standards as having a significant impact on its ability to improve fuel economy. As with other low volume manufacturers, the demands of meeting these standards place a strain on Rolls Royce's relatively limited technical resources.

Calfiornia emission regulations for the 1998 model year will require Rolls Royce and Bentley cars to meet new "enhanced" evaporative emission standards for all models. Meeting these new requirements will require substantial revisions to the fuel and emission control systems along with the introduction of an onboard diagnostic leak detection system, increasing vehicle weight and reducing fuel economy. Rolls Royce also contends that changes to the Federal Emission Test Procedures for the 1998 model year will also have a negative impact on fuel economy, particularly for the heavier models.

The Rolls Royce petition also claims that compliance with safety standards will impair its ability to improve fuel economy. In particular, Rolls Royce indicates that compliance with FMVSS 208 (Occupant Crash Protection) continues to impose fuel economy costs by forcing some models to move into a higher test weight class. Rolls Royce also contends in its petition that 49 CFR Part 581 (energy absorbing bumpers) and FMVSS 214 (side intrusion beam in doors) will also have fuel economy impacts for the 1998 and 1999 model years. Rolls-Royce is a small company, and engineering resources are limited, and priority must be given to meeting mandatory standards to remain in the marketplace. Conflict often exists between the priority of meeting standards and the need to remain competitive.

The Need of the United States To Conserve Energy

The agency recognizes there is a need to conserve energy, to promote energy security, and to improve balance of payments. However, as stated above, NHTSA has tentatively determined that it is not technologically feasible or economically practicable for Rolls-Royce to achieve an average fuel economy in MYs 1998 and 1999 above

16.3 mpg. Granting an exemption to Rolls-Royce and setting an alternative standard at that level would result in only a negligible increase in fuel consumption and would not affect the need of the United States to conserve energy. In fact, there would not be any increase since Rolls-Royce cannot attain those generally applicable standards. Nevertheless, for illustrative purposes the agency estimates that the additional fuel consumed by operating the MYs 1998 and 1999 fleet of Rolls-Royce vehicles over their operating lifetime at the company's projected CAFE of 16.3 mpg (compared to an hypothetical 27.5 mpg fleet) is 115,959 barrels of fuel. This averages about 15.9 bbls. of fuel per day over the 20-year period that these cars will be an active part of the fleet. Obviously, this is insignificant compared to the daily fuel used by the entire motor vehicle fleet which amounts to some 4.8 million bbls. per day for passenger cars in the U.S. in 1994.

Maximum Feasible Average Fuel Economy for Rolls-Royce

This agency has tentatively concluded that it would not be technologically feasible and economically practicable for Rolls-Royce to improve the fuel economy of its MYs 1998 and 1999 automobiles above an average of 16.3 mpg, that compliance with other Federal automobile standards would not adversely affect achievable fuel economy beyond the amount already factored into Rolls-Royce's projections, and that the national effort to conserve energy would not be affected by granting the requested exemption and establishing an alternative standard. Consequently, the agency tentatively concludes that the maximum feasible average fuel economy for Rolls-Royce in MYs 1998 and 1999 is 16.3 mpg.

Proposed Level and Type of Alternative Standard

The agency proposes to exempt Rolls-Royce from the generally applicable standard of 27.5 mpg and to establish an alternative standard for Rolls-Royce for MYs 1998 and 1999 at its maximum feasible average fuel economy of 16.3 mpg. NHTSA tentatively concludes that it would be appropriate to establish a separate standard for Rolls-Royce for the following reasons. The agency has already established (60 FR 47877) an alternate standard of 17.0 mpg for MedNet, Inc. for MYs 1996, 1997, and 1998. Therefore, the agency cannot use the second (class standards) or third (single standard for all exempted manufacturers) approaches for MY 1998. The agency also anticipates that it will receive petitions from other manufacturers seeking alternate standards for MY 1999. NHTSA tentatively concludes that the use of class standards or a single standard for all manufacturers would not provide sufficient flexibility for those manufacturers the agency anticipates will be filing petitions for MY 1999. Given the limited resources of these small manufacturers and their relative lack of ability to make significant changes to their product lines over the short term, the agency believes that establishing alternative standards for individual manufacturers is the most appropriate course of action for the 1999 model year. Accordingly, NHTSA is proposing that an alternate standard be established for Rolls Royce in MY 1999.

Regulatory Impact Analyses

NHTSA has analyzed this proposal and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply. Under Executive Order 12866, the proposal would not establish a "rule," which is defined in the Executive Order as "an agency statement of general applicability and future effect." The proposed exemption is not generally applicable, since it would apply only to Rolls-Royce, Inc., as discussed in this notice. Under DOT regulatory policies and procedures, the proposed exemption would not be a "significant regulation." If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that the exempted company would not be required to pay civil penalties if its maximum feasible average fuel economy were achieved, and purchasers of those vehicles would not have to bear the burden of those civil penalties in the form of higher prices. Since this proposal sets an alternative standard at the level determined to be Rolls-Royce's maximum feasible level for MYs 1998 and 1999, no fuel would be saved by establishing a higher alternative standard. NHTSA finds that, because of the minuscule size of the Rolls-Royce fleet, incremental usage of gasoline by Rolls-Royce's customers would not affect the United States's need to conserve gasoline. There would not be any impacts for the public at large.

The agency has also considered the environmental implications of this proposed exemption in accordance with the National Environmental Policy Act and determined that this proposed exemption, if adopted, would not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the proposed exemption and alternative standard. Further, since the exempted passenger automobiles cannot achieve better fuel economy than is proposed herein, granting this proposed exemption would not affect the amount of fuel used.

Interested persons are invited to submit comments on the proposed decision. It is requested but not required that 10 copies be submitted.

Comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential business information has been deleted, should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 would be amended as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 continues to read as follows:

Authority: 49 U.S.C. 32902, delegation of authority at 49 CFR 1.50.

2. In 49 CFR 531.5, the introductory text of paragraph (b) is republished and paragraph (b)(2) is revised to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2) Rolls-Royce Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0
1986	11.0
1987	11.2
1988	11.2
1989	11.2
1990	12.7
1991	12.7
1992	13.8
1993	13.8
1994	13.8
1995	14.6
1996	14.6
1997	15.1
1998	16.3
1999	16.3

* * * * *

[Docket No. 96–085; N.1]

Issued on: August 29, 1996.

Patricia Breslin,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 96–22536 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 61, No. 173
Thursday, September 5, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV96-946-3NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision of a currently approved information collection for Irish Potatoes Grown in Washington, Marketing Order No. 946.

DATES: Comments on this notice must be received by November 4, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, 1220 SW Third Avenue, Room 369, Portland, OR 97204, Tel: (503) 326–2724, Fax: (503) 326–7440.

SUPPLEMENTARY INFORMATION:

Title: Irish Potatoes Grown in Washington, Marketing Order No. 946.

OMB Number: 0581–0070.

Expiration Date of Approval: March 31, 1997.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of good quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), marketing order programs are established if favored by producers in referenda. The handling of the commodity is regulated. The Secretary of Agriculture is authorized to oversee order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The Washington potato marketing order, which has been operating since 1949, authorizes the issuance of grade, size, quality, maturity, pack, inspection, and reporting requirements. Regulatory provisions apply to potatoes shipped both within and out of the production area to any market, except those specifically exempt.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the Washington potato marketing order program.

Under the Washington potato marketing order, potatoes sent to processing are exempt from inspection and grade requirements, but must be shipped under a special purpose shipment exemption. To ensure good quality fresh market shipments, handlers must notify the State of Washington Potato Committee (committee), which locally administers the marketing order, of such special purpose shipments. Further, any business which operates as a potato canner, freezer, processor, or pre-peeler must register with the committee. Also, shipments of potatoes from areas where inspection is not readily available are exempt from inspection requirements, but handlers must apply for a modification of inspection exemption. The order requires handlers to notify the committee of the disposition of any potatoes that fail to meet the handling requirements. These forms enable the committee, and thus, the Secretary to better monitor exempt shipments and ensure compliance with provisions of the marketing order and the AMAA.

Potato producers and handlers who are nominated by their peers to serve as representatives on the committee must file nomination forms with the Secretary.

Formal rulemaking amendments to the order must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of the order. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the order whenever the order is amended. These forms are included in this request.

These forms require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarter's staff, and authorized employees of the committee. AMS is the primary user of the information and authorized committee employees are the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.1505 hours per response.

Respondents: Potato producers and for-profit businesses handling fresh potatoes and potatoes for processing produced in Washington.

Estimated Number of Respondents: 490.

Estimated Number of Responses per Respondent: 2.976.

Estimated Total Annual Burden on Respondents: 246 hours.

Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0070 and Washington Potato Marketing Order No. 946, and be sent to the USDA in care of Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, 1220 SW Third Avenue, Room 369, Portland, OR 97204. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: August 29, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–22660 Filed 9–04–96; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Intergovernmental Advisory Committee Subcommittee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee will meet on September 19, 1996, at the Red Lion Hotel, Columbia River, 1401 N. Hayden Island Drive, Portland, OR 97217. The meeting will begin at 9:00 a.m. and continue until 4:30 p.m. Agenda items to be discussed include, but are not limited to: (1) recommendations on the riparian reserve evaluation methods and techniques, (2) implementation monitoring, and (3) recommendations from the Joint Planning Team. The IAC meeting will be open to the public and is fully accessible for people with disabilities. Interpreters are available upon request in advance. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–326–6265).

Dated: August 29, 1996.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 96–22603 Filed 9–4–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Patent and Trademark Office.

Title: Fastener Quality, Fastener Insignia, Insignia Recordal.

Agency Number: PTO Form 1611.

OMB Number: 0651–0028.

Type of Request: Reinstatement of a previously approved collection.

Burden: 100 hours.

Number of Respondents: 600.

Avg. Hours Per Response: 10 minutes.

Needs and Uses: The purpose of this collection is to ensure that a fastener (nuts, bolts, etc.) can be traced to its manufacturer or private label distributor. The information is used by PTO to process applications for recorded of insignias, and to maintain a database of recordal information for use by the public. The information is needed to comply with the Fastener Quality Act, Public Law 101–592.

Affected Public: Individuals, business or other for-profit organizations, not-for profit institutions, farms, federal government, state, local or tribal government.

Frequency: On occasion, recordkeeping.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maya A. Bernstein, (202) 395–4816.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should sent to Maya A. Bernstein, OMB Desk Officer, Room 10236, New Executive Office Building, Washington, D.C. 20503.

Dated: August 30, 1996.

Linda Engelmeier,

Acting Department Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–22675 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–16–M

Bureau of the Census

Survey of Income and Program Participation—Wave 4 of the 1996 Panel

ACTION: Proposed Agency Information Collection Activity; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 4, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Michael McMahon, c/o U.S. Census Bureau, DSD—Room 3319–3, Washington, DC 20233–8400, or telephone 301/457–3819.

SUPPLEMENTARY INFORMATION

I. Abstract

The Survey of Income and Program Participation (SIPP) is a household-based survey designed as a continuous series of national panels, each lasting four years. Respondents are interviewed once every four months, in monthly rotations. Approximately 37,000 households are in the current panel.

The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single, unified data base so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic policy formulators depend heavily upon SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits, and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population.

The SIPP has provided these kinds of data on a continuing basis since late 1983, permitting levels of economic

well-being and changes in these levels to be measured over time.

The survey is molded around a central "core" of labor force and income questions that will remain fixed throughout the life of a panel. The core is supplemented with questions designed to answer specific needs such as obtaining information on the ownership and contributions made to IRA, Keogh, and 401K plans; examining patterns in respondent work schedules and their possible impact on child care arrangements; and developing data on various characteristics of persons with disabilities. These supplemental questions are included with the core and are referred to as "topical modules."

The topical modules for the 1996 Panel Wave 4 are the following: (1) Annual Income and Retirement Accounts; (2) Taxes; (3) Work Schedule; (4) Child Care; and (5) Disability. Wave 4 interviews will be conducted from April 1997 through July 1997.

II. Method of Collection

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every 4 years, with each panel having a duration of about 4 years in the survey. All household members 15 years old or older are interviewed using regular proxy-respondent rules. They are interviewed a total of 12 times (12 waves) at 4-month intervals, making the SIPP a longitudinal survey. Sample persons (all household members present at the time of the first interview) who move within the country and reasonably close to a SIPP Primary Sampling Unit (PSU) will be followed and interviewed at their new address. Persons 15 years old or older who enter the household after Wave 1 will be interviewed; however, if these persons move, they are not followed unless they happen to move along with a Wave 1 sample person.

III. Data

OMB Number: 0607–0813.
Form Number: SIPP–16003 Reminder Card; SIPP/CAPI Automated Instrument.
Type of Review: Regular.
Affected Public: Individuals or Households.
Estimated Number of Respondents: 77,700.
Estimated Time Per Response: 30 minutes per person.
Estimated Total Annual Burden Hours: 117,800.
Estimated Total Annual Cost: $28,000,000.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 29, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–22588 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–07–P

Economic Development Administration

Proposed Information Collection Activity

ACTION: Proposed agency information collection activity; Comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–12 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 4, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument(s) and instructions should be directed to Leon T. Douglas, Economic Development Administration, Room 7814B, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION

I. Abstract

These forms are used by local and state governments, Indian tribes, and eligible nonprofit organizations to apply for Federal assistance under the Public Works and Economic Development Act of 1965 (P.L. 89–136), as amended. These forms are needed to assure that applicants meet statutory and program requirements for program administration.

II. Title of Collection

Preapplication for Federal Assistance and Application for Federal Assistance forms.

III. Data

OMB Number: 0610–0094.
Form Number: ED–900P and ED–900A.
Type of Review: Extension of a currently approved collection.
Affected Public: State, local or Tribal governments and non-for-profit organizations.
Estimated Number of Respondents: 2,500 (1,500 for ED–900P and 1,000 for ED–900A).
Estimated Time per Response: 8 hours ED–900P and 60 hours ED–900A.
Estimated Total Annual Burden Hours: 72,000 hours.
Estimated Total Annual Cost: $2.3 million.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 30, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–22676 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–34–M

Foreign-Trade Zones Board

[Order No. 842]

Expansion of Foreign-Trade Zone 202; Los Angeles, CA, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Board of Harbor Commissioners of the City of Los Angeles, grantee of Foreign-Trade Zone 202, for authority to expand its general-purpose zone to include five new sites in the Los Angeles, California, area, was filed by the Board on October 30, 1995 (FTZ Docket 66–95, 60 FR 56566, 11/9/95); and

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 202 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 26th day of August 1996.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration; Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–22682 Filed 9–04–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 843]

Expansion of Foreign-Trade Zone 70; Detroit, MI

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Greater Detroit Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 70, for authority to expand its general-purpose zone to include an additional site in Detroit, Michigan, was filed by the Board on February 5, 1996 (FTZ Docket 8–96, 61 FR 6623, 2/21/96); and

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 70 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 26th day of August 1996.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration; Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–22683 Filed 9–4–96; 8:45 am]

BILLING CODE: 3510–DS–P

International Trade Administration

[A–351–806]

Silicon Metal from Brazil; Final Results of Antidumping Duty Administration Review

AGENCY: Import Administration, International Trade Administration Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 20, 1995, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on silicon metal from Brazil. The review period is July 1, 1992, through June 30, 1993. The review covers four manufacturers/exporters. The review indicates the existence of margins for two firms.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed our results from those presented in our preliminary results as described below in the comments section of this notice.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Fred Baker or John Kugelman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1995, the Department of Commerce (the Department) published in the **Federal Register** (60 FR 14731) the preliminary results of its administrative review of the antidumping duty order on silicon metal from Brazil (July 31, 1991, 56 FR 36135).

Applicable Statute and Regulations

The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). Unless otherwise indicated, all citations to the statute and the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

The merchandise covered by this review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. HTS item numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The period of review (POR) is July 1, 1992, through June 30, 1993. This review involves four manufacturers/exporters of Brazilian silicon metal; Companhia Brasileira Carburetto de Calcio (CBCC), Companhia Ferroligas Minas Gerais—Minasligas (Minasligas), Eletroila, S.A. (currently known as Eletrosilex Belo Horizonte (Eletrosilex)), and Rima Electrometalurgia S.A. (RIMA).

Compsumption Tax

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the

Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by the court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States* 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to his amount so that the tax adjustment would not alter a "zero" per-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the Federal Circuit has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax- neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "*Zenith* footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Analysis of Comments Received

We received case and rebuttal briefs from Minasligas, Eletrosilex, and a group of five domestic producers of silicon metal (collectively, the petitioners). Those five domestic producers are American Alloys, Inc., Elken Metals, Co., Globe Metallurgical, Inc. SMI Group, and SKW Metals,and Alloys, Inc. We also received written comments and written rebuttal comments from CBCC and RIMA.

Comment 1: Petitioners argue that the Department erred by basing the margin calculation for each of the four respondents on U.S. sales of silicon metal that did not enter U.S. Customs territory during the POR. Petitioners cite to section 751(a)(2) of the Tariff Act for support that the statute requires that margins be based on entries. Petitioners also cite to *Torrington Co.* v. *United States*, 818 F. Supp. 1563, 1573 (CIT 1993) (*Torrington*) to demonstrate that the Court of International Trade (CIT) has held that the word "entry" as used in the statute refers to the "formal entry of merchandise into the U.S. Customs territory." Furthermore, petitioners argue that the Department itself has stated that the use of the term "entry" in the antidumping law refers unambiguously to the release of merchandise into the customs territory of the United States (*See Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, 56 FR 31692, 31704 (July 11, 1991) (*AFBs from Germany*)). Petitioners also state that the Department's past practice has been to conduct reviews of sales based on entries of subject merchandise and argue that any unusual circumstances that may have prompted the Department to base reviews on sales, rather than entries, in other case are not present here. Finally, petitioners argue that basing reviews on entries rather than sales is sound policy. By limiting reviews to entries, petitioners argue, the Department precludes respondents from controlling the outcome of administrative reviews. They Claim that basing the review on entries prevents manipulation because the transactions subject to review are determined by an objective administrative act performed by the U.S. Customs Service.

CBCC and RIMA argue that the petitioners have confused the issue of the liquidation of entries with the issue of the scope of inquiry in an administrative review. They allege that, in effect, the petitioners have argued that a company that does not have shipments that entered the United States during the POR should not be reviewed. Such a policy, CBCC and RIMA argue, would be contrary to the express language of the statute and the regulations, and also a departure from the Department's practice in the previous administrative review of this order. Furthermore, they argue that the purpose of an administrative review is, in part, to redetermine the deposit rate based on commercial activities during the POR. Thus, it makes sense to base the review on sales because the terms of sale are established by the exporter on the date of sale, and not when the entry arrives in the United States.

Eletrosilex and Minasligas argue that the petitioners made the same argument in the previous administrative review of this order, and the Department rejected it in its final results of review. They argue that in that review the Department cited its regulations for support that a review covers either "entries or sales of the merchandise during the 12 months immediately preceding the most recent anniversary month." *Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review*, 59 FR 42806, 42813 (DOC Position to Comment 25) (August 19, 1994). They state that the Department also noted in that review that it had based other administrative reviews on sales rather than entries. Furthermore, they argue, the Department in its *Advance Notice of Proposed Rulemaking* (56 FR 63696, 63697 (December 5, 1991)) (*Advance Notice*) stated that the statutory language *in toto* shows that Congress did not intend to limit administrative reviews solely to entries, and that to do so would hinder the achievement of statutory goals governing review and assessments.

Additionally, Minasligas argues that there are not compelling policy reasons that would require the Department to base administrative reviews solely on entries of subject merchandise because,

contrary to the petitioners' assertions, the respondent does not control the outcome of an administrative review when the Department bases its review on sales. First, the terms of the transaction involving the subject merchandise will remain the same, whether the Department bases the review on sales, shipments, or entries. Second, the entry of the subject merchandise into the customs territory of the United States is, in practical terms, of no importance to the Department's *comparison* of United States price (USP) to FMV to determine a dumping margin. Third, Minasligas argues that petitioners have misconstrued *Torrington. Torrington,* Minasligas argues, deals with the issue of whether entry of merchandise subject to an antidumping duty order into a Free Trade Zone (FTZ) "required that antidumping duties be imposed on merchandise imported into a FTZ until such time as the merchandise *enters* the Customs territory of the U.S." (*Torrington,* 818 F. Supp. at 1572, 1573 (emphasis added)). It did not, Minasligas argues, deal with the question at issue here, and is therefore irrelevant.

Department's Position

We agree with all parties in part, and disagree with all parties in part.

We agree with petitioners that normally the Department reviews sales where there are entries of subject merchandise during the POR. In determining a respondent's antidumping duty margin, the Department first determines whether the respondent had entries during the POR. In reviews where the respondent had one or more entries during the POR, the Department reviews the respondent's sales to determine the antidumping duty margin and, in accordance with section 751 (a)(2), uses this margin to assess on the entries during the POR. In reviews where the respondent had no entries during the POR, the Department normally conducts a no-shipment review (*i.e.,* a review in which a respondent's margin from the last review/investigation in which it had entries is carried forward and applied in a period in which there were no entries). This approach is in accordance with the explicit language of the stastute which requires that we asses antidumping duties on entries during the POR.

We do not agree with petitioners that section 751(a)(2) requires that we review only sales that entered U.S. customs territory during the POR. Section 751(a)(2) mandates that the dumping duties determined be assessed on entries during the POR. It does not limit administrative reviews to sales associated with entries during the POR. Furthermore, to review only sales associated with entries during the POR would require that we tie sales to entries. In many cases we are unable to do this. Moreover, the methodology the Department should use to calculate antidumping duty assessment rates is not explicitly addressed in the statute, but rather has been left to the Department's expertise based on the facts of each review. "* * * the statute merely requires that PUDD [*i.e.,* potentially uncollected dumping duties] * * * serve as the basis for both assessed duties and cash deposits of estimated duties." *See The Torrington Company* v. *United States* 44 F.3d 1572, 1578 (CAFC 1995).

The Department agrees with CBCC and RIMA that a company should not be precluded from review simply because it has no entries during the POR. However, the review we normally conduct under such circumstances is a no-shipment review (described above), and not a review of sales that may have occurred during the POR. No-shipment reviews ensure that a respondent continues to be "reviewed" even in situations where it had no entries during the POR.

We also agree with Eletrosilex and Minasligas that the Department's regulations permit a review of either "entries or sales." However, this language pertains to the methodology to employ in conducting a review, and does not address situations where a respondent had no entries during a POR.

We also agree with Eletrosilex and Minasligas that the Department's *Advance Notice of Proposed Rulemaking* states that the statutory language *in toto* shows that Congress did not intend to limit administrative reviews solely to entries. However, although we may base a review on either sales or entries during the POR, we must rely on entries to determine which type of review to conduct (*i.e.,* a sales-based review of a no-shipment review). Contrary to Minasligas' claims, the entry of subject merchandise into the customs territory of the United States is a necessary prerequisite for a sales-based review, because if a respondent had no entries during a POR, we would be unable to assess any antidumping duties determined to be due as a result of our review.

We have determined, based on information received from the U.S. Customs Service, that all respondents in this review had at least one consumption entry into U.S. customs territory during the POR. However, we have also determined that some respondents made sales to importers who had not entries during the POR. In these final results of review, we included all four respondents and adopted the following approach in determining which sales to review:

1. Where a respondent sold subject merchandise, and the importer of that merchandise had at least one entry during the POR, we reviewed all sales to that importer during the POR.

2. Where a respondent sold subject merchandise to an importer who had no entries during the POR, we did not review the sales of subject merchandise to that importer in this administrative review. Instead, we will review those sales in our administrative review of the next period in which there is an entry by that importer.

After completion of this review, we will issue liquidation instructions to Customs which will instruct Customs to assess dumping duties against importer-specific entries during the period.

Comment 2: Petitioners argue that the Department erred in its calculations for each of the four respondents by comparing the United States price (USP) to the constructed value (CV) for the month of the sale. They argue that in hyperinflationary economy cases it is the Department's practice to compare the USP to the CV for the month of shipment. In support of their contention, they cite *Porcelain-On-Steel Cooking Ware from Mexico; Final Results of Antidumping Duty Administrative Review,* 55 FR 21061, 21065 (May 22, 1990) (*Porcelain-On-Steel Cooking Ware*), in which the Department stated:

> where, as here, a country's economy experiences hyperinflation, we use a company's replacement costs incurred during the month of shipment, rather than its historical costs, to calculate CV and COP. See Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order; Tubeless Steel Disc Wheels from Brazil, 53 FR 34566 (1988); and Oil Country Tubular Goods from Argentina, 50 FR 12595 (1985). This practice enables us to achieve a fair comparison by examining contemporaneous costs and prices, and thereby avoid distortions caused by hyperinflation. (emphasis added.)

Accordingly, petitioners argue that in the final results of review the Department should base its margin calculations for each of the four respondents by comparing USP to the CV for the months of shipment.

Eletrosilex argues that the Department's regulations contemplate that, in purchase price situations, the CV will be based on "relevant costs and

expenses at a time *preceding* the time the producer * * * sells the merchandise for exportation to the United States." 19 CFR § 353.50(b)(1) (emphasis added). Furthermore, Eletrosilex argues that the Department has long recognized that price and cost comparisons are relevant only when made in a narrow and comparable time period, and has in the past paid special attention in hyperinflationary economy cases to avoid time frames that cause distortions that result from hyperinflation. Moreover,the determination of what is the appropriate time period is, Eletrosilex argues, a discretionary call that the Department makes based on the facts of each case. According to Eletrosilex, the Department's Antidumping Manual, Chapter 8, p. 61 (August 1991 ed.) states: "The determination of proper comparison periods is made on the basis of the facts in a particular investigation." The facts of this situation, Eletrosilex argues, warrant comparing the U.S. sale to the CV for the month of sale because there was a six-month interval between the date of sale and the date of shipment. On the date of sale (a time when prices were substantially depressed) the price was fixed and did not subsequently change. Six months later, when the merchandise was shipped, Brazil was facing inflation in excess of 2000 percent annually. Therefore, Eletrosilex claims that costs at that time had no relevance to costs or prices on the date of sale six months earlier.

Minasligas argues that petitioners' argument is moot because the department did not compare its USP to a CV; the Department compared USP to a weighted-average home market sales price. However, if the Department uses the CV of the month of shipment in the final results, Minasligas argues that the Department should adjust the CV to account for inflation between the date of sale and the date of shipment, as was done in the investigation of this case. *See Silicon Metal from Brazil; Final Determination of Sales at Less Than Fair Value,* 56 FR 26977, 26983 (June 12, 1991) (*Silicon Metal Final Determination*).

Department's Position: We agree with petitioners that, when using CV in hyperinflationary economies, our normal practice is to compare the U.S. price to the CV of the month of shipment. *See Porcelain-On-Steel Cooking Ware* at 21065. Therefore, we have compared USP to CV of the month of shipment in these final results of review, unlike in the preliminary results of review. However, we also agree with Minasligas that an adjustment should be made to CV to account for inflation between the date of sale and the date of shipment. Therefore, in these final results of review we have calculated a circumstance-of-sale inflation adjustment as described in *Tubeless Steel Disc Wheels from Brazil; Amended Final Determination of Sales at Less than Fair Value and Amended Antidumping Duty Order,* 53 FR 34566 (September 7, 1988). This was the same methodology followed in the original investigation of this proceeding. *See Silicon Metal Final Determination,* at 26983.

Comment 3: Petitioners argue that the Department erred in using the shipment date as the date of sale for Minasligas' sales made pursuant to long-term contracts. They base this argument on Appendix 2–2 of the Department's questionnaire which says that, for sales made pursuant to a long-term contract, the date of sale is the date of the contract, and that only if the terms of sale are subject to change, and do in fact change up to, or even subsequent to, the date of shipment, may the date of shipment be taken as the date of sale. Petitioners allege that there is no evidence on the record to indicate that the essential terms of sale changed, for the sales made pursuant to a long-term contract, after the date of the contract. Therefore, petitioners argue the Department should take the date of the contract as the date of sale for each sale made pursuant to a long-term contract. Furthermore, as the dates of the contracts are not on the record of this review, petitioners argue that the Department should either require Minasligas to report the date of the contracts, or else use the best information available (BIA) in the final results of review.

Minasligas argues that the Department acted properly and in full accord with its own precedent in using the shipment date as the date of sale. The Department has previously articulated, Minasligas argues, that the date of sale is the date on which the essential terms of the sale, specifically price and quantity, are finalized (*See* Department's questionnaire, Appendix 2–2, and *Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Japan* (56 FR 12156, 12163, March 22, 1991 (*Cement from Japan*). Here, Minasligas argues that, contrary to petitioners' assertions, evidence on the record indicates that the price and quantity are not finalized until the date of shipment.

Department's Position: We agree with Minasligas. In *Cement from Japan* at 12163 we said:

> It is the Department's practice to determine the date of sale as that date on which the essential terms of the sale, specifically price and quantity, are finalized to the extent that they are outside the parties' control. See *Titanium Sponge from Japan* (54 FR 13403, 13404 (April 3, 1989)) (aff'd *Toho Titanium Co. v. United States,* 743 F. Supp. 888 (CIT 1990)); *Brass Sheet and Strip from France,* 52 FR 812, 814 (1987). The Department normally considers the contract date as the date of sale because a written contract best represents the date at which the terms of sale are formalized and the parties are bound.

From our review of the price and quantity information on the record of this review, we have determined that prices for sales made pursuant to the same contract sometimes vary. Thus, we conclude that the parties are not in fact bound by the contract, and that the terms of sale are not finalized until the date of shipment. Hence, in these final results of review, as in the preliminary results of review, we have used the date of shipment as the date of sale.

Comment 4: Petitioners argue that the Department lacked the information necessary to "treat properly" Minasligas' home market sales of silicon metal to a particular Brazilian producer of silicon metal. These sales were included in the margin calculation in the preliminary results of review. Petitioners argue that the sales volumes and prices to Minasligas' customer raise fundamental questions regarding the relationship between Minasligas and the customer. Thus, petitioners argue, the Department needs to know the ultimate disposition of the silicon metal sold to the Brazilian producer and whether Minasligas knew the ultimate disposition of the silicon metal at the time of sale, (*i.e.*, whether the silicon metal was subsequently resold by the Brazilian producer to an American or third-country buyer) in order to determine whether the sale should have been included in Minasligas' home market sales listing and used in the margin calculation. Petitioners argue that the Department should solicit this information or else not use the sales in the calculation of the final results of review.

Minasligas argues that the Department had all necessary information to treat properly all of Minasligas' home market sales. It argues that the petitioners have inaccurately cited Minasligas' sales volumes and prices to this customer, and that there is nothing on the record to suggest that the sales to the Brazilian producer were anything other than arms-length transactions. It further argues that the petitioners' claim that Minasligas may have known that the sales to the Brazilian producer may have been resold and, therefore, should have

been treated differently than they were, is based on vague, hypothetical conjecture. and is without any support in the record.

Department's Position: We agree with Minasligas. From our review of the proprietary version of the record in this proceeding, we have determined that there is an insufficient basis for concluding that the sales to this particular home market customer were not arms-length transactions. Where prices to this customer differ from prices to other customers, the disparity can usually be explained as a functicn of differing quantities. Furthermore the questionnaire to which Minasligas responded in this review required that it report as U.S. sales, all sales made to unrelated intermediaries outside the U.S. that it knew at the time of sale were destined for delivery in the U.S. market. No evidence exists on the record that Minasligas failed to comply with this requirement. Hence, in these final results of review, as in the preliminary results of review, we have included the sales to this customer in the calculation of FMV.

Comment 5: Petitioners argue that the Department should reject RIMA's cost of production (COP) response and base the margin for RIMA on BIA. They base this argument on numerous alleged weaknesses they find in the cost data that RIMA submitted. Among those alleged weaknesses are the following:

(1) RIMA's financial accounting system did not record depreciation and inventory in accordance with Brazilian Generally Accepted Accounting Principles (GAAP), thus, petitioners argue, rendering the reported cost from the audited financial statements completely unreliable for antidumping purposes;

(2) RIMA's cost accounting system (which was used to value finished inventory values) was not totally integrated into its financial accounting system;

(3) RIMA's cost accounting system did not reconcile with supporting documentation (*e.g.*, payroll and purchase ledgers).

(4) the monthly adjustments RIMA used to reconcile the cost accounting system to the financial account system fluctuated immensely.

Petitioners conclude from these points that the accounting systems that generated the numbers to which the reported COP/CV data were reconciled are completely unreliable, and that, therefore, the Department should reject RIMA's submitted cost data and assign RIMA a margin based on BIA.

RIMA argues that none of petitioners' criticisms of its cost accounting system is pertinent. RIMA argues that it is permitted under Brazilian tax and corporate laws to not report depreciation on its financial statements. RIMA also claims that its failure to report depreciation on its financial statements is not relevant to this case because depreciation was calculated, verified, and taken into account in the cost computations. Moreover, RIMA argues that because the Department's methodology has departed entirely from the approach taken in standard Brazilian accounting, the fact that RIMA's financial statement may not comply with Brazilian GAAP should not be a basis for using BIA. Furthermore, RIMA argues that the integration of the cost accounting system with the financial accounting system has been explained in responses and shown to verifiers, who found the reconciliations acceptable.

Department's Position: For the final results, we accepted RIMA's submitted costs as the basis for COP and CV calculations. The Department recognizes that concerns exist about whether RIMA's valuation and presentation of its production costs are in accordance with Brazilian GAAP (see notes 3 & 4 of the independent auditor's opinion on the financial statements, cost verification exhibit 4). However, the Department also realizes that RIMA's auditors believed that the cost reported in the financial statements could still be relied upon and stated, "[i]n our opinion, except for that contained in paragraphs 3 and 4, the accounting reports * * * adequately represent, in all relevant respects, the net worth and financial position of RIMA * * *" (see independent auditor's opinion on the financial statement, note 5, cost verification exhibit 4, emphasis added). For purposes of the Department's calculations, we note that RIMA did calculate and submit depreciation based on internal schedules maintained by the company. At verification, we reviewed these schedules and traced selected information to both RIMA's audited balance sheet and source documentation (see cost verification exibit 7). We noted no discrepancies. Furthermore, because the Department required RIMA to use monthly replacement costs, the petitioners' concern about RIMA's ending inventory not being recorded in accordance with Brazilian GAAP is moot. The Department has determined in previous cases that Brazilian GAPP does not reasonably reflect the costs of producing silicon metal in Brazil. (*See Silicon Metal Final Determination* at 26986.) Therefore, in accordance with our replacement cost methodology, the Department valued RIMA's actual monthly production using its respective current month's cost and did not use RIMA's ending inventory in calculating RIMA's COP.

The Department also tested RIMA's cost and financial accounting systems. The company's cost accounting system was used to prepare managerial reports of product specific costs and the financial accounting system was used to prepare the annual financial statement. The two systems were linked (or integrated) through finished inventory values. The costs reflected in the managerial reports were adjusted monthly to conform with the accumulated production costs from the financial accounting system. RIMA officials contended at verification that their cost system produced questionable results and was not reliable. Therefore, they based cost of production on data obtained only from the financial accounting system. The Department found this approach reasonable because the figures produced by the company's cost accounting system were usually understated and required adjustment to conform with the audited financial accounting system results (*See* cost verification exhibit 9). Therefore, we were able to rely upon RIMA's financial statements to verify its submitted costs.

Comment 6: Petitioners argue that the Department should increase RIMA's direct material input quantities by the percentages recommended by the Department's Office of Accounting (OA) in its preliminary calculation adjustment memo dated December 22, 1994. By failing to follow OA's recommendation that RIMA's direct material input quantities be increased, petitioners argue that the Department used cost figures and input quantities in its calculations that were unverifiable and specifically rejected by the verifiers. They claim that this usage of RIMA's data was a violation of section 776(b) of the Tariff Act which requires that the Department rely on BIA for unverifiable information. Petitioners also argue that relying on RIMA's reported cost information is not adverse to RIMA and, therefore, allows the company to control the outcome of the proceeding to its advantage.

RIMA argues that there is no justification for applying a BIA figure to all of RIMA's direct material input quantities. RIMA believes that the Department properly rejected OA's BIA recommendation for direct materials. However, RIMA argues that the computer program used to calculate the preliminary review results shows that the Department increased costs. This

error, RIMA argues, should be corrected in the final results.

Department's Position: We accepted RIMA's submitted direct material quantities as the basis for COP and CV calculations for the final results. We disagree with the petitioners' contention that the quantities were unverifiable and specifically rejected by the verifiers. In fact, we were able to trace the submitted quantities to RIMA's source documents in this review period. In the verification report, we stated that we traced the direct materials quantities from RIMA's characteristic numbers report, which is used as a basis for reporting its quantity of inputs, to RIMA's daily production records, which are maintained in the furnace control room. (*See* cost verification report, page 8, October 31, 1994). However, due to a discrepancy between the information provided at the first and second review verifications concerning the availability of furnace reports through November 1993, OA contemplated an adjustment to increase RIMA's submitted direct material quantities. Upon reflection, however, we decided to accept RIMA's submitted information for this review because each review is conducted independently of other reviews and should not, on such matters, be influenced by other reviews. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 60 FR 49569, 49570 (September 26, 1995).

Furthermore, we have determined that, contrary to RIMA's assertion, the computer program used to calculate the preliminary results of review does not contain an increase to direct material input quantities. Therefore, for purposes of these final results of review, we have not adjusted the quantity of direct material inputs in the computer program.

Comment 7: Petitioners argue that the Department made two mistakes with regard to RIMA's overhead costs. They allege that the first mistake was the Department's calculation of overhead by averaging ratios for direct labor, electricity, and direct materials calculated by comparing the usage for each item for silicon metal production to the usage for overall production. Petitioners argue that this use of a simple average does not accurately reflect the relationship of material costs, direct labor, and electricity costs to the sum of RIMA's cost of materials, direct labor, and utility costs. Petitioners claim that the Department needs to add an additional step to its calculations that weight-averages the adjustment ratios (based on the relationship of each cost item to the sum of the direct materials, electricity, and direct labor) to account accurately for the amount of overhead attributable to the production of silicon metal. Petitioners' second argument is that the Department erred in using the overhead costs for the month of sale rather than the month of shipment.

RIMA argues that it allocated its direct labor, direct materials, and electricity costs to most accurately reflect its true cost of production. RIMA argues that it is inappropriate for the Department to decide whether a company's approach is the "best allocation." It states that unless there is something seriously wrong with the overall cost accounting system of a company, the Department must use the figures developed by the company in its ordinary course of business. RIMA also argues that OA was incorrect to characterize the direct labor hours as "estimates." It states that the direct labor hours are programmed hours, developed over time and based on actual production performance. Finally, RIMA argues that there is no evidence on the record that a more complex allocation program would be better. In fact, RIMA argues that electricity consumption, which the Department used in its revised allocation methodology, is a poor method of allocating indirect costs because the amount of electricity consumed varies greatly with the product being made and the quality of raw materials.

Department's Position: We believe the allocation of overhead costs used in the preliminary results of review is appropriate, and applied the same methodology in these final results of review. We reviewed RIMA's submitted allocation method and found that it understates the cost of the subject merchandise. RIMA used estimated direct labor hours to allocate overhead costs. This method is not used in RIMA's normal course of business. Furthermore, the Department does not believe that direct labor hours alone are an adequate basis for cost allocations in this case because RIMA derived the hours from its cost accounting system which, as discussed in comment 5, does not produce accurate results. We believe that, based upon the specific facts of this case, an average of ratios based on direct labor hours, electricity usage, and direct material usage provides a broad and stable base for allocation purposes. Furthermore, this combination corresponds very closely to RIMA's production furnaces' machinery, and labor requirements. For example, silicon metal production consumes a larger quantity of electricity than non-subject merchandise. Therefore, a larger portion of the cost of maintaining the power lines and transformers should be allocated to the product. Finally, we note that RIMA's normal allocation method was examined at verification, and produced appropriately the same results as the method used in these final results (see cost verification exhibit 7).

We also reviewed the petitioners' criticism of our calculation, and disagree with their suggested additional step to weight the three ratios based on April 1993 values. Because Brazil's economy was hyperinflationary during the POR, we believe that the use of a specific month's values in the calculation could create inappropriate results when applied to the remaining months of the POR. Therefore, in these final results of review, we have used the same computation of RIMA's overhead costs as we did in the preliminary results of review. However, we agree with petitioner that overhead costs, like the other elements of CV, should be based on the CV of the month of shipment. In these final results of review, we have based CV on the month of shipment. See Department's Position to comment 2.

Comment 8: Petitioners argue that the Department erred by deducting RIMA's home market packing expenses from RIMA's CV before adding U.S. packing expenses to RIMA's CV. They argue that RIMA's CV did not include home market packing expenses and, therefore, these expenses did not need to be deducted before adding U.S. packing expenses.

Department's Position: We agree, and have corrected this error in these final results of review.

Comment 9: Petitioners cite to page two of the Department's March 14, 1995, preliminary results analysis memorandum to argue that the Department erred by excluding a line item called "HM Taxes" from Eletrosilex's CV. The line item in question, petitioners believe, represents Eletrosilex's Program of Social Integration (PIS), Social Investment Fund (FINSOCIAL), and Industrialized Products (IPI), taxes. Petitioners argue that these taxes must be included in CV since they are not remitted or refunded upon exportation of the merchandise. The statutory authority they cite to support their argument is section 773(e)(1)(A) of the Tariff Act, which provides that:

> the constructed value of imported merchandise shall be the sum of * * * the cost of material (exclusive of any internal tax applicable in the country of exportation directly to such materials of their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used * * * (emphasis added)

Eletrosilix argues that petitioners' argument is flawed because page two of the preliminary results analysis memo to which petitioners cite refers not to CV, but to the calculation of Net Home Market Price.

Department's Position: Eletrosilix is correct that page two of the preliminary results analysis memorandum concerns Net Home Market Price, and not CV. However, we believe petitioners intended to reference page five of the analysis memorandum, where we stated that in our computation of CV, we subtracted from COM the field "HM taxes."

Petitioners are correct that, in accordance with section 773(e)(1)(A) of the Tariff Act, internal taxes should be included in CV if they are not remitted or refunded upon exportation of the merchandise. After publishing the preliminary results of review, we solicited information from all respondents in this review regarding their tax payments. Eletrosilex stated that its PIS and FINSOCIAL (currently known as COFINS) taxes are already included in its reported direct materials costs (*See* Eletrosilex's September 6, 1995, submission, p. 4) Furthermore, in these final results of review, unlike the preliminary results of review, we have included the IPI tax (and also the tax on Circulation of Merchandise (ICMS)) in the calculation of CV for all respondents because these taxes are not remitted or refunded upon export of silicon metal. Because section 773(e)(1)(A) of the Tariff Act does not account for offsets of taxes paid due to home market sales, we did not account for the reimbursement to the respondents of ICMS and IPI taxes due to home market sales of silicon metal. The experience with regard to home market sales is irrelevant to the tax burden borne by the silicon metal exported to the U.S. Therefore, in these final results of review, all of the taxes Eletrosilex paid on its purchases of inputs for the production of silicon metal are included in CV.

In adopting this methodology, we are using the methodology applied in the less-than-fair-value (LTFV) investigation of this case (*See Silicon Metal Final Determination* at 26984). We believe this methodology more strictly accords with the language of section 773(e)(1)(A) of the Tariff Act than does the methodology used in the preliminary results of this review.

Comment 10: Petitioners argue that the Department erred by calculating Eletrosilex's net financial expenses from information contained in Eletrosilex's financial statements. Petitioners argue that the financial statements are unreliable for calculating Eletrosilex's net financial expenses for antidumping purposes because they include both long and short-term interest income, whereas the Department's practice is to offset interest expenses by only short-term interest income. Furthermore, petitioners note that in response to further questioning by the Department, Eletrosilex reported monthly total interest income rather than only short-term interest income. Petitioners argue that the Department should, therefore, make no offset to Eletrosilex's short-term interest expense.

Eletrosilex argues that it had no long-term interest income during the POR, and that all of its interest income was from short-term investments. Therefore, Eletrosilex argues, the Department properly subtracted all of its reported interest income from interest expenses in determining its net interest expenses.

Department's Position: We agree with the respondent. During verification, we traced financial receipts to source documentation to confirm that Eletrosilex's audited interest income figure was derived from only short-term investments (cost verification exhibit 12). We noted no discrepancies. Therefore, in these final results of review, as in the preliminary results of review, we allowed Eletrosilex to offset financing costs by the reported interest income.

Comment 11: Petitioners argue that the Department incorrectly calculated Eletrosilex's cost of overhauling one of its furnaces. Petitioners argue that the Department's calculation, which allocated costs equally to all months of the POR and applied each month's inflation rate to those costs, fails to account for the compounding effect of inflation. However, petitioners claim that the Department properly rejected Eletrosilex's September 1992 projected costs. Petitioners argue that using projected figures would violate the Department's practice of calculating replacement costs based on actual figures.

Eletrosilex argues that the use of compounded inflation rates by the Department is discretionary. Furthermore, it argues that the merits of using compounded inflation rates should be weighed against Eletrosilex's argument that the maintenance costs should be allocated over a longer period of time, not less than three years, because the furnace breakdown was a highly aberrational event. Eletrosilex also contends that the Department erred in using the actual production volume in the COP/CV calculations for the month of September 1992, and argues that the Department should instead use Eletrosilex's projected output.

Department's Position: We agree with petitioners. First, the petitioners are correct in arguing that COP/CV data should be based upon actual results and not projections. *See Final Determination of Sales at less Than Fair Value: Oil Country Tubular Goods from Austria*, 60 FR 33551, 33557 (June 28, 1995). Therefore, in these final results of review, as in the preliminary results of review, the Department used actual production tons and not projected results to obtain Eletrosilex's actual per-ton costs for September 1992. Second, we amortized Eletrosilex's shut down costs over the POR since the repairs benefited production during this period. We are rejecting Eletrosilex's three year amortization period because the longer time period is unsupported by facts on the record. Additionally, we discussed the POR amortization period with company officials at verification. At that time, company officials agreed with the suggested period and did not offer any alternate amortization periods (*see* October 5, 1994, cost verification report, p. 5). Third, we have adjusted our calculation to account for the compounding effects of inflation.

Comment 12: Petitioners argue that the Department double-counted Eletrosilex's claimed duty drawback for ICMS and IPI taxes paid on imported electrodes by adding the duty drawback adjustment to USP, but also excluding ICMS and IPI taxes from CV. They argue that the Department's practice has been to perform its calculation in such a way that double-counting does not occur. In support of their view, petitioners cite *Final Determination of Sales at Less Than Fair Value: Mechanical Transfer Presses from Japan*, 55 FR 335, 343 (January 4, 1990), in which the Department said that if duty drawback is "not included in the materials costs in the calculation of COM (cost of manufacture), the Department [adds] these uncollected duties to the CV."

Eletrosilex argues that it does not include ICMS and IPI taxes in its COM because they are not costs to Eletrosilex. Rather, because they are value-added taxes, their cost is passed along to the next user. Therefore, Eletrosilex argues, the Department should not consider these taxes in its calculation of CV. Furthermore, Eletrosilex argues, it is the Department's practice, in accordance with section 773(e)(1)(a) of the Tariff Act, not to include in CV any internal tax which is remitted or refunded upon exportation of the product in which the material is used. Eletrosilex states that because more than 87 percent of their product is exported, nearly all of the tax

would be excluded from the CV calculation under any circumstances.

Department's Position: We agree with petitioners. Eletrosilex's argument with respect to section 773(e)(1)(a) of the Tariff Act is not valid because the duty drawback law applicable to Eletrosilex suspends the payment of ICMS and IPI taxes that would ordinarily be due upon importation of electrodes. Therefore, because the ICMS and IPI taxes are suspended, we cannot conclude that they are already included in the COM or the tax payments that Eletrosilex has reported. Thus, in order to make an "apples-to-apples" comparison between USP And CV, we need to add to CV the full amount of the duty drawback that we added to USP in accordance with section 772(d)(1)(B) of the Tariff Act. We have done so in these final results of review.

Comment 13: Petitioners argue that the Department used an incorrect exchange rate in converting five of Eletrosilex's U.S. selling and movement charges from cruzeiros to U.S. dollars. They argue that the Department should use a devalued exchange rate because Eletrosilex reported its charges in devalued cruzeiros.

Eletrosilex argues that the petitioners's argument is confused because the Department used the exchange rate which petitioners, in their case brief, argued should be used, *i.e.*, the exchange rate of the month of shipment.

Department's Position: We agree with Eletrosilex. Our standard methodology in reviews involving hyperinflationary economies is to convert U.S. movement expenses using the exchange rate in effect on the date the costs were incurred. We employ this methodology to avoid creating dumping margins that result only from the rapid depreciation of a local currency during the interval between the month of sale and the month of shipment. *See Steel Wheels from Brazil, Final Determination of Sales at Less than Fair Value*, 54 FR 21456, 21459 (May 18, 1989) (*Steel Wheels*). Thus, in these final results of review, as in the preliminary results of review, we have converted Eletrosilex's U.S. export costs into U.S. dollars using the monthly exchange rate in effect during the month of shipment.

Comment 14: Petitioners argue that the Department erred by comparing Eletrosilex's U.S. prices inclusive of ICMS tax to a CV exclusive of ICMS tax. By doing so, the Department failed to make an "applies-to-apples" comparison. Moreover, they argue that section 772(d)(2) of the Tariff Act states that the USP shall be reduced by "any additional costs and charges * * * incident to bringing the merchandise * * * the United States" and by "any export tax * * * or other charge imposed by the country of exportation on the exportation of the merchandise to the United States * * *" if included in the price of the merchandise. Therefore, petitioners argue that the Department should subtract from Eletrosilex's USP the ICMS taxes that were included in the reported gross prices.

Eletrosilex argues that the ICMS tax is applied to the sale of semi-industrialized products, such as silicon metal, and the law specifically excludes any waiver of the tax upon exportation. Therefore, Eletrosilex argues, the ICMS tax is not an export tax and is, therefore, properly included in the calculation of USP.

Department's Position: We disagree with petitioners that the ICMS tax is an export tax or other charge imposed on the exportation of the merchandise to the United States as defined in section 772(d)(2) of the Act. The ICMS tax is imposed upon all sales of this product, regardless of the market to which it is destined. Since the tax is not levied solely upon exported merchandise, it does not constitute an export tax and cannot be subtracted from the USP of the merchandise under section 772(d)(2). However, the Department has concluded that the ICMS tax must be added to the constructed value (CV) of the product. Section 773(e)(1)(A) of the Act requires the deduction from CV of any internal tax applicable directly to material inputs or their disposition which has been rebated or not collected upon exportation. For Eletrosilex, this tax was collected upon exportation, but not rebated. Thus, the tax must be added to the CV to properly reflect the true costs and expenses borne by the product.

Comment 15: Petitioners argue that the Department used an incorrect exchange rate in converting three of CBCC's U.S. movement charges from cruzeiros to U.S. dollars. They argue that the Department should use a devalued exchange rate because CBCC reported its charges in devalued cruzeiros.

CBCC argues that the petitioners' only argument for using an artificially-determined rate rather than the true and real rate in effect on the date the expense was incurred is that it results in a very small increase in the expense in dollars. The Department was correct, CBCC argues, to seek a calculation of values based on the prevailing and correct economic indices in effect at the time of the transaction.

Department's Position: Our standard methodology in reviews involving hyperinflationary economies is to convert U.S. movement expenses using the exchange rate in effect on the date the costs were incurred. We employ this methodology to avoid creating dumping margins that result only from the rapid depreciation of a local currency during the interval between the month of sale and the month of shipment. (*See* Department's Position to comment 13.) Thus, in these final results of review we have converted CBCC's U.S. export costs into U.S. dollars using the monthly exchange rate in effect during the month of shipment. We intended to employ this methodology for all U.S. movement expenses in the preliminary results. However, in our review of the computer programs used for the preliminary results, we determined that for warehousing we used the exchange rate during the month of sale. We have corrected this error in these final results of review.

Comment 16: Petitioners argue that the Department erred by deducting CBCC's home market packing expenses from CBCC's CV before adding U.S. packing expenses to CBCC's CV. They argue that CBCC's CV did not include home market packing expenses and, therefore, they did not need to be deducted before adding U.S. packing expenses.

Department's Position: We agree, and have corrected this error in these final results of review.

Comment 17: Petitioners argue that the Department erred by using the incorrect indirect selling expenses in its calculation of CBCC's CV. The Department's preliminary results analysis memorandum for CBCC states that the Department used the indirect selling expenses CBCC submitted in its March 22, 1994, submission. Petitioners allege that, in reality, the Department used the indirect selling expenses submitted by CBCC in its March 17, 1994, submission.

Department's Position: We disagree. Upon review of the computer program used to calculate the preliminary results of review, we have determined that we used the indirect selling expenses that CBCC reported in exhibit 9 of its March 22, 1994, submission.

Comment 18: Minasligas argues that the Department erred in its method of calculating an ICMS tax rate to be applied to its USP. According to Minasligas, the Department's method was to calculate an average rate based on home market sales prices for the entire POR, and to then deduct from that rate the ICMS tax payable on exports. Minasligas contends that this method is flawed in two ways. First, it is distortive in a hyperinflationary

economy such as Brazil's because it biases the result in favor of sales that occur later in the POR. A more accurate method, Minasligas argues, is to perform the calculation on a monthly basis. Second, Minasligas argues that the method is flawed because Minasligas is exempt from paying ICMS tax on its exports which is evident in the information on the record of this review. Thus, the Department should not have made a deduction from the calculated ICMS tax rate for any ICMS tax allegedly due on exports.

Petitioners comment that the Department used the wrong set of home market sales in calculating Minasligas' FMV (see comments 3 and 4 above). Thus, any recalculation of the ICMS tax rate that the Department performs should be based on the correct set of sales.

Department's Position: In these final results of review, we have not calculated a tax rate to be applied to USP. Rather, as discussed under the "Consumption Tax" section of this notice, where we have made price-to-price comparisons, we have added to U.S. price the absolute amount of tax charged in the home market. Moreover, because Brazil had a hyperinflationary economy during the period of review, we have calculated the absolute amount of tax on a monthly basis, rather than an annual basis, in order to avoid distortion resulting from hyperinflation. Finally, we agree with Minasligas that evidence on the record indicates that Minasligas' export customers were not charged ICMS tax. In the preliminary results we made a deduction from the home market tax rate that we applied to the U.S. price because we mistakenly believed that Minasligas paid ICMS tax on its exports. In these final results of review, we have added to Minasligas's U.S. selling price the absolute amount of tax without making any deductions.

We disagree with petitioners' argument that we based FMV on the wrong set of sales. See the Department's Position to comments 3 and 4.

Comment 19: Minasligas argues that the Department erred in including inventory carrying costs in its computation of CV. It argues that it is the Department's longstanding practice to exclude inventory carrying costs from the computation of CV when all of the U.S. sales were purchase price transactions, as is the case here. (*See Notice of Amended Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Brazil;* 59 FR 8598, 8599 (February 23, 1994).) Thus, Minasligas argues that if the Department resorts to CV in the final results of review, inventory carrying costs should be removed from the computation of CV.

Department's Position: This issue is moot with respect to Minasligas because we did not use CV as the basis of FMV for Minasligas in these final results.

Comment 20: Minasligas argues that the Department erred in its computation of CV by not removing its inland freight costs from the direct selling expenses before calculating profit. The effect of this error, Minasligas argues, is to increase profit by 8 percent of the amount of inland freight.

Department's Position: This issue is moot with respect to Minasligas because we did not use CV as the basis of FMV for Minasligas in these final results.

Comment 21: RIMA argues that the Department erred in calculating an arm's-length price for the cost of RIMA's self-produced charcoal by using the April 1993 cost as the basis for calculating a write-up for the entire POR. It argues that there is no reasons to take an arbitrarily chosen month and apply it across a year's worth of data where, as here, data exist for each month of the POR, and the calculation is relatively simple.

Petitioners argue that RIMA is incorrect in stating that sufficient information is on the record to enable the Department to calculate an adjusted charcoal cost for each month of the POR. Specifically, RIMA did not submit information on the quantity of charcoal purchased each month from related and unrelated suppliers. Therefore, petitioners argue that in the final results of review the Department should base its adjustment for charcoal cost on the information submitted by RIMA for April 1993, as it did in the preliminary results of review. The petitioners also contend that the Department should increase the cost of quartz to account for wastage.

Department's Position: We agree with petitioners that our charcoal adjustment used in the preliminary results of review is appropriate. RIMA obtained charcoal from unrelated suppliers, related suppliers, and company-owned plantations. At verification, RIMA did not provide information to support its claim for costs incurred for self-produced charcoal and for costs incurred for charcoal acquired from related suppliers. Instead, RIMA suggested that the Department value all charcoal consumed during the POR using the replacement cost of monthly purchases from related suppliers. Therefore, as representational figures in this case, we used the relative quantity and value of charcoal purchased from related and unrelated suppliers during the month of April 1993 as BIA to increase charcoal costs (see cost verification exhibit 15). Furthermore, we reviewed the information on the record and not that RIMA reported monthly per-unit prices of charcoal in its submitted inventory holding gain and loss calculation, but did not submit information on the quantity of charcoal purchased from related and unrelated suppliers (see most verification exhibit 13). Therefore, contrary to RIMA's statement, the Department could not calculate monthly charcoal adjustments for any month other than April 1993.

As for the petitioners' concern about waste, in these final results of review we have increased RIMA's quartz quantity based on the waste factor provided by RIMA officials at verification. (*See* cost verification report, p. 3.)

Comment 22: RIMA states that there is a discrepancy between the cost spreadsheet from the preliminary results analysis memorandum and the computer printout that calculated the margins. It claims that the COM in the computer printout is approximately ten percent higher than the spreadsheet. RIMA argues that this error should be corrected in the final results.

Department's Position: In its case brief, RIMA cited to no specific numbers in the computer program that vary from the COP spreadsheet. Nevertheless, we have extensively reviewed the computer program used to calculate the margins for the preliminary results for any possible errors with regard to COM, and we have found none. We believe that RIMA's confusion may be due to the fact that the variable COM on the computer output pages labeled "Constructed Value Profit" of the margin calculation program is the COM of the month of payment, rather than the COM of the month of sale.

Comment 23: RIMA argues that the Department erred by not making an adjustment for inventory holding gains and losses. It states that this adjustment is necessary in order to account for short-term inventory gains that accrue when using a replacement cost accounting system, as was done in this administrative review. Furthermore, RIMA argues that it is not clear from the decision memorandum what the perceived defect is in the inventory holding figures that RIMA reported. RIMA speculates that the apparent problem is that the Department has changed methodologies between the original investigation and this review. RIMA claims that the Department cannot ask for data, verify the data, and then use a methodology that does not use the data.

Petitioners argue that the Department correctly rejected RIMA's inventory

holding gain and loss calculation because RIMA had failed to follow the Department's methodology for calculating inventory holding gains and losses in a hyperinflationary economy. Petitioners cite the Department's preliminary results analysis memorandum (p. 7) to document that the Department determined that RIMA had failed to properly layer the inventory and to value it at the production cost for each month. Thus, petitioners argue, the Department's basis for rejecting RIMA's calculation was not because the Department had changed methodologies. Petitioners further argue that because RIMA submitted inaccurate information, the Department is required not only to reject RIMA's inventory carrying gains/losses calculation, but to resort to BIA for RIMA's inventory holding gains and losses.

Department's Position: We reviewed RIMA's inventory gains and losses calculation and found certain inconsistencies which render that calculation unacceptable. In its calculation, RIMA failed to follow our instructions to layer inventory by month, and identify when the finished goods and direct materials were produced or purchased (See question C.5 of the questionnaire and cost verification exhibit 13). RIMA cannot shift the burden of correcting the calculation to the Department when, as here, doing so would require substantial inventory identification and the performance of numerous recalculation. (*See, e.g., Chinsung Indus, Co., Ltd.* v. *United States,* 705 F. Supp. 598 (February 7, 1989.) Thus, we have denied RIMA an adjustment for inventory carrying gains/losses. Furthermore, we do not agree with petitioners that we must use BIA. There is no legal or policy precedent which requires the Department to resort to BIA when we deny an adjustment that a respondent failed to accurately and adequately substantiate.

Comment 24: RIMA argues that the Department double-counted its credit expenses in the cost test by imputing them to COP and also deducting credit from the home market price compared to COP.

Petitoners argue that, contrary to RIMA's assertion, the Department did not reduce home market price by a credit adjustment prior to performing the cost test. The analysis memorandum and the computer program used to calculate the preliminary results of review both indicate, petitioners' argue, that the only adjustment the Department made to the home market price before comparing the price to the COP of the month of payment is that for the ICMS tax.

Department's Position: We agree with petitioners. In the preliminary results of review we made no deduction of credit from the home market selling price before comparing the price to COP. Thus, we did not double-count RIMA's credit expenses.

Comment 25: CBCC argues that the Department erred in performing the cost test when it applied a deflator to CBCC's home market selling prices before comparing them to the COP. It argues that because nothing on the record defines the deflator or explains its use, it should be removed from the computer program because its use was not in accordance with law.

Department's Position: We agree in part. In the preliminary results of review we compared CBCC's home market selling prices, net of adjustments, to the COP for the month of payment. This information was contained on page 4 of the preliminary results analysis memorandum for CBCC. Inadvertently omitted from the analysis memorandum (but included in the analysis memoranda for other respondents in this review) was the explanation that for sales with payment dates after the POR, we performed the cost test by comparing the COP of the last month of the review period to a deflated sales price. We have followed this methodology in these final results of review as we did in the preliminary results of review. The specifics of how we calculated the deflator are contained in the final results analysis memorandum for CBCC. However, in the computer program used to calculate the preliminary results of review, we mistakenly applied the deflator to all home market sales, and not just those with payment dates after the POR. We have corrected this error in these final results of review.

Comment 26: CBCC argues that the Department erred in calculating the direct selling expenses used in computing its COP/CV. These selling expenses consist of three elements: shipping, warehousing, and commission. CBCC states that the Department's computation of shipping expenses incorrectly included shipping expenses for all products that CBCC produces, and not just silicon metal. CBCC argues that in the final results, the Department should allocate shipping expenses to silicon metal based on the volume of silicon metal shipped as a percentage of shipments of all products. With respect to warehousing, CBCC argues that it incurs no warehousing expenses on its domestic sales; therefore, warehousing should not be considered a home market direct selling expense. Furthermore, in the computation of CV, warehousing expenses (which are all incurred on exports) are already included in the computation of the foreign unit price in dollars. Thus, by also including them in the calculation of CV, warehousing expenses are double-counted. With respect to commissions, CBCC argues that it incurs no commission in the home market on sales of silicon metal, and that, therefore, commissions also should not be included as direct selling expenses.

Petitioners argue that the Department should not consider the arguments CBCC has set forth in support of its position because they are untimely and unsupported. The antidumping questionnaire to which CBCC responded, petitioners state, requests CBCC to report selling expenses "associated with the same general class or kind of merchandise sold in the home market/third country." The arguments in CBCC's case brief, which CBCC failed to supply in its questionnaire response are, according to petitioners, based on untimely information which the Department is obliged under its regulations not to consider. Moreover, petitioners argue that CBCC's proposed methodology for reducing shipping costs is flawed because it is based on quantities produced, and not on quantities sold.

Department's Position: We have reviewed the record of this proceeding and determined that the information CBCC submitted in its case brief is not new information. Contrary to petitioners' assertions, CBCC did provide this information in its November 1, 1993, questionnaire response (pp. 8, 9, 23, and exhibit 11). We agree with CBCC that because it incurs no warehousing expenses on sales of silicon metal in the home market and pays no commissions in the home market, these expenses should not be included in its COP/CV for silicon metal. Because we have removed warehousing expenses from COP/CV, they are not double-counted in these final results of review. Furthermore, the Department does not treat shipping expenses as direct selling expenses. *See Color Televisions Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 55 FR 26225, 26230 (June 27, 1990), where we stated that inland freight was a movement expense, and not part of selling, general, and administrative expense. Therefore, because CBCC incurred no direct selling expenses on its home market sales of silicon metal, we have removed the

selling expense category from the calculation of COP/CV.

Comment 27: CBCC argues that the Department incorrectly calculated CBCC's general and administrative (G&A) expenses. It states that, in the preliminary results, the Department divided the financial statement G&A by the financial statement cost of goods sold (both of which were calculated on a historical cost basis), and multiplied the resulting percentage by the replacement cost COM for each month. CBCC states that this methodology was explicitly found deficient by the CIT on an appeal of the initial investigation in this case. There, CBCC states, the CIT remanded the case to the Department and directed it to use a consistent criterion. As a result, the percentage or ratio of G&A expenses to historical cost in the financial statement had to be applied to the historical cost of silicon metal in each respective month of the POR. CBCC argues that the Department should do the same in this review.

Petitioners argue that the CIT decision relied upon by CBCC has been vacated by the U.S. Court of Appeals for the Federal Circuit (CAFC). (*See Camargo Corrêa Metais, S.A.* v. *United States*, 52 F.3d 1040 (Fed. Cir. April 17, 1995).) As a result, petitioners argue, CBCC's argument should be rejected, and the Department should calculate monthly G&A and financial expenses for all respondents based on replacement COM in accordance with its long-established practice prior to the CIT decision relied upon by CBCC.

Department's Position: We agree, in part, with both the respondent and the petitioners. First, the petitioner is current that the CIT decision has been vacated by the CAFC. Therefore, we could calculate monthly C&A and financial expenses for all respondents based on replacement COM in accordance with our establishment practice prior to the CIT decision. However, CBCC correctly points out that this methodology does not use a consistent criterion. Therefore, we recalculated CBCC's G&A factor on a replacement cost basis. We readjusted CBCC's G&A factor on a company-wide annual basis by indexing CBCC's submitted monthly nominal G&A and cost of sales figures. The purpose of indexing the respondent's monthly figures is to obtain values at a uniform price level because the simple addition of monthly nominal values during a period of high inflation would yield a meaningless result. We then divided the indexed G&A figure by the indexed cost of sales figure to derive the company's annual G&A factor on a replacement cost basis. We then multiplied this factor by the monthly replacement COM. For these final results, the Department used this method to calculate G&A factors for all respondents except Electrosilex because it submitted a constant purchasing power, audited financial statement.

Comment 28: CBCC argues that the Department double-counted its credit expenses by imputing them to COP and also deducting credit from the home market price compared to COP.

Petitioners argue that, contrary to CBCC's assertion, the Department did not reduce home market price by a credit adjustment prior to performing the cost test. The analysis memorandum and the computer program used to calculate the preliminary results of review both indicate, petitioners argue, that the only adjustment the Department made to the home market price before comparing the price to the COP for the month of payment is that for the ICMS tax.

Department's Position: We agree with petitioners. In the preliminary results of review we made no deduction of credit from the home market selling price before comparing the price to COP. Thus, we did not double-count CBCC's credit expenses.

Comment 29: CBCC argues that the Department incorrectly calculated CBCC's financial expenses by using an interest factor based on historical cost multiplied by the monthly replacement COM. CBCC contends that this method is contrary to the CIT decision in the initial investigation of this case. CBCC also argues that the Department should not consolidate CBCC's financial expenses with those of its parent company, Solvay do Brasil (Slovay), because CBCC incurred no financial expense during 1992 and 1993. Furthermore, CBCC states that Slovay's financial expenses do not relate to the production of silicon metal.

The petitioners contend that the Department's interest calculation is permissible since the CIT ruling was subsequently vacated by the CAFC. Furthermore, the petitioners argue that the Department correctly consolidated the financial expense. To support its argument the petitioners cite the *Final Determination of Sales at Less Than Fair Value: New Minivans from Japan*, 57 FR 21937, 21946 (May 26, 1992), in which the Department said its practice "is based on the fact that the group's parent, primary operating company, or other controlling entity, because of its influential ownership interest, has the power to determine the capital structure of each member within the group." The petitioners also cite *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand*, 57 FR 21065, 21069 (May 18, 1992), in which the Department said that it "is the Department's policy to combine the financing activities of a parent or subsidiary when the parent exercises control over the subsidiary (*i.e.*, meets the requirements for consolidation)." Therefore, the petitioners argue that consolidating the financial statements of CBCC and Solvay is justified because Solvay has a controlling interest in CBCC, and thus has the power to decide the composition of CBCC's capital structure. Finally, the petitioners believe that the Department's interest calculation incorrectly subtracted CBCC's total financial revenue from its total financial expenses. The petitioners argue that the correct method is to subtract only the short-term interest income from CBCC's financing costs.

Department's Position: We disagree with CBCC's claim that its interest factor should be based on only historical figures. The Department's preferred methodology is to calculate CBCC's interest factor on a replacement cost basis (see Department's Position to comment 27 for details on this methodology). However, in this case we do not have the necessary information on the record to index monthly interest costs. Therefore, we calculated financial expenses based on our established practice prior to the CIT decision because it is still a viable method (see comment 27 for details). *See Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review*, 59 FR 42806 (August 19, 1994).

Regarding CBCC's argument that we should not have consolidated the interest expenses of CBCC with Solvay, we agree with the petitioners that CBCC should report interest expenses on a consolidated basis regardless of what they produce. We maintain that the cost of capital is fungible, and we allocate a proportional share of interest expenses to all goods produced by a respondent during the POR. The Department considers financing expenses to be costs incurred for the general operations of the corporation. We recognize the fungible nature of a corporation's invested capital resources, including debt and equity, and we do not allocate corporate financing expenses to individual divisions of a corporation on the basis of sales per division. Instead, we allocate the interest expense related to the debt portion of the capitalization of the corporation, as we appropriate, to the total operations of the consolidated corporation. This consolidation methodology is consistent with our longstanding practice for computing

interest expense in cases involving parent-subsidiary corporate relationships. *See, e.g., Final Determination of Sales at Less Than Fair Value, Small Business Telephones from Korea*, 54 FR 53141, 53149 (December 27, 1989). Therefore, for these final results we calculated net financing costs on a consolidated basis.

Regarding CBCC's claim that it is inappropriate to use consolidated interest figures because CBCC has no debt, we note that this argument fails to take into consideration any borrowing costs associated with Solvay's initial and subsequent capital investment in the company. CBCC maintains that all interest expenses incurred by Solvay pertain solely to the parent's operations. Under this principle, CBCC would have us accept that its parent funds its own operations from borrowing while, at the same time, funding its investment in CBCC solely through equity capital. Such a principle ignores the fact that Solvay's capital structure is comprised of both debt and equity. Therefore, it is neither possible, nor appropriate, in our analysis to allow the company to pick and chose which portions of its parent's operation should incur the additional interest costs associated with borrowed funds.

Regarding petitioners' claim that financing costs should not be reduced by interest income, we note that during verification we confirmed that Solvay's audited interest income figure was derived from only short-term investments. (See cost verification exhibit 19.) We noted no discrepancies. Therefore, we allowed Solvay to offset financing costs by the reported interest income.

Comment 30: CBCC alleges that the Department applied an incorrect criterion for profit in the CV calculation. It states that, although it is impossible to determine from the disclosure documents the source of the profit calculations, the profit margins indicated in the output of the computer program suggest that there was a programming error.

Department's Position: The profit calculation was skewed in the preliminary results of review because we calculated a profit ratio using cost and revenue data computed over the entire POR. Because Brazil was a hyperinflationary economy during the POR, we have, in these final results of review, calculated a profit ratio for each month of the review period using cost and revenue data calculated on a monthly basis. We then weight-averaged these profit ratios to calculate an annual profit ratio. For any respondent whose profit ratio was greater than eight percent, we used the actual profit ratio in the computation of profit for CV. For any respondent whose profit ratio was less than eight percent, we used the statutory minimum of eight percent.

Comment 31: CBCC argues that the Department incorrectly calculated the FMV for March 1993. It states that the CV for March 1993, according to the expanded sales listing of the program output, is one figure, whereas the FMV used in the margin calculation for the same month is a different figure. CBCC argues that the disclosure documents do not explain the reason for the differences in the two figures, and therefore, CBCC concludes that there was an error either in the program or in the criteria employed.

Department's Position: We have reviewed extensively the computer program and output, including the expanded sales listing for March 1993, and have been unable to determined why CBCC believes the CV for March 1993 is the figure that it cites in its case brief. This figure appears nowhere in the output. Therefore, we found no error in the computer program based on this comment from CBCC.

Comment 32: Eletrosilex argues that the Department erred in calculating its imputed credit expense by using the short-term interest rates charged by the state bank of Minas Gerais. It states that it reported its own actual short-term borrowing rates, and that these rates should have been used in the imputed credit calculation. Use of the exogenous rates, Eletrosilex argues, inflated the determination of CV and distorted the CV in a manner prejudicial to Eletrosilex.

Petitioners argue that it is the Department's policy to calculate home market imputed credit expenses based on an interest rate tied to the currency in which the home market sales were made. (*See Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Mexico*, 57 FR 42953, 42956 (September 17, 1992) and *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolle Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Belgium*, 58 FR 37083, 37089 (July 9, 1993).) Because Eletrosilex's home market prices were invoiced in Brazilian currency and the interest rates that Eletrosilex reported were for loans denominated in U.S. dollars, petitioners argue that the Department was correct in not using Eletrosilex's reported rates for home market imputed credit. For the final results, petitioners claim that the Department should continue to use a home market interest rate denominated in Brazilian currency to calculate home market credit expenses. Moreover, petitioners argue that in the preliminary results the Department erroneously divided a monthly interest rate by 365 instead of 30 days, and that this error should be corrected in the final results.

Department's Position: We agree with petitioners that because the loans Eletrosilex reported were loans denominated in U.S. dollars, we cannot use the interest rates on those loans for calculations involving Brazilian currency. *See Notice of Final Determination of Sales at less Than Fair Value and Negative Critical Circumstances Determination: Disposable Pocket Lighters from Thailand*, 60 FR 14263, 14269 (March 16, 1995); *Final Determination of Sales at Less Than Fair Value; Fresh Cut Roses from Colombia*, 60 FR 6980, 6998 (February 6, 1995). Therefore, for the computation of home market credit, we have used the short-term interest rates charged by the state bank of Minas Gerais, as we did for the preliminary results. In these final results of review, we have, however, applied Eletrosilex's U.S. dollar-denominated interest rates to its calculation of U.S. imputed credit. We also agree with the petitioners that because the interest rates used in the calculation are monthly rates, the denominator should be 30, rather than 365. We have corrected this error in these final results of review.

Comment 33: Eletrosilex argues that the Department erred in not granting an inventory carrying cost offset to its CV financing costs. Eletrosilex argues that in making a CV calculation the Department uses annualized calculations for G&A and interest expense. Therefore, there is no sound reason for the Department to ignore an accurate calculation designed to make the CV calculation conform as closely as possible to reality.

Department's Position: We disagree with Eletrosilex. For the final results, we disallowed Eletrosilex's submitted CV inventory carrying cost offset because the company's POR sales were purchase price transactions, and not exporter's sales price transactions (see Eletrosilex's November 1, 1993, submission, p. 17). Thus, the inventory carrying cost offset is not a factor.

Comment 34: Petitioners argue that because Eletrosilex failed to properly layer its inventory, the Department was correct in rejecting Eletrosilex's reported inventory holding gains/losses calculation. Petitioners argue that in its calculation, Eletrosilex also failed to report beginning inventory for one of the months for charcoal, wood, quartz,

and electrodes. Furthermore, according to petitioners, Eletrosilex also calculated inventory holding gains/losses for only direct materials, and not for secondary materials or for finished goods. Moreover, petitioners argue, because Eletrosilex's calculation was inaccurate and incomplete, the Department is required to use BIA for Eletrosilex's inventory holding gains/losses.

Department's Position: We rejected Eletrosilex's submitted inventory holding gains and losses calculation because we found certain inconsistencies which render that calculation unacceptable. In its calculation, Eletrosilex failed to follow our questionnaire instructions to layer inventory by month, and identify when the finished goods and direct materials were produced or purchased (see question C.5 of the Department's questionnaire and cost verification exhibit 22). As explained with respect to RIMA in comment 23, Eletrosilex cannot shift to the Department the burden of correcting the calculation where, as here, doing so would require substantial inventory identification and the performance of numerous calculations. Thus, we have denied Eletrosilex and adjustment for inventory carrying gains/losses. Furthermore, we do not agree with petitioners that we must use BIA. There is no legal or policy precedent which requires the Department to resort to BIA when we deny an adjustment that a respondent failed to accurately and adequately substantiate.

Comment 35: Eletrosilex argues that the preliminary results analysis memorandum shows that in making adjustments for secondary material replacement costs, the Department improperly transcribed numbers for the months of September and October under column "b."

Department's Position: We agree, and corrected this error in these final results of review.

Comment 36: Eletrosilex argues that the Department double-counted some of its G&A expenses. It claims that this occurred because of Eletrosilex's bookkeeping method. Eletrosilex states that it included in its variable and fixed overhead some of the salaries and costs attributable to administrative functions at its manufacturing facility at Copitao Eneas. However, Eletrosilex's auditors did not consider these costs to be variable and fixed factory overhead, and included them instead in G&A. Thus, they were included in both Eletrosilex's reported factory overhead and in the G&A expenses recorded on its audited financial statement. Because the Department's methodology for calculating G&A was to devise a ratio of G&A to cost of goods sold, utilizing figures drawn from the financial statements, and multiplying the ratio by Eletrosilex's COM (which includes overhead), Eletrosilex argues that the salaries and costs attributable to administrative functions at its manufacturing facility at Copitao Eneas were, in effect, double-counted. Therefore, these costs should be removed from the COM. Doing so would also lower Eletrosilex's calculated interest expenses, Eletrosilex argues, because these too were calculated by applying a ration to the COM.

Petitioners argue that there is no evidence on the record of this review to support the claim that Eletrosilex included salaries and costs attributable to administrative functions at its Copitao Eneas facility in its reported fixed or variable overhead. This information was first submitted, petitioners argue, in Eletrosilex's case brief and, therefore, to accept this information would be a violation of 19 CFR § 353.31(a)(3).

Department's Position: We reviewed the schedules provided by Eletrosilex and concur that our preliminary adjustment overstates cost. However, the Department does not believe that Eletrosilex's suggestion of reducing submitted COM is the best way to correct the cost overstatement. Instead, we have reduced the G&A figure used to calculate the Department's G&A factor by the amount of the salaries and costs attributable to administrative functions. We used this methodology because these production costs were correctly submitted as a cost of manufacturing. Furthermore, we adjusted the cost-of-sales figures used in both the G&A and interest factor calculation to account for Eletrosilex's reclassification of costs.

With regard to petitioners' argument that Eletrosilex's information is untimely and therefore in violation of 19 CFR § 353.31(a)(3), we have determined that the respondent's information is already on the record of this review. It can be found in cost verification exhibit 7 and in exhibit 5 of the June 10, 1994 submission. Therefore, we have allowed this information to remain on the record of this review.

Comment 37: Eletrosilex argues that the test for sales below cost was flawed due to errors in methodology, analysis, and transcription. First, it claims that each of the errors noted in comments 32–36 are applicable to the Department's computation of COP. Eletrosilex claims that the correction of these errors will result in a substantially reduced COP. Second, according to Eletrosilex, the Department erred in its calculation of the home market price to be compared to COP by deducting a charge for home market credit using the short-term interest rate charged by the state bank of Minas Gerais, rather than Eletrosilex's own actual short-term borrowing rate. Third, Eletrosilex argues that the Department erred in not comparing home market sales price at the time of sale to the COP for the month of sale. With hyperinflation, that comparison is truer than using the month of payment and a deflation index.

Petitioners argue, with regard to the last point, that Eletrosilex reported in its November 1, 1993, questionnaire response (at 16) that the home market sales prices reported in its sales listing are "increased to incorporate the projected inflation rate between the date of sale and the actual date of payment." In light of this method of reporting, petitioners claim that it would be improper to compare Eletrosilex's unadjusted prices at the time of sale to its COP for the month of sale because it is the Department's practice to subtract inflation adjustments from the home market sales prices used in the COP comparison when those prices include adjustments for anticipated inflation (See *Ferrosilicon from Brazil, Notice of Amended Final Determination of Sales at Less Than Fair Value,* 59 FR 8598, February 23, 1994) (*Ferrosilicon from Brazil Amended Final Determination*).

Department's Position: With regard to Eletrosilex's first point, the Department applied to the cost test the same determinations that it made with respect to CV as described in our responses to comments 33–36. The issue Eletrosilex raised in comment 32 does not apply to COP because we do not use any imputed values in the computation of COP. With respect to Eletrosilex's second point, we used the same interest rate to calculate credit (which we deducted from the price to be compared to COP) that we used in the computation of credit that we included in CV. Therefore, see Department's position to comment 32, where this issue is addressed with respect to CV. With regard to Eletrosilex's third point, we agree with petitioners that the record indicates that Eletrosilex's selling prices include an element for anticipated inflation between the date of sale and the date of payment, and that it would, therefore, be incorrect to compare Eletrosilex's unadjusted prices at the time of sale to the COP of the month of sale. *See Ferrosilicon from Brazil Amended Final Determination.* Hence, in these final results of review, as in the preliminary results of review, we have

compared Eletrosilex's home market prices to the COP of the month of payment.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist for the period July 1, 1992, through June 30, 1993:

Manufacturer/Exporter	Margin (percent)
CBCC	16.81
Minasligas	0.00
Eletrosilex	0.00
RIMA	31.60

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of review for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act, and will remain in effect until the final results of the next administrative review:

(1) The cash deposits rates for the reviewed companies will be those rates listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacture of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this or any previous review conducted by the Department, the cash deposit rate will be 91.06 percent, the "all others" rate established in the LTFV investigation.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. § 1675(a)(1)) and 19 CFR § 353.22.

Dated: August 27, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–22679 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–351–806]

Silicon Metal From Brazil; Preliminary Results of Antidumping Duty Administrative Review, Intent To Revoke in Part, and Intent Not To Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review, intent to revoke in part, and intent not to revoke in part.

SUMMARY: In response to requests from petitioners and five respondents, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on silicon metal from Brazil. This review covers five manufacturers/exporters and the period July 1, 1993, through June 30, 1994. The review indicates that one of the companies had a margin during the period of review, and that three of the companies had no margins during the period for review. Our review also indicates that one company had no shipments during the period of review.

We intend to revoke the order for Companhia Ferroligas Minas Gerasis—Minasligas (Minasligas). We have preliminarily determined that Minasligas has not sold the subject merchandise at less than foreign market value (FMV) in this review and for at least three consecutive administrative review periods, and that it is not likely that Minasligas will sell the subject merchandise at less than FMV in the future. Minasligas has also submitted a certification that it will not sell to the United States at less than FMV in the future, and has agreed in writing to its immediate reinstatement in the order if the Secretary concludes under 19 CFR § 353.22(f) that subsequent to revocation Minasligas sold the merchandise at less than FMV.

We do not intend to revoke the order with respect to Companhia Brasileira Carbureto de Cálcio (CBCC). CBCC submitted an untimely request for revocation. Furthermore, in the final results of our most recently completed administrative review of this order, CBCC had a margin that was greater than *de minimis*. Therefore, CBCC does not qualify for revocation.

We have preliminarily determined that sales have been made below the FMV for one company. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Fred Baker or John Kugelman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5253.

Applicable Statute: Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1991, the Department published in the Federal Register (56 FR 36135) the antidumping duty order on silicon metal from Brazil. On July 1, 1994, the Department published (59 FR 33951) a notice of "Opportunity to Request an Administrative Review" of this antidumping duty order for the period July 1, 1993, through June 30, 1994. We received timely requests for review from CBCC, Minasligas, Eletrosilex Belo Horizonte (Eletrosilex), Rima Industrial S.A. (RIMA), and Camargo Corrêa Metais S.A. (CCM). We also received a request for review of the same five manufacturers/exporters of

silicon metal from a group of four domestic producers of silicon metal (the petitioners). The four domestic producers are American Silicon Technologies, Elkem Metals Co., Globe Metallurgical, Inc., and SKW Metals and Alloys, Inc.

On August 24, 1994, the Department published a notice of initiation (59 FR 43537) covering the five manufacturers/exporters named above.

The Department has now completed the preliminary results of this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

In accordance with 19 CFR 353.25(a) we have preliminarily determined to revoke the antidumping duty order for Minasligas. Minasligas submitted a request in accordance with 19 CFR 353.25(b) to revoke the order with respect to its sales of silicon metal in the United States. Minasligas's request was accompanied by the required certifications which state that it has not sold silicon metal in the United States at less than FMV for at least three consecutive years, including the subject review period, and that it will not do so in the future. Minasligas has also agreed in writing to its immediate reinstatement in the order if the Secretary concludes under 19 CFR § 353.22(f) that subsequent to revocation Minasligas sold the merchandise at less than FMV. Since we preliminarily determine that Minasligas has not sold the subject merchandise at less than FMV for at least three consecutive years, and because we believe that it is not likely that Minasligas will sell the subject merchandise at less than FMV in the future, we intend to revoke the order with respect to Minasligas.

In response to the Department's request for information RIMA submitted to the Department a list of U.S. sales made during the POR. However, based upon information from U.S. Customs, we have determined that none of RIMA's U.S. sales made during this POR entered U.S. customs territory during the POR. Therefore, we have determined to treat RIMA as a non-shipper for this review.

Scope of the Review

The merchandise covered by this review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. HTS item numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of product coverage.

The review period is July 1, 1993, through June 30, 1994. This review involves five manufacturers/exporters of Brazilian silicon metal.

Use of Best Information Available (BIA)

Because CBCC failed to produce information requested at verification to substantiate significant portions of its response, in accordance with section 776(c) of the Act, we have preliminarily determined that the use of BIA is appropriate. For these preliminary results we applied the following two-tier BIA analysis in choosing what to apply as BIA:

1. When a company refuses to cooperate with the Department or otherwise significantly impedes these proceedings, it assigns that company first-tier BIA, which is the higher of:

(a) The highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value investigation (LTFV) or prior administrative review; or

(b) The highest rate found in the present administrative review for any firm for the same class or kind of merchandise from the same country or origin.

2. When a company substantially cooperates with our requests for information including, in some cases, verification, but fails to provide the information requested in a timely manner or in the form required, it assigns to that company second-tier BIA, which is the higher of:

(a) The firm's highest rate (including the "all others" rate) of the same class or kind of merchandise from a prior administrative review or, if the firm has never before been investigated or reviewed, the all others rate from the LTFV investigation; or

(b) The highest calculated rate in this review for the class or kind of merchandise for any firm from the same country of origin.

See Allied-Signal Aerospace Co. v. United States, 28 F.3d 1188, 1189, 1190 n.2 (CAFC 1994).

CBCC cooperated with the Department by responding to the Department's questionnaires. However, we determined at verification that this company could not substantiate significant portions of its responses. Therefore, we have determined to apply second-tier BIA to CBCC for those sales for which we were unable to verify sales or cost information. (*See* Use of BIA memorandum to Joseph Spetrini, Deputy Assistant Secretary, Enforcement Group Three.) The second-tier BIA rate we have assigned to CBCC is 87.79 percent. This rate is CBCC's rate from the LTFV investigation. Accordingly, the rate we have assigned to CBCC for this review reflects the weighted-average rate for those sales for which we did not apply BIA and those sales for which we did apply BIA.

Verification

As provided in section 776(b) of the Tariff Act, we verified information provided by Minasligas, CCM, RIMA, and CBCC by using standard verification procedures, including onsite inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

United States Price

In calculating USP, we used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the packed, F.O.B. or C&F price to the first unrelated purchaser in the United States.

We made deductions from USP, where appropriate, for foreign inland freight, ocean freight, foreign inland insurance, brokerage and handling, and export taxes. We made an addition to USP, where appropriate, for duty drawback. These adjustments were in accordance with section 772(d)(2) of the Tariff Act. We also adjusted USP for taxes in accordance with our practice as outlined in the final results of the second administrative review of this case published concurrently with this notice.

No other adjustments were claimed or allowed.

Foreign Market Value (FMV)

In order to determine whether there were sufficient sales of silicon metal in the home market to serve as a viable basis for calculating FMV, we compared the volume of each respondent's home market sales to the volume of its third-country sales, in accordance with section 773(a)(1)(B) of the Tariff Act. In each case we found that the respondent's sales of silicon metal in the home market constituted at least five percent of its sales to third-country markets. Thus, we based FMV on sales in the home market. *See* 19 C.F.R. 353.46(a).

Due to the existence of sales below the cost of production (COP) in the last completed review of Eletrosilex, Minasligas, and CBCC, and the LTFV investigation of CCM, the Department determined that it had reasonable grounds to believe or suspect that sales below the COP may have occurred during this review. Accordingly, the Department initiated a COP investigation to determine whether Eletrosilex, Minasligas, CBCC, and CCM made sales during the POR at prices below their respective cost of productions within the meaning of section 773(b) of the Act.

Calculation of COP

We calculated each respondent's COP based on the sum of each respondent's reported cost of materials, fabrication, selling, general, and administrative (SG&A) expenses, and home market packing expenses in accordance with 19 CFR 353.51(c). We made an adjustment to COP, where applicable, for revenue received from the sale of by-products produced while producing silicon metal. Because the Brazilian economy was hyperinflationary during the period of review (POR), we instructed respondents to follow our longstanding methodology for hyperinflationary economies, including the use of replacement costs. (*See Silicon Metal from Brazil, Final Results of Antidumping Duty Administrative Review*, 59 FR 42806 (August 19, 1994).)

After calculating COP, we tested whether, as required by section 773(b) of the Act, the respondent's home market sales of subject merchandise were made at price below COP, over an extended period of time in substantial quantities, and whether such sales were made at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. On a model-specific basis, we compared monthly COPs to the reported home market prices. To satisfy the requirement of section 773(b)(1) of the Act that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. If over 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." If between ten and 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we disregarded only the below-cost sales, provided sales of that product were also found to be made over an extended period of time. Where we found that more than 90 percent of the respondent's sales of a product were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales of that product, and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POR in which that product was sold. If a product was sold in three or more months of the POR, we did not exclude below-cost sales unless there were below-cost sales in at least three months during the POR. When we found that sales of a product occurred in only one or two months, the number of months in which the sales occurred constituted the extended period of time, *i.e.*, where sales of a product were made in only two months, the extended period of time was two months; where sales of a product were made in only one month, the extended period of time was one month. See *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom*, 60 FR 10558, 10560 (February 27, 1995).

For CBCC, Minasligas, Eletrosilex, and CCM, we found that, for certain models, between 10 and 90 percent of home market sales were made at below-COP prices. Since CBCC, Minasligas, Eletrosilex, and CCM provided no indication that these sales were at prices that would permit recovery of all costs within a reasonable period of time and in the normal course of trade, we disregarded the below-cost sales of those models, if those sales were made over an extended period of time. *See* 19 CFR § 353.50.

Other than where we used BIA for CBCC, we based FMV for CBCC on constructed value (CV). In accordance with section 773(e) of the Tariff Act, it consisted of the sum of the cost of manufacture (COM) of silicom metal, home market SG&A expenses, home market profit, and the cost of export packing. The COM of silicon metal is the sum of direct material, direct labor, and variable and fixed overhead expenses. For home market SG&A expenses, we used the larger of the actual SG&A expenses reported by CBCC or 10 percent of the COM, the statutory minimum for general expenses. For home market profit we used the larger of the actual profit reported by CBCC, or the statutory minimum of eight percent of the sum of COM and SG&A expenses. *See* section 773(e)(1)(B) of the Tariff Act. We also made adjustments, where applicable, for differences between direct selling expenses incurred in the home market and the U.S. market. These direct selling expenses consisted of credit and warehousing. Finally, we made a circumstance-of-sale inflation adjustment as we did in the final results of the second administrative review of this proceeding, published concurrently with this notice.

We based FMV for Minasligas, Eletrosilex, and CCM on prices to unrelated purchasers in the home market. We calculated a monthly, weighted-average price. Where applicable, we made adjustments for post-sale inland freight. We also made adjustments, where applicable, for differences between home market and U.S. expenses for packing, credit, and warehousing.

No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period July 1, 1993, through June 30, 1994:

Manufacturer/exporter	Margin (percent)
CBCC	57.32
Minasligas	0.00
Eletrosilex	0.00
RIMA	[1]31.60
CCM	9.29

[1] No shipments during the POR; rate is from last review in which there were shipments.

Interested parties may request a disclosure within 5 days of publication of this notice and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement

instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 91.06 percent, the "all others" rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 353.22.

Dated: August 27, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–22680 Filed 9–4–96; 8:45 am]

BILLING CODE 3510-DS-M

[A–351–806]

Silicon Metal from Brazil; Preliminary Results of Antidumping Administrative Review; Intent Not To Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of the antidumping duty administrative review; intent not to revoke in part.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on silicon metal from Brazil in response to requests by respondents Eletrosilex Belo Horizonte (Eletrosilex), Companhia Ferroligas Minas Gerais—Minasligas (Minasligas), Companhia Brasileira Carbureto de Cálcio (CBCC), and RIMA Industrial S/A (RIMA). We also received a request for a review of the same four companies and Camargo Corrêa Metais (CCM) from a group of four domestic producers of silicon metal (the petitioners). The four domestic producers are American Silicon Technologies, Elkem Metals Company, Globe Metallurgical, Inc., and SKW Metals & Alloys, Inc. This review covers sales of this merchandise during the period July 1, 1994, through June 30, 1995.

We do not intend to revoke the order with respect to RIMA, CBCC, or Minasligas. RIMA and CBCC submitted requests for revocation, but in the final results of our most recently completed administrative review of this order they both had margins that were greater than *de minimis*. As a result, they have not had three consecutive years with zero or *de minimis* dumping margins, and therefore do not qualify for revocation. Minasligas also submitted a request for revocation. We do not intend to revoke the order with respect to this company at the completion of this administrative review because at this time we intend to revoke the order with respect to this company at the completion of the third administrative review, covering the period immediately preceding the period covered by this administrative review.

We have preliminarily determined that sales have been made below normal value (NV). Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Fred Baker or John Kugelman, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2924.

SUPPLEMENTARY INFORMATION

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

The Department published in the **Federal Register** the antidumping duty order on silicon metal from Brazil on July 31, 1991 (56 FR 36135). On July 3, 1995, we published in the **Federal Register** (60 FR 34511) a notice of opportunity to request an administrative review of the antidumping duty order on silicon metal from Brazil covering the period July 1, 1994, through June 30, 1995.

In accordance with 19 CFR 353.22(a)(1), Eletrosilex, Minasligas, CBCC, and RIMA requested that we conduct an administrative review of their sales. Petitioners requested that we conduct an administrative review of the sales of Eletrosilex, Minasligas, CBCC, RIMA, and CCM. We published a notice of initiation of this antidumping duty administrative review on August 16, 1995 (60 FR 42500). On April 25, 1996, the Department published in the **Federal Register** its notice extending the deadline in this review (61 FR 18375). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains more aluminum than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. HTS item

numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of product coverage.

The review period is July 1, 1994, through June 30, 1995. This review involves four manufacturers/exporters of Brazilian silicon metal.

Use of Facts Available

As explained in the preliminary results of the third administrative review (covering the period July 1, 1993 through June 30, 1994), none of the RIMA's sales made during the third period of review (POR) entered U.S. customs territory during the third POR. Therefore, we treated RIMA as a non-shipper for the third administrative review. In these preliminary results of the fourth POR (covering the period July 1, 1994 through June 30, 1995), we included all of RIMA's sales made during the third POR that entered U.S. customs territory during the fourth POR. We also included in these preliminary results of review all of RIMA's U.S. sales during the fourth POR for which RIMA's U.S. customers made at least one import of silicon metal manufactured by RIMA. This policy is consistent with that outlined in the Department's response to comment 1 of the final results of the second administrative review.

For these reasons, because some of RIMA's sales included in this review were made during the prior POR, we conducted two separate verifications of RIMA. The first of these verifications covered RIMA's sales made during the third POR; the second covered RIMA's sales made during the fourth POR. We found that at RIMA's third review verification, RIMA was unable to substantiate significant portions of its responses.

Section 776(a) of the Act requires that the Department use the facts otherwise available when necessary information is not on the record or an interested party withholds requested information, fails to provide such information in a timely manner, significantly impedes a proceeding, or provides information that cannot be verified. In addition, section 776(b) permits the Department to use "adverse inferences" in determining facts available where a party does not cooperate to the best of its ability. In this case, as explained above, we determined at RIMA's verification covering sales from the third POR that RIMA could not substantiate significant portions of its response. (*See* Use of Facts Available Memorandum to Joseph Spetrini, Deputy Assistant Secretary, Enforcement Group III.) For this reason, we have resorted to the facts otherwise available pursuant to section 776(2). However, the sales during the third POR were comparatively few in number. Therefore, we are not using total facts available. We do find, however, that RIMA did not cooperate to the best of its ability with respect to the third review sales. Therefore, we have determined to apply "adverse inferences" pursuant to section 776(b) for RIMA's third review sales.

Section 776(b) of the Act authorizes the Department to use as facts otherwise available information derived from the petitioner, the final determination, a previous administrative review, or other information placed on the record. The rate we have assigned to RIMA for its third review sales is 91.06 percent, which is the highest rate ever assigned to RIMA in any previous review. The rate we have calculated for RIMA for this review reflects the weighted-average rate for those sales for which we did not apply facts available (its fourth review sales and those sales for which we did apply facts available (its third review sales).

Because the facts available information which we used in this review constitutes secondary information, we are required under section 776(c) of the Act to corroborate, to the extent practicable, the facts available from independent sources reasonably at our disposal. The Statement of Administrative Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.

To corroborate secondary information, the Department will, to the extend practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department relies upon a calculated dumping margin from a prior segment of the proceeding as facts available, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as facts available, the Department will disregard the margin and determine an appropriate margin (see *e.g., Fresh-Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review* (61 FR 6812, February 22, 1996), where the Department disregarded the highest margin in that case as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this case, for those sales for which we have used facts available we have used the highest rate ever calculated for RIMA in a previous review because there is not evidence on the record indicating that it is not appropriate as facts available.

United States Price

In calculating United States Price (USP) we used export price (EP), as defined in section 772(b) of the Act, because the subject merchandise was first sold to unrelated purchasers prior to the date of importation into the United States.

We based EP on the packed, F.O.B., C.I.F., or C&F price to the first unrelated purchaser in the United States, or to unrelated trading companies who export to the United States. We made deductions from USP, where appropriate, for foreign inland freight, international freight, marine insurance, weighing and sampling charges, and brokerage and handling. We made an addition to USP, where appropriate, for duty drawback. These adjustments were made in accordance with section 772(d)(2) of the Tariff Act. We also adjusted USP for taxes in accordance with our practice as outlined in the "Consumption Tax" section of the final results of the second administrative review of this proceeding, published concurrently with this notice.

No other adjustments were claimed or allowed.

Cost of Production Analysis

In prior segments of this proceeding, we disregarded home market sales found to be below the cost of production (COP). Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department has reasonable grounds to believe or suspect that sales below the COP may have occurred during the review period. Thus, pursuant to section 773(b) of the Act, in this review we initiated a COP investigation of all five respondents.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication employed in producing the foreign like product, plus amounts for home market selling, general and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act. We

relied on the home market sales and COP information provided by each respondent in its questionnaire responses.

On July 17 and 18, 1996, the petitioners filed comments about the appropriateness of using historical costs, rather than replacement costs, for two of the respondents. Although we received these comments too late in the review to consider them for these preliminary results, we intend to request information from the two respondents that will better enable us to evaluate the petitioners' argument. We will then consider using replacement costs for the final results of this review.

In determining whether to disregard home market sales made at prices below the COP, we examined (1) whether, within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted recovery of all costs within a reasonable period of time in the normal course of trade. We compared model-specific COP to the reported home market price less any applicable movement charges.

Pursuant to section 773(b) (2) (C) of the Act, where less than 20 percent of the respondents' home market sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time "in substantial quantities." Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because we determined that the below-cost sales were made within an extended period of time in "substantial quantities," in accordance with section 773(b) (2) (B) of the Act), and because we determined that the below-cost home market sales of a given product were at prices which would not permit recovery of all costs within a reasonable period of time (in accordance with section 773(b) (2) (D) of the Act).

We found that, for certain models of silicon metal, more than 20 percent of the home market sales were at below-cost prices within the period of review and that such sales were in substantial quantities, and that sales of these models were at prices which would not premit recovery of all costs within a reasonable period of time. As a result, we excluded these below-cost sales and used the remaining above-cost sales as the basis of determining normal value if such sales existed, in accordance with section 773(b) (1) of the Act.

Normal Value (NV)

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared such of the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) (1) (C) of the Act. Because each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV for all respondents.

We compared the EPs of individual transactions, pursuant to section 777A(d) (2) of the Act, to the monthly weighted-average price of sales of the foreign like product. In such cases we based NV on packed, ex-factory or delivered prices to unaffiliated purchasers in the home market. Where applicable, we made adjustments to home market price for inland freight, early payment discounts, and interest revenue. To adjust for differences in circumstances of sale between the home market and the United States, we reduced home market price by an amount for home market credit and packing expenses, and increased it by U.S. packing costs and U.S. credit expenses. We increased NV, where appropriate, for bank charges and warehousing expenses incurred on U.S. sales. We decreased NV, where appropriate, by the amount of commissions paid in the home market, but limited this amount to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR § 353.56(b) (1).

Non-Shippers

CCM stated that it did not have shipments during the POR, and we confirmed this information with the U.S. Customs Service. Therefore, we are treating CCM as a non-shipper for this review, and are rescinding this review with respect to this company. *See Sulfanilic Acid from the People's Republic of China; Preliminary Results and Partial Rescission of Antidumping Administrative Review*, 61 FR 29073, 29077 (June 7, 1996). The cash deposit rate for CCM will continue to be the rate established for CCM in the LTFV determination, which is the last segment of this proceeding in which the Department analyzed CCM's sales.

Preliminary Results of Review

As a result of our comparison of EP and NV, we preliminarily determine that the following weighted-average dumping margins exist for the period July 1, 1994 through June 30, 1995:

Manufacturer/exporter	Margin (percent)
CBCC	7.54
Minasligas	2.12
Eletrosilex	9.95
RIMA	3.67
CCM	[1] 93.2

[1] No shipments during the POR; margin taken from the last completed segment in which there were shipments.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit argument are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 91.06 percent, the all others rate

established in the LTFV investigation (56 FR 36135, July 31, 1991).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act.

Dated: August 27, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–22681 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–DS–M

Carnegie Institution of Washington, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 96–021. *Applicant:* Carnegie Institution of Washington, Washington, DC 20015. *Instrument:* Mass Spectrometer, Model IMS 6F. *Manufacturer:* CAMECA, France. *Intended Use:* See notice at 61 FR 25622, May 22, 1996. *Reasons:* The foreign instrument provides a mass spectrometer with spherical ion optics for imaging and analysis of trace elements and isotopes.

Docket Number: 96–049. *Applicant:* University of California at San Diego, La Jolla, CA 92093. *Instrument:* Mass Spectrometer, Model VG Sector 54. *Manufacturer:* VG Isotech, United Kingdom. *Intended Use:* See notice at 61 FR 30220, June 14, 1996. *Reasons:* The foreign instrument provides: (1) Seven Faraday collectors and an ion counting Daly detector, (2) thermal ionization of solid samples and (3) negative ion operation.

Docket Number: 96–055. *Applicant:* The Pennsylvania State University, University Park, PA 16802. *Instrument:* Mass Spectrometer, Model MAT 252. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 61 FR 30221, June 14, 1996. *Reasons:* The foreign instrument provides a multielement multicollector and an external precision of 0.15 per mil STP for gas samples as small as 100cc.

The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–22685 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–DS–P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 96–083. *Applicant:* The University of Texas at Austin, Purchasing Department, CRB 2.204, Austin, TX 78712. *Instrument:* Gas Composition Analyzer, Model Epison III. *Manufacturer:* Thomas Swan & Co., Ltd., United Kingdom. *Intended Use:* The instrument will be used to perform research into the growth of In-Al-Ga containing alloys of the compound semiconductors in the InAlGaAsPN systems using the metallorganic chemical vapor deposition process. The instrument will permit the direct measurement and control of the vapor-phase composition of organometallic sources in the gas stream entering the reactor chamber. In addition, the instrument will be used for educational purposes in the courses EE397C and EE697C Research Problems. *Application accepted by Commissioner of Customs:* July 30, 1996.

Docket Number: 96–084. *Applicant:* Mayo Foundation, 200 First Street SW, Rochester, MN 55905. *Instrument:* IR Mass Spectrometer with Gas Sampling Inlet, Model TracerMAT. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used to measure $^{13}CO_2$ in expired air samples collected in association with specific medical diagnostic tests. Such measurements are important for studies such as malabsorption, short bowel syndrome and the diagnosis of peptic ulcers. In addition, the instrument will be used to monitor $C^{18}O_2$ in total body water studies (total energy expenditure). *Application accepted by Commissioner of Customs:* August 2, 1996.

Docket Number: 96–085. *Applicant:* National Institutes of Health, Biomedical Engineering & Instrumentation Program, Building 13, Room 3N17, Bethesda, MD 20892. *Instrument:* Electron Microscope, Model CM 120. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used to relate the structure to the function of subcellular compartments and macromolecular assemblies in a number of biological systems. *The objectives include study of:* (a) Biosynthetic pathways in terminally-differentiated squamous epithelium, (b) slow axonal transport, (c) calcium regulation in dendrites of hippocampal neurons, (d) water regulation in protozoa and (e) virus assembly. The aim of all these projects is to understand factors that control the normal physiological states of cells and their diseased states. *Application accepted by Commissioner of Customs:* August 2, 1996.

Docket Number: 96–086. *Applicant:* The University of Tennessee, Knoxville, Department of Geological Sciences, Knoxville, TN 37996–1410. *Instrument:* IR Mass Spectrometer, Model DELTA^{plus}. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used to provide light stable isotope ratios of geological and biological materials for the following investigations: (1) Stable isotope studies of pedogenic (soil-formed) minerals, (2) evolution and diagenesis of carbonate rock successions, (3) process biogeochemical studies in the Arctic

marine environment, (4) oxygen, hydrogen and carbon isotopic composition as tracers in studies of hydrologic processes and (5) plant ecophysiological research. The instrument will also be used for educational purposes in the graduate course Geology 563: Stable Isotope Geology. *Application accepted by Commissioner of Customs:* August 2, 1996.

Docket Number: 96–087. *Applicant:* Cornell University, 212 Clark Hall, Ithaca, NY 14853. *Instrument:* Scanning Tunneling Microscope, Model JSTM–4500. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used to study device-quality semiconductor materials, including Si, GaAs, AlGaAs, InP, AlInAs, GaInP and possibly GaN. The objectives of the proposed experiments are to increase the understanding of the microscopic structure of grown semiconductor multilayers, including the electronic band structure and the effect of defects. An additional objective is to understand the effect of defects and doping centers on luminescence of the samples. *Application accepted by Commissioner of Customs:* August 9, 1996.

Docket Number: 96–088. *Applicant:* The University of Texas at Austin, Center for Materials Science and Engineering, ETC 9.104, MC 62201, Austin, TX 78712. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used to study the microstructures of metals, metal alloys, ceramics, polymers, minerals, and composites of these materials. It will also be used to study systems of materials used in electronic, opto-electronic, photonic and or magnetic applications. In the course of the investigations, the instrument will be used to measure particle/crystallite size and morphology, crystal structure, chemical composition and the number, type and extent of defects. In addition, the instrument will be used for educational purposes through training of graduate students, faculty and staff who carry out the actual research. *Application accepted by Commissioner of Customs:* August 14, 1996.

Docket Number: 96–089. Applicant: Northern Kentucky University, Department of Chemistry, NS 234, Highland Heights, KY 41099–1905. *Instrument:* Rapid Kinetics Apparatus, Model SFA–20. *Manufacturer:* Hi-Tech Ltd., United Kingdom. *Intended Use:* The instrument will be used in CHE 362L, Physical Chemistry Laboratory 2H, and CHE 363L, Physical Chemistry 3H laboratory courses involving experiments in thermodynamics, kinetics, transport properties, elementary quantum mechanics, and spectroscopy. *Application accepted by Commissioner of Customs:* August 15, 1996.

Docket Number: 96–090. *Applicant:* National Renewable Energy Laboratory, Division of Midwest Research Institute, 1617 Cole Boulevard, Golden, CO 80401–3393. *Instrument:* TOF Secondary Ion Mass Spectrometer. *Manufacturer:* ION-TOF GmbH, Germany. *Intended Use:* The instrument will be used in studies of photovoltaics, semiconductors, polymers, glasses, tissues, fibers and renewable energy materials to provide qualitative and quantitative distributions of elemental and molecular species as a function of mass, lateral position, and in some cases, depth. This information is fundamental to understanding the properties and operations of photovoltaic and other renewable energy materials and devices. *Application accepted by Commissioner of Customs:* August 15, 1996.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–22684 Filed 9–4–96; 8:45 am]

BILLING CODE 3410–DS–P

[C–357–004]

Certain Carbon Steel Wire Rod From Argentina: Intent To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of intent to terminate suspended investigation.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to terminate the countervailing duty suspended investigation on certain carbon steel wire rod from Argentina. Domestic interested parties who object to termination of this suspended investigation must submit their comments in writing not later than the last day of September 1996.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Jean Kemp, AD/CVD Enforcement, Group III, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

The Department may terminate a countervailing duty suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (19 CFR 355.25(d)(4)), we are notifying the public of our intent to revoke this countervailing duty suspended investigation, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with section 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to terminate this suspended investigation, and no interested party (as defined in section 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request an administrative review, we shall conclude that the countervailing duty suspended investigation is no longer of interest to interested parties and proceed with the termination. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request an administrative review, or a domestic interested party does object to the Department's intent to terminate pursuant to this notice, the Department will not terminate this suspended investigation.

Opportunity to Object

Not later than the last day of September 1996, domestic interested parties may object to the Department's intent to terminate this countervailing duty suspended investigation. Any submission objecting to the termination must contain the name and case number of the suspended investigation and a statement that explains how the objecting party qualifies as a domestic interested party under sections 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W. Washington, D.C. 20230. This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: August 29, 1996.

Roland L. MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 96–22686 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

Modernization Transition Committee (MTC); Meeting

ACTION: Notice of public meeting.

Time and Date: September 19, 1996 from 8:00 a.m. to 3:00 p.m.

Place: This meeting will take place at the National Climatic Data Center (NCDC), Federal Plaza, 151 Patton Avenue, Asheville, North Carolina.

Status: The meeting will be open to the public. On September 19, 1996, 10:30 a.m. to 11:00 a.m. will be set aside for oral comments or questions from the public. Approximately 50 seats will be available on a first-come first-served basis for the public. There will be an optional tour of the NCDC facility the afternoon of September 18, for MTC members.

Matters to be Considered: This meeting will cover: Consultation on 10 final Consolidation Certifications, update and consultation on Automation Criteria for Service Level "D" locations, and a presentation and consultation on Closure Criteria (including public comments received).

Contact Person for More Information: Mr. Nicholas Scheller, National Weather Service, Modernization Staff, 1324 East-West Highway, SSMC2, Silver Spring, Maryland 20910. Telephone: (301) 713–0454.

Dated: August 29, 1996.

Nicholas R. Scheller,

Manager, National Implementation Staff.

[FR Doc. 96–22669 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Romania

August 29, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: August 30, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6715. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased, variously, for carryover, carryforward and swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 4627, published on February 7, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 29, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 1, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on August 30, 1996, you are directed to adjust the limits for the following categories, as provided for in the recent bilateral agreement, as amended and extended, between the Governments of the United States and Romania:

Category	Adjusted twelve-month limit [1]
Sublevels in Group III	
433/434	10,466 dozen.
435	10,366 dozen.
442	11,782 dozen.
443	100,406 numbers.
444	47,332 numbers.
447/448	24,078 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–22616 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership; Defense Mapping Agency Performance Review Board

AGENCY: Defense Mapping Agency (DMA) Department of Defense (DoD).

ACTION: Notice of membership of the Defense Mapping Agency Performance Review Board (DMA PRB).

SUMMARY: This notice announces the appointment of the members of the DMA PRB. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The Board provides fair and impartial performance appraisals and makes recommendations regarding performance ratings and performance awards to the Director, DMA.

EFFECTIVE DATE: September 13, 1996.

FOR FURTHER INFORMATION CONTACT: B.R. Webster, Defense Mapping Agency, Office of Human Resources, 8613 Lee Highway, Fairfax, VA 22031–2137, telephone (703) 285–9151.

SUPPLEMENTARY INFORMATION: Per 5 U.S.C. 4314(c)(4), the following is a standing register of DMA executives appointed to the DMA PRB; specific PRB panels will be constituted from this standing register. Executives listed will serve a one-year renewable term, effective 13 September 1996.

ANCELL, A. Clay
Associate Director, Requirements and Operations

BELL, Paula J.
Assistant Director, Source Management Division Eastern Office

BOGNER, Cynthia K.

Comptroller
BOYD, Jimmy W.
Associate Director, Engineering and Maintenance Support Division
BUCK, Irvin P.
Associate Director, Customer Support Division
COGHLAN, Thomas K.
Director, Planning and Analysis
CRUMPTON, Darryl E.
Assistant Director, Data Generation Division Western Office
GUSTIN, Russell T.
Associate Director, Program Management Division
HENNIG, Thomas A.
Associate Director, Technology and Information
HOGAN, William N.
Director, Requirements and Policy Integration Directorate
IVERY, Barbara A.
Assistant Director, Source Management Division Western Office
JACKSON, Mikel F.
Assistant Director, Data Generation Division Eastern Office
JOHNSON, James E.
Associate Director, Support Staff
LENCZOWSKI, Roberta E.
Director, Acquisition and Technology Group
MADISON, Harold W.
Director, Installation and Management Group
MUNCY, Larry N.
Associate Director, Source Management Division
PHILLIPS, Earl W.
Director, Operations Group
SCHNEIER, Jan S.
Associate Director, Data Generation Division
SCHULT, Mark E.
Associate Director, Operations Support Division
SMALLING, Marvin E.
Director, Procurement
SMITH, Kathleen M.
Associate Director, Interoperability Division
SMITH, Lon M.
Associate Director, OG Support Staff
SMITH Robert N.
Associate Director, Customer Services Division
SMITH, W. Douglas
Deputy Director
SORVIK, John R.
Associate Director, International Operations Division
WALLACH, Steven P.
Assistant Director for Customer Support/Modeling and Simulation
WARD, Curtis B.
Associate Director, Customer Support Division

Dated: August 28, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–22529 Filed 9–4–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF SAB 1996 Fall General Board Meeting, USAF Scientific Advisory Board, will meet on 16–17 October 1996 at the Embassy Suites, Old Towne, Alexandria, VA from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to conduct an informative session of high-level briefings, SAB Activity updates, and to welcome new members and honor departing members.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–22659 Filed 9–4–96; 8:45 am]

BILLING CODE 3910–01–W

Department of the Navy

Notice of Availability of Supplemental Information Report for Realignment of Naval Air Station Miramar to Marine Corps Air Station, Miramar, CA

SUMMARY: DON has prepared a Supplemental Information Report (SIR) for realignment of Naval Air Station Miramar to Marine Corps Air Station, Miramar, California, which further explains matters presented in the Final Environmental Impact Statement (FEIS) and solicits public participation and written comment on the SIR. The comment period will close on October 7, 1996.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE SIR: Contact Lieutenant Colonel George Martin at (619) 537–6678. Written comments should be sent to Timarie Seneca (Code 09M1.TS), Southwest Division, Naval Facilities Engineering Command, 1220 Pacific Highway, San Diego, CA 92132–5190, and must be received by 4:00 PM, October 7, 1996.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality (CEQ) regulations implementing NEPA procedures (40 CFR 1500–1508), the Department of the Navy (DON) prepared and published a FEIS analyzing the impacts associated with the proposal to realign Naval Air Station (NAS) Miramar, in accordance with the Defense Base Closure and Realignment Act (BRAC) of 1990 (Public Law 101–510). This SIR has been prepared in response to comments received on the FEIS during the comment period, which began May 10, 1996 and ended June 10, 1996, and to address the Biological Opinion issued by the U. S. Fish and Wildlife Service. The Department of the Navy is committed to working with the communities who support its national defense mission by hosting its bases. That commitment includes protection of the environment. The Department of the Navy received over 200 additional comments expressing community concerns after publication of the FEIS. As a result, the Department of the Navy decided to publish this Supplemental Information Report to provide more information on the factors it is considering as part of the decision-making process and to provide a more thorough discussion of matters of concern to the community. Although use of a Supplemental Information Report to address comments on the FEIS is neither required by NEPA nor directed by CEQ Regulations, the Department of the Navy determined that such a document would serve as a vehicle for a more thorough discussion of matters over which there remains public concern. The Supplemental Information Report and the public comments it generates will also provide the decision maker with more detailed analysis for consideration in coming to a final decision, thereby furthering the purposes of NEPA. As the SIR does not present new circumstances or new information relevant to significant environmental impacts of the proposed action or alternatives, it is not intended as a supplement to the FEIS, as defined in section 1502.9(c) of the CEQ Regulations.

The majority of the information contained in this SIR is taken from reports, studies and analyses referenced in the FEIS, such as the Defense Base Closure and Realignment Act (BRAC), the BRAC Commission Reports for 1993 and 1995 and supporting analyses, and a biological opinion prepared by the U.S. Fish and Wildlife Service (USFWS). This SIR clarifies information concerning the alternatives analysis used in the FEIS, discusses issues raised in comments received on the FEIS that addressed specific environmental impacts, summarizes the USFWS Biological Opinion, and provides the public with the opportunity to review and comment on this information. It discusses the BRAC process, how that process led to the development of the purpose and need for the proposed

action, the bases for the criteria used to define the range of reasonable alternatives to be examined, the rationale for eliminating alternatives from detailed discussion, mitigation of noise impacts, and the biological opinion prepared by USFWS concerning endangered species. An outline of the issues addressed in this SIR is set out below .

Introduction

A. Effect of BRAC Recommendations

1. The Relationship Between the Proposed Action and the Purpose of the Defense Base Closure and Realignment Act (BRAC) of 1990 (Public Law 101–510).
2. Intent of BRAC.
3. Recommendations of the 1993 BRAC Commission.
4. Recommendations of the 1995 BRAC Commission.
5. Implications of the Purpose of BRAC on the Reasonableness of Alternatives.

B. Screening Potential Sites

1. Reasonableness of Alternative Sites.
2. Selection and Screening of Reasonable Sites.
a. Requirements of BRAC Recommendations.
b. Criteria for Selection and Screening.
(1) Operational Requirements.
(2) Infrastructure.
(3) Personnel Requirements.
c. Military Air Installations Initially Considered.
d. Application of the Criteria.
(1) MCAS Camp Pendleton.
(2) NAF El Centro.
(3) NAS North Island.
(4) March Air Reserve Base (ARB).
(5) NAS Miramar.
e. Summary of Comparative Costs, NAS Miramar and March ARB.
(1) Comparison of the Costs of Construction of Infrastructure.
(2) Comparison of Yearly Operating Costs.
(3) Cost of Construction and Operating for 20 Years.

C. Operations, Noise, and Safety Considerations

1. Operations at NAS Miramar.
a. Navy Operations at NAS Miramar.
(1) A History of Changing Operations.
(2) Aircraft Loading at NAS Miramar.
(3) Operational Tempo.
b. USMC Units Being Relocated to Miramar.
(1) Fixed-Wing Squadrons.
(2) Rotary-Wing Squadrons.
c. Existing F/A–18 Operations at Miramar.
d. Projected Operational Tempo at MCAS Miramar.
e. Analysis of Projected Operations.
f. Effect on Navy Operations at Miramar.
2. Noise Issues.
a. Noise Measurement.
b. Average Busy Day Versus Average Annual Day.
c. Mitigation of Aircraft Noise.
d. Continuing Community Involvement.
3. Safety Issues.
a. Combined Fixed- and Rotary-Wing Operations.
b. Interface with Class B Aircraft Operations and Local Airfields.
c. Community Involvement in Airspace Usage.
D. Other Environmental Issues at Miramar.
1. Endangered Species and Biological Resources.
a. Information in Biological Opinion and Multi-Species Habitat Management Plan.
b. Formal Consultation on Endangered Species.
c. Information in the Biological Opinion.
d. No Jeopardy Opinion.
e. Biological Opinion and Incidental Take Statement.
f. Reasonable and Prudent Measures.
g. Enhanced Mitigation Measures.
h. Additional Study of Effects of Noise on Gnatcatchers.
2. Wildlife Management.
3. Air Quality.
a. Concerns about Emissions Budgets.
b. Classification of Air Quality Regions for Non-Attainment.
c. Accuracy of Estimates Used in State Implementation Plans.
d. Accuracy of Data Used for Conformity Determination and Air Quality Analysis.
e. Conformity Analysis for NAS Miramar.
f. Differences Between Historical Emission Rates and Calculated Rates.
4. Traffic Congestion.
5. Ordnance Training Facility.
Where to Comment or Obtain Further Information.

Dated: August 30, 1996.

D. E. Koenig, Jr.

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–22639 Filed 9–4–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 4, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate

of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 29, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: New.
Title: Guidance on the Goals 2000 Amendments (Draft).
Frequency: One-time submission.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 30
Burden Hours: 3,000
Abstract: The Omnibus Consolidated Rescissions and Appropriations Act of 1996 amended portions of Titles II and III of the Goals 2000: Educate America Act. Included within those amendments is a provision which offers states an alternative to submitting their Goals 2000 plans in order to receive funding.

Office of Elementary and Secondary Education

Type of Review: New.
Title: Guidance on the Goals 2000 Amendments (Draft).
Frequency: Annually.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 56
Burden Hours: 5,600
Abstract: The Omnibus Consolidated Rescissions and Appropriations Act of 1996 amended portions of Titles II and III of the Goals 2000: Educate American Act. The guidance document which was created to clarify these amendments addresses the reporting requirements of states participating in Goals 2000.

[FR Doc. 96–22585 Filed 9–4–96; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for the Construction and Operation of an Accelerator for the Production of Tritium at the Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) for the Construction and Operation of an Accelerator for the Production of Tritium at the Savannah River Site pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 USC 4321 et seq.). DOE intends to select various options and a location on the Savannah River Site (SRS) for the construction and operation of an accelerator to produce tritium to support the nuclear weapons stockpile, as announced in the Record of Decision for the Tritium Supply and Recycling Environmental Impact Statement.

DOE has also decided to prepare an EIS for the Construction and Operation of a Tritium Extraction Facility at the SRS. That EIS is the subject of a separate Notice of Intent (NOI), but will have scoping meetings concurrent with the Accelerator Production of Tritium (APT) EIS scoping meetings.

DATES: Comments from the public and others will be accepted during the scoping period, which will continue until November 1, 1996. Written comments submitted by mail should be postmarked by that date to ensure consideration. DOE will consider comments mailed after that date to the extent practicable. DOE will conduct public scoping meetings to assist in defining the appropriate scope of the EIS and identifying significant environmental issues to be addressed. Meetings for the APT EIS will be held concurrently with those of the Operation of the Tritium Extraction Facility EIS, with separate workshops possible depending on attendance levels. Notices of the dates, times, and locations of the scoping meetings will be announced in the local media at least 15 days before the meetings.

ADDRESSES: Please direct written comments or suggestions on the scope of the EIS, requests to speak at the public scoping meetings, and questions concerning the project to: Mr. Andrew R. Grainger, U.S. Department of Energy, Savannah River Operations Office, P.O. Box 5031, Aiken, SC 29804–5031; phone 1–800–242–8269; or E-mail: nepa@barms036.b-r.com. Mark envelopes: "Accelerator Production of Tritium EIS Comments"

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585; telephone 202–586–4600; or to leave a message at 1–800- 472–2756.

SUPPLEMENTARY INFORMATION: SRS is an 800 square kilometer (300 square mile) controlled access area located in southwestern South Carolina. The Site is approximately 25 miles southeast of Augusta, Georgia, and 20 miles south of Aiken, South Carolina. Since its establishment, the mission of SRS has been to produce nuclear materials that support the defense, research, and medical programs of the United States.

With the end of the Cold War and the reduction in the size of the U.S. nuclear weapons stockpile, there is no longer a requirement to produce new nuclear materials for defense purposes with the exception of tritium. As a result, activities at SRS have shifted from nuclear material production to cleanup and environmental restoration. All production reactors are permanently shut down. However, a new source of tritium is needed to support the nuclear weapons stockpile well into the twenty-first century. Tritium has a relatively short half life (12.3 years) and therefore must be periodically replenished in each weapon in the stockpile.

The Department evaluated the programmatic need for a new tritium source in a Programmatic Environmental Impact Statement (PEIS) for Tritium Supply and Recycling (DOE/EIS–0161, October 1995). Based on the findings in the PEIS and other technical, cost, and schedule evaluations, the Department issued a Record of Decision (ROD) on December 5, 1995 (60 FR 63877, December 12, 1995). In the ROD, the Department decided to pursue a dual-track approach on the two most promising tritium supply alternatives: (1) To initiate purchase of an existing commercial reactor (operating or partially complete) for conversion to a defense facility, or purchase of irradiation services with an option to purchase the reactor; and (2) to design, build, and test critical components of an accelerator system for tritium production. Within a three-year period, the Department would select one of these approaches to serve as the primary source of tritium. The other alternative, if feasible, would continue to be developed as a backup tritium source. SRS was selected as the location for an accelerator, should one be built. Under the ROD, the tritium recycling facilities at SRS would be upgraded and consolidated, and a tritium extraction facility would be constructed at SRS to support both of the dual-track options.

The Department's strategy for compliance with NEPA has been, first, to make decisions on programmatic alternatives as described and evaluated in the Tritium Supply and Recycling PEIS. This evaluation was intended to

be followed by site-specific analyses to implement the selected programmatic decisions. The decisions made in the December 5, 1995, ROD have resulted in the Department proposing to prepare the following NEPA documents:

1. An EIS for the Selection of One or More Commercial Light Water Reactors for Tritium Production
2. An EIS for the Construction and Operation of an Accelerator for the Production of Tritium at the Savannah River Site
3. An Environmental Assessment for the Tritium Facility Modnerzation and Consolidation at the Savannah River Site
4. An EIS for the Construction and Operation of a Tritium Extraction Facility at the Savannah River Site

The EIS that is the subject of this NOI is the second of the proposed NEPA documents listed above. The preparation of the EIS for Construction and Operation of the Accelerator for Production of Tritium supports the planning within the Department for a long-term supply of tritium. However, the Department has not yet decided to actually build the accelerator. As noted in the Record of Decision for the Tritium Supply and Recycling PEIS, about three years of feasibility demonstration research are needed before the Department will decide whether the accelerator would be the lead (or backup) technology for tritium production.

Accelerator Production of Tritium: Production of tritium in an accelerator would occur through the following process: Protons are produced in an injector by ionizing hydrogen atoms to form a proton beam. The proton beam is initially accelerated by a series of radio-frequency magnetic sectors to increase the proton beam to its final speed of approximately 90% the speed of light. In each of these sections, electrical energy is converted to microwave energy by klystrons (a vacuum tube that converts electrical power into high power microwaves). The proton beam is then expanded to distribute the protons evenly across the face of a tungsten target. The proton beam strikes the target, producing neutrons by a process called spallation. Additional neutrons are produced and then slowed in a blanket assembly composed of lead and water which surrounds the target. The blanket also contains pipes with either helium-3 gas or solid lithium-6 aluminum alloy targets that capture the neutrons to produce tritium. The tritium is extracted continuously from the helium-3 in a co-located tritium separation facility. The lithium-6 aluminum alloy targets must be periodically removed and shipped to a nearby Tritium Extraction Facility for batch removal of the tritium. The accelerator will be designed with the capacity to produce up to 3 kilograms of tritium per year.

The construction and operation impacts of the alternatives will be examined in this EIS. The alternatives to be considered are combinations of site location and technology options:

1. Site location options: An initial evaluation of the entire SRS was made using four categories of disqualifying conditions: ecology, human health, geology/hydrology, and engineering. This evaluation identified those parts of the site where an APT could not be sited. A footprint 2000 meters long and 500 meters wide (247 acres) was used to identify potential locations. This size was considered conservative and bounding. Once disqualified locations were identified, a second set of screening criteria was used on the remaining candidates to evaluate the suitability of each particular site, based on impact to twenty-one factors: (1) Terrestrial ecology; (2) Aquatic ecology; (3) Wetland ecology; (4) Distance to population centers; (5) Distance to SRS boundary; (6) Impact of incidents at existing facilities on APT; (7) Ability of groundwater to supply 6000 gpm (0.38 m^3 /sec); (8) Depth to groundwater; (9) Stability of subsurface conditions; (10) Thermal capacity of soil; (11) Distance to the tritium loading facility; (12) Distance to rail lines; (13) Archaeology; (14) Distance to acceptable road; (15) Terrain; (16) Foundation conditions; (17) Distance to NPDES discharge point; (18) Distance to site utilities; (19) Distance to Centralized Sewage Treatment Plant tie-in; (20) Disruption to site infrastructure; and (21) Presence of existing waste site. Based on this evaluation scores were calculated and the potential sites ranked, as described below:

Proposed Action: A site located 3 miles northeast of the Tritium Loading Facility (TLF), formerly known as the Replacement Tritium Facility (RTF) (Building 233–H in H-Area); ALTERNATIVE: a site located 2 miles northwest of the TLF. OTHER ALTERNATIVES, which were dismissed from detailed analysis, included eight potential locations; these were screened out in a siting study based on the 21 factors listed above.

2. Cooling water system options: PROPOSED ACTION: Mechanical draft cooling towers with river water makeup. ALTERNATIVES: once-through cooling using river water; mechanical draft cooling towers with groundwater makeup; and use of the K-Reactor cooling tower with river water makeup.

A study performed at SRS evaluated these four choices for cooling. In some cases, parts of the existing River Water System would be used. As described in the Notice of Intent to Prepare an Environmental Impact Statement for Shutdown of the River Water System (61 FR 29744), some portions of the River Water System could be placed in a higher state of readiness than in "layup" condition, and could be restarted in a relatively short period of time. The use of river water makeup to mechanical draft cooling towers was used as the base case for comparison and is the proposed cooling mechanism. Under this alternative, major portions of the existing River Water System would be upgraded or replaced with modern components. Approximately 6000 gpm (0.38 m^3/sec) of makeup water would be supplied to the cooling water system to make up for losses due to blowdown and evaporation. Blowdown would be directed to Par Pond.

With the second alternative, once-through cooling, approximately 125,000 gpm (7.88 m^3/sec) of river water would flow through heat exchangers and discharge to Par Pond. The third cooling water alternative would use 6000 gpm (0.38 m^3/sec) of groundwater makeup to the cooling water system to make up for losses due to blowdown and evaporation. This alternative would also use mechanical draft cooling towers. Blowdown would be directed to Par Pond. The fourth cooling water alternative would involve the existing K- Reactor natural draft cooling tower. Approximately 125,000 gpm (7.88 m^3/sec) of cooling water would circulate from heat exchangers at the APT to the cooling tower. This alternative would need 6000 gpm (0.38 m^3/sec) of river water makeup. Blowdown would be directed to Pen Branch, which flows into the Savannah River.

Two cooling water alternatives were eliminated in the study. The first was to use Par Pond as a source of once-through cooling water for the APT. This alternative was eliminated based on cost and technical uncertainty, due to the conditions of the components in the Par Pond pump house. The second alternative dismissed was to construct a new cooling pond to dissipate heat. Preliminary estimates of the size of pond necessary to dissipate the heat indicated the need for a very large pond, which would present permitting and environmental issues greater than those under other alternatives.

3. Accelerator technology: PROPOSED ACTION: room temperature. ALTERNATIVE: superconducting.

A room temperature accelerator has a higher demand for electricity when compared to a superconducting accelerator. In an accelerator, large currents are set up inside metal cavities, which in turn create the electric fields that accelerate the proton beam. Energy losses occur as a result of the internal resistance of the cavity material. In a room temperature accelerator, these energy losses are significant. In a superconducting accelerator, the cavities are cooled to the point that resistance is negligible, thus minimizing the energy loss. A room temperature accelerator by definition requires no special temperature for operation, but a superconducting APT would require the construction and operation of a cryogenic plant in the APT complex.

4. Target physics: PROPOSED ACTION: Blanket type: Helium-3. ALTERNATIVE: Lithium-6 Aluminum alloy blanket.

The proposed blanket utilizes helium-3. Through neutron capture, the helium-3 is converted to tritium, which can be extracted continuously in the co-located tritium separations facility. The lithium-6 aluminum alloy blanket through neutron capture converts lithium to tritium and helium-4. The lithium-6 aluminum alloy is a metal, which must be removed and the tritium extracted in a batch process. This extraction would take place in the Tritium Extraction Facility (TEF). The impacts of extraction will be discussed in the separate EIS being prepared for the TEF.

5. Accelerator Power Source: **PROPOSED ACTION:** Radio frequency (RF) power tube (klystron). **ALTERNATIVE:** Inductive-Output Tube (IOT).

A klystron is an evacuated electron-beam tube that is used as an oscillator/amplifier in ultrahigh frequency circuits like television transmitters and radar equipment. In the APT, klystrons are used as RF power amplifiers to convert electric power to amplified RF (microwave) power which in turn accelerates the protons. An IOT is an RF amplifier currently under development. Its different design results in an improved efficiency and lower electrical power requirements.

6. Electric power supply: **PROPOSED ACTION:** Existing sources. **ALTERNATIVE:** a new power plant.

Because of the APT's power requirements (up to approximately 550 megawatts), the options for availability and reliability of the electric power supply to the accelerator will be analyzed. The purchase of power from South Carolina Electric and Gas (SCE&G) is the proposed option. This option includes system upgrades, capacitor bank or an additional 230 KV transmission line and a storage device, and use of an open access strategy. A second option is the generation of 550 megawatts from a generic new fossil fuel generating plant at an unknown location. This option would require a subsequent environmental analysis to meet the requirements of the National Environmental Policy Act, if it is selected.

Proposed Action

DOE proposes to design a room temperature APT which is cooled using mechanical draft cooling towers with river water to make up for losses. Klystrons would supply the RF power, and helium-3 would capture neutrons. The APT would be located at the proposed site (see above) and would use existing sources of electricity.

Alternatives to the Proposed Action

One alternative to the proposed action is not to select a technology or site. This is the No Action alternative required by the Council on Environmental Quality regulations. Under this alternative, the stockpile demands for tritium would have to be met through other means, such as the existing commercial reactor discussed above.

Other alternatives to the proposed action consist of any combination of the above APT technologies and two sites. Because of the large number of combinations, DOE will not explicitly describe the impacts of each possible combination. However, the EIS will describe the individual impacts of each option, and allow the reader to combine effects from any desired combination. In addition, DOE will identify the combination that has the most impact on the environment, thus providing a bounding case for comparison.

Identification of Environmental and Other Issues

The Department has identified the following issues for analysis for proposed and alternative actions in the EIS. Additional issues may be identified as a result of the scoping process.

1. Public and Worker Safety, Health Risk Assessment: Radiological and nonradiological impacts including projected effects on workers and the public from construction, operation and accident conditions.

2. Impacts from releases to air, water, and soil.

3. Impacts to plants, animals, and habitat, including impacts to wetlands, and threatened or endangered species and their habitat.

4. The consumption of natural resources and energy including water and natural gas.

5. Socioeconomic impacts to affected communities from construction and operation on labor forces and project purchases in the SRS area.

6. Environmental justice: Disproportionately high and adverse human health or environmental effects on minority and low-income populations.

7. Impacts to cultural resources such as historic, archaeological, scientific, or culturally important sites.

8. Compliance with all applicable Federal, state, and local statutes and regulations; required Federal and state environmental consultations and notifications; and DOE Orders on waste management, waste minimization initiatives, and environmental protection.

9. Cumulative impacts from the proposed action and other past, present, and reasonably foreseeable actions at the SRS.

10. Potential irreversible and irretrievable commitments of resources.

11. Pollution prevention and waste management practices, including waste characterization, storage, treatment and disposal.

Public Scoping Process: DOE will conduct public scoping meetings to assist in defining the appropriate scope of the EIS and to identify significant environmental issues to be addressed. Because another EIS for a separate tritium-related activity at SRS is commencing simultaneously (the TEF; see the notice in today's **Federal Register**), the public scoping meetings for the APT will be held concurrently with the public scoping meetings for the TEF EIS. DOE will begin each scoping meeting with an overview of tritium activities at SRS. Following the initial presentation, DOE will hold workshops on the APT and the TEF. These will either be separate workshops or a combined workshop depending on attendance levels. There will be two sessions at each meeting location. Copies of handouts from the meetings will be available to those unable to attend by writing Mr. Grainger at the address above, or by calling 1–800–242–8269.

Public notices on the dates, times, and locations of the scoping meetings will be announced in the local media at least 15 days before the meetings. DOE is committed to providing opportunities for the involvement of interested individuals and groups in this and other DOE planning activities.

The public, organizations, and agencies are invited to present oral and

written comments concerning (1) the scope of the EIS, (2) the issues the EIS should address, and (3) the alternatives the EIS should analyze. Please address written comments to Mr. Grainger at the address indicated above. These comments should be postmarked by November 1, 1996 to ensure full consideration.

Organizations and individuals wishing to participate in the public meeting can call 1–800–242–8269 between 8:30 AM and 5:00 PM Eastern Time, Monday through Friday, or submit their requests to Mr. Grainger at the address indicated above. DOE requests that anyone who wishes to speak at the scoping meeting preregister by contacting Mr. Grainger, either by phone or in writing. Preregistration should occur at least two days before the designated meeting. Persons who have not preregistered to speak may register at the meeting and will be called on to speak as time permits.

Related Documentation: Completed and ongoing environmental reviews both may affect the scope of this EIS. Background information is listed below on past, present, and future activities at the Savannah River Site.

Final Interim Management of Nuclear Materials Environmental Impact Statement, DOE/EIS–0220, 1995. This EIS contains information on DOE waste management activities which could be affected by APT waste streams.

Final Savannah River Site Waste Management, DOE/EIS–0217, 1995. This EIS contains information on SRS waste management activities which could be affected by APT waste streams.

Final Programmatic Environmental Impact Statement for Tritium Supply and Recycling, DOE/DOE–0161, 1995. This PEIS presents a programmatic environmental analysis of various ways to produce tritium, including commercial light water reactors, and the APT technology, including the location of an accelerator at SRS, if DOE decides to proceed with the APT.

Draft Programmatic Environmental Impact Statement for Stockpile Stewardship and Management, DOE/EIS–0236, February, 1996. The cumulative analysis of the PEIS includes the impacts at the Savannah River Site from the Tritium Supply and Recycling Programmatic EIS for the construction of an accelerator, an upgraded tritium recycling facility, and an extraction facility.

Environmental Assessment for the Natural Fluctuation of Water Level In Par Pond and Reduced Water Flow In Steel Creek Below L Lake at the Savannah River Site, DOE/EA–1070, 1995. This EA contains information on PAR Pond, which could receive cooling water blowdown from some of the cooling options examined for the APT.

Environmental Impact Statement for Shutdown of the River Water System, DOE/EIS–0268 (in preparation; see 61 FR 29744).

Environmental Impact Statement for the Construction and Operation of a Tritium Extraction Facility at the Savannah River Site, (see notice in today's **Federal Register**).

Environmental Assessment for the Tritium Facility Modernization and Consolidation, (anticipated). The environmental assessment is to include the impacts of modernizing and consolidating the existing tritium recycling facilities at the Savannah River Site.

This information is available in the following two DOE public reading rooms: DOE Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, phone 202–586–6020; and DOE Public Document Room, University of South Carolina, Aiken Campus, University Library, 2nd Floor, 171 University Parkway, Aiken, SC 29801, phone 803–648–6851.

Issued in Washington, D.C., this 29th day of August, 1996.

Peter N. Brush,

Principal Deputy Assistant Secretary, Environment, Safety, and Health.

[FR Doc. 96–22607 Filed 9–4–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Intent To Prepare an Environmental Impact Statement for Construction and Operation of a Tritium Extraction Facility at the Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) for construction and operation of a Tritium Extraction Facility (TEF) pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 USC 4321 et seq.). In the Record of Decision (ROD) for the Tritium Supply and Recycling Final Programmatic Environmental Impact Statement issued December 5, 1995, and published in the **Federal Register** on December 12, 1995 (60 FR 63878), DOE decided to construct and operate a Tritium Extraction Facility (TEF) at the Savannah River Site (SRS) as part of a dual track strategy to ensure a supply of tritium to support the continuing nuclear weapons stockpile of the United States. One of the strategy tracks is the Commercial Light Water Reactor (CLWR) alternative, and the other is an accelerator system for tritium production. The primary tritium source will be selected within three years of the ROD issuance. The TEF would be built at SRS, and would be capable of extracting tritium both from CLWR targets and from an alternate design for accelerator targets. (The primary accelerator design would use a different technology to extract tritium.) This site-specific EIS would analyze the environmental impacts of construction and operation of the proposed TEF.

DOE has also decided to prepare an EIS for Accelerator Production of Tritium (APT) at the SRS. That EIS will be the subject of a separate Notice of Intent (NOI), but will have scoping meetings concurrent with the TEF process.

DATES: The public scoping period will be open until November 1, 1996. Written comments submitted by mail should be postmarked by that date to ensure consideration. DOE will consider comments mailed after that date to the extent practicable. DOE will conduct public scoping meetings to assist in defining the appropriate scope of the EIS and identifying significant environmental issues to be addressed. Meetings for the TEF EIS and the APT EIS will be held concurrently, with separate workshops possible depending upon attendance levels. Notices of the dates, times, and locations of the scoping meetings will be announced in the local media at least 15 days before the meetings.

ADDRESSES: Please direct written comments or suggestions on the scope of the EIS, requests to speak at the public scoping meetings, and questions concerning the project to: Mr. Andrew R. Grainger, U.S. Department of Energy, Savannah River Operations Office, P.O. Box 5031, Aiken, S.C. 29804–5031, 1–800–242–8269, E-mail: nepa@barms036.b-r.com. Mark the envelopes: "Tritium Extraction Facility EIS Comments"

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0119, telephone 202–586–4600 or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The SRS is an 800 square kilometer (300 square mile) controlled access area located in

southwestern South Carolina. The Site is approximately 25 miles southeast of Augusta, Georgia, and 20 miles south of Aiken, South Carolina. Since its establishment, the mission of the SRS has been to produce nuclear materials that support the defense, research, and medical programs of the United States.

With the end of the Cold War and the reduction in the size of the U.S. nuclear weapons stockpile, there is no longer a requirement to produce new nuclear materials for defense purposes, with the exception of tritium. As a result, activities at SRS have shifted from nuclear material production to cleanup and environmental restoration. All production reactors are permanently shut down. However, a new source of tritium is needed to support the nuclear weapons stockpile well into the twenty-first century. Tritium has a relatively short half life (12.3 years) and therefore must be periodically replenished in each weapon in the stockpile.

The Department evaluated the programmatic need for a new tritium source in a Programmatic Environmental Impact Statement (PEIS) for Tritium Supply and Recycling (DOE/EIS–0161, October 1995). Based on the findings in the PEIS and other technical, cost, and schedule evaluations, the Department issued a Record of Decision (ROD) on December 5, 1995 (60 FR 63877, December 12, 1995). In the ROD, the Department decided to pursue a dual-track approach on the two most promising tritium supply alternatives: (1) To initiate purchase of an existing commercial reactor (operating or partially complete) for conversion to a defense facility, or purchase of irradiation services with an option to purchase the reactor; and (2) to design, build, and test critical components of an accelerator system for tritium production. Within a three-year period, the Department would select one of these approaches to serve as the primary source of tritium. The other alternative, if feasible, would continue to be developed as a backup tritium source. SRS was selected as the location for an accelerator, should one be built. Under the ROD, the tritium recycling facilities at SRS would be upgraded and consolidated and a tritium extraction facility would be constructed at SRS to support both of the dual-track options.

The Department's strategy for compliance with NEPA has been, first, to make decisions on programmatic alternatives as described and evaluated in the Tritium Supply and Recycling PEIS. This evaluation was intended to be followed by site-specific analyses to implement the selected programmatic decisions. The decisions made in the December 5, 1995 ROD have resulted in the Department proposing to prepare the following NEPA documents:

1. An EIS for the Selection of One or More Commercial Light Water Reactors for Tritium Production;
2. An EIS for the Construction and Operation of an Accelerator for the Production of Tritium at the Savannah River Site;
3. An Environmental Assessment for the Tritium Facility Modernization and Consolidation at the Savannah River Site; and
4. An EIS for the Construction and Operation of a Tritium Extraction Facility at the Savannah River Site.

The EIS proposed by this Notice of Intent is the fourth of the proposed NEPA documents listed above.

Proposed Action: The Department proposes to construct and operate a TEF at the SRS. The overall mission of the TEF would be to extract tritium gas from targets irradiated in a CLWR or an accelerator, and deliver weapons-quality tritium to the Tritium Loading Facility, also known as the Replacement Tritium Facility, Building 233–H, at the SRS. The TEF would also be capable of extracting tritium from the accelerator alternate target design (lithium-6 aluminum alloy), if required. (The primary design for the accelerator calls for use of helium-3 gas as a target material and for continuous removal of tritium in a tritium separation facility co-located with the accelerator.) The proposed action includes co-location of the TEF with Building 233–H, and the design of the TEF for an operating life of about 40 years. Under the proposed action, the TEF would share common plant support facilities with Building 233–H. Construction of the TEF would require 4 to 5 years. The TEF would be a hardened concrete industrial structure, partially below ground.

Alternatives to the Proposed Action: DOE has identified two preliminary alternatives to the proposed action. Comments on these alternatives, or identification and comment on other reasonable alternatives, are welcome.

The No Action alternative is not to build the proposed Tritium Extraction Facility. Under this alternative, the facility would not be constructed. At the SRS, tritium can be extracted from heavy water reactor targets in the Tritium Extraction, Concentration and Enrichment Facility (Building 232–H), but there are no facilities in operation to fabricate or irradiate heavy water reactor targets. Currently, the Tritium Extraction, Concentration and Enrichment Facility cannot extract tritium safely from light water reactor targets or the accelerator alternate targets (lithium-6 aluminum alloy) without process modifications, in sufficient quantities to meet stockpile demands. Therefore, under this alternative, the stockpile demands for tritium could not be met if the existing commercial reactor option is selected for tritium production, or if the alternative target is used in the accelerator.

The second alternative is to make substantial modifications to Building 232–H, the Tritium Extraction, Concentration and Enrichment Facility. This facility is currently in use for tritium extraction but would require modification to attain safety and environmental performance requirements for tritium extraction from light water irradiated targets. Under this alternative, this existing facility would be modified to receive and handle remotely the light water reactor or accelerator-irradiated targets; no new building would be constructed. Additionally, a new furnace would be needed to achieve the required extraction temperatures and comply with current environmental requirements.

Identification of Environmental and Other Issues: The Department has identified the following issues for analysis for proposed and alternative actions in the EIS. Additional issues may be identified as a result of the scoping process.

1. Public and Worker Safety, Health Risk Assessment: radiological and nonradiological impacts of the proposed action and alternatives, including projected effects on workers and the public from construction, normal operations, and accidents.
2. Impacts from releases to air, water, and soil.
3. Impacts to plants, animals, and habitat, including impacts to wetlands and threatened or endangered species and their habitat.
4. The consumption of natural resources and energy including water, natural gas, and electricity.
5. Socioeconomic impacts to affected communities from construction and operation labor forces and support services in the SRS area.
6. Environmental justice: disproportionately high and adverse human health or environmental effects on minority and low-income populations.
7. Impacts to resources such as historically, archaeologically, scientifically, or culturally important sites.
8. Compliance with all applicable Federal, state, and local statutes and regulations; required Federal and state

environmental consultations and notifications; and DOE Orders on waste management, waste minimization initiatives, and environmental protection.

9. Cumulative impacts from the proposed action and other past, present, and reasonably foreseeable actions at SRS.

10. Potential irreversible and irretrievable commitments of resources.

Public Scoping Process: DOE will conduct public scoping meetings to assist in defining the appropriate scope of the EIS and to identify significant environmental issues to be addressed. Because another EIS for a separate tritium-related activity at SRS is commencing simultaneously (the APT; see the notice in today's **Federal Register**), the public scoping meetings for the TEF will be held concurrently with the public scoping meetings for the APT EIS. DOE will begin each scoping meeting with an overview of tritium activities at SRS. Following the initial presentation, DOE will hold workshops on the APT and the TEF. These will either be separate workshops or a combined workshop depending on attendance levels. There will be two sessions at each meeting location. Copies of handouts from the meetings will be available to those unable to attend by writing Mr. Grainger at the address above, or by calling 1–800–242–8269.

Public notices of the dates, times, and locations of the scoping meetings will be announced in the local media at least 15 days before the meetings. DOE is committed to providing opportunities for the involvement of interested individuals and groups in this and other DOE planning activities.

The public, organizations, and agencies are invited to present oral and written comments concerning (1) the scope and issues of the EIS, and (2) the alternatives the EIS should analyze. Please address written comments to Mr. Grainger at the address indicated above.

Organizations and individuals wishing to participate in the public meeting can call 1–800–242–8269 between 8:30 AM and 5:00 PM. Eastern Standard Time, Monday through Friday, or submit their requests to Mr. Grainger at the address indicated above. DOE requests that anyone who wishes to speak at the scoping meeting preregister by contacting Mr. Grainger, either by phone or in writing. Preregistration should occur at least two days before the designated meeting. Persons who have not preregistered to speak may register at the meeting and will be called on to speak as time permits.

Related Documentation: Completed and ongoing environmental reviews and public comments and concerns may affect the scope of this EIS. Background information is listed below on past, present, and future activities at the SRS.

Final Programmatic Environmental Impact Statement for Tritium Supply and Recycling, DOE/EIS–0161, 1995. This PEIS presents a programmatic environmental analysis for selection of the CLWR option, as well as the analysis for the APT technology, both of which would require the TEF to support the lithium-6 aluminum alloy target alternative.

Final Interim Management of Nuclear Materials Environmental Impact Statement, DOE/EIS–0220, 1995. This EIS contains information on DOE waste management activities which could be affected by TEF waste streams.

Final Savannah River Site Waste Management, DOE/EIS–0217, 1995. The EIS contains information on SRS waste management activities which could be affected by TEF waste streams.

Draft Programmatic Environmental Impact Statement for Stockpile Stewardship and Management, DOE/EIS–0236, February, 1996. The cumulative analysis of this PEIS includes the impacts at the Savannah River Site from the Tritium Supply and Recycling Programmatic EIS for the construction of an accelerator, an upgraded tritium recycling facility, and an extraction facility.

Environmental Impact Statement for the Construction and Operation of an Accelerator for the Production of Tritium at the Savannah River Site (see notice in today's **Federal Register**).

Environmental Assessment for the Tritium Facility Modernization and Consolidation (anticipated). The environmental assessment is to include the impacts of modernizing and consolidating the existing tritium recycling facilities at the Savannah River Site.

This information is available in these DOE public reading rooms: DOE Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, phone 202–586–6020; and DOE Public Document Room, University of South Carolina, Aiken Campus, University Library, 2nd Floor, 171 University Parkway, Aiken, S.C. 29801, phone 803–648–6851.

Issued in Washington, D.C., this 29th day of August, 1996.

Peter N. Brush,

Principal Deputy Assistant Secretary, Environment, Safety and Health.

[FR Doc. 96–22608 Filed 9–4–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, September 10, 1996: 6:30 p.m.–9:30 p.m., 7:00 p.m. to 7:30 p.m. (public comment session).

ADDRESSES: Fr. Marcy Compound, Taoseno Room, 320 Artist Road, Santa Fe, New Mexico 87501, 505–988–3400.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Los Alamos National Laboratory Citizens' Advisory Board Support, Northern New Mexico Community College, 1002 Onate Street, Espanola, NM 87352, (800) 753–8970, or (505) 753–8970, or (505) 262–1800.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

Tuesday, September 10, 1996

6:30 PM	Call to Order and Welcome
7:00 PM	Public Comment
7:30 PM	Old Business
8:30 PM	Sub-Committee Reports
9:30 PM	Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Ann DuBois, at (800) 753–8970. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days in advance

of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on August 30, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22664 Filed 9–4–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES: Monday, September 23, 1996, 3:00 p.m.—9:00 p.m.; Tuesday, September 24, 1996, 8:30 a.m.—4:00 p.m.

ADDRESSES: The Holiday Inn, U.S. 21—Loveless Street, Beaufort, South Carolina.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–8074.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

Monday, September 23, 1996

3:00 p.m. Outreach Subcommittee Meeting
6:00 p.m. Public Comment Period (5-minute rule)
7:00 p.m. Subcommittee Meetings
9:00 p.m. Adjourn

Tuesday, July 23, 1996

8:30 a.m. Approval of Minutes, Agency Updates (~ 15 minutes)
Public Comment Session (5-minute rule)(~ 30 minutes)
Risk Management & Future Use Subcommittee Report (~ 1 hour)
Environmental Remediation & Waste Management Subcommittee Report (~ 1 hour and 15 minutes)
12:00 p.m. Lunch
1:00 p.m. Citizens for Nuclear Technology Awareness (~ 45 minutes)
Nuclear Materials Management Subcommittee (~ 1 hour)
Administrative Subcommittee Report (~ 30 minutes)
Budget Subcommittee Report (~ 15 minutes)
Outreach Subcommittee (~ 15 minutes)
4:00 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, September 23, 1996.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday—Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling him at (803)–725–8074.

Issued at Washington, DC on August 30, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22665 Filed 9–4–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering Laboratory (INEL).

DATES: Tuesday, September 17, 1996 from 8:00 a.m. to 6:00 p.m., Mountain Savings Time (MST); Wednesday, September 18, 1996 from 8:00 a.m. to 5:00 p.m. MST. There will be a public comment availability session on Tuesday, September 17, 1996 from 5:00 p.m. to 6:00 p.m. MST.

ADDRESSES: Holiday Inn Westbank, 475 River Parkway, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: Idaho National Engineering Laboratory Information 1–800–708–2680 or Marsha Hardy, Jason Associates Corporation Staff Support 1–208–522–1662.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The EM SSAB, INEL will meet to finalize recommendations regarding the Ten-Year Plan and Low-Level Waste. The Board will select the issues they wish to study for the next 6–12 months and select corresponding committees to head up those issues. They will also finalize meeting dates and locations for the next fiscal year. This agenda is subject to change as the Board meeting nears. For a most current copy of the agenda, contact Woody Russell, DOE-Idaho, (208) 526–0561, or Marsha Hardy, Jason Associates, (208) 522–1662. The final agenda will be available at the meeting.

Public Participation: The two-day meeting is open to the public, with a Public Comment Availability session scheduled for Tuesday, September 19, 1996 from 5:00 p.m. to 6:00 p.m. MST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Idaho National Engineering Laboratory Information line or Marsha Hardy, Jason Associates, at the

addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date due to programmatic issues that had to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays.

Issued at Washington, DC on August 30, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22666 Filed 9–4–96; 8:45 am]

BILLING CODE 6450–01–P

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting: Name: Secretary of Energy Advisory Board.

DATE AND TIME: Tuesday, September 10, 1996, 1:30 PM - 5:30 PM.

PLACE: Mound Facility Cafeteria, 1 Mound Road, Miamisburg, Ohio 45342.

FOR FURTHER INFORMATION CONTACT: David Cheney, Acting Executive Director, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7092.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Secretary of Energy Advisory Board (Board), comprised of distinguished members of the private sector, provides expert, independent advice, information and recommendations to the Secretary. Issues addressed by the Board include the Department's management reforms, basic and applied research and development activities, and other issues related to the Department's energy, science and technology, environmental quality and national security responsibilities.

Tentative Agenda

1:30 PM Opening Remarks & Status of Major Departmental Re-engineering Initiatives
2:30 PM Accelerated Clean-up of DOE Defense Sites
3:00 PM DOE's Privatization Initiative
3:30 PM Fissile Materials Disposition Panel Status
4:00 PM Openness Advisory Panel Activities
4:30 PM Laboratory Operations Board Update
5:00 PM Public Comment
5:30 PM Adjourn

A final agenda will be available at the meeting.

Public Participation: The Chairman of the Board is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Miamisburg, Ohio the Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to David Cheney, Acting Executive Director, Secretary of Energy Advisory Board, AB–1, 1000 Independence Avenue, SW, Washington, DC 20585.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays.

Issued at Washington, DC, on August 30, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22668 Filed 9–4–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the Fusion Energy Sciences Advisory Committee.

DATES: Tuesday, September 24, 1996, 9:00 a.m. to 5:00 p.m., and Wednesday, September 25, 1996, 9:00 a.m. to 5:00 p.m.

ADDRESSES: Gaithersburg Hilton Hotel, 620 Perry Parkway, Gaithersburg, Maryland 20877.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker III, Executive Assistant, Office of Fusion Energy Sciences, U.S. Department of Energy Germantown, MD 20874, Telephone: 301–903–4941.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To make recommendations to the Department of Energy on fiscal year 1997 program priorities in light of the available funds.

Tentative Agenda

Tuesday–Wednesday, September 24–25, 1996:

—Presentation by DOE on Conference Committee Results
—Discussion of Program Funding Priorities
—Public Comments
—Preparation of a Letter to DOE on FY 1997 Funding Priorities
—Presentation and Discussion of Additional Fusion Energy Sciences Advisory Committee Charges

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Albert Opdenaker at the address or telephone number listed above. Requests to make oral statements must be received 5 days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 30, 1996.

Rachel M. Samuel,

Acting Deputy Advisory, Committee Management Officer.

[FR Doc. 96–22667 Filed 9–4–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–199–001]

Egan Hub Partners, L.P.; Notice of Amendment

August 29, 1996.

Take notice that on August 27, 1996, Egan Hub Partners, L.P. (Egan Hub) 44084 Riverside Parkway, Suite 340, Leesburg, Virginia 20176, filed, in Docket No. CP96–199–001, an application pursuant to Section 7(c) of the Natural Gas Act to amend its application for a certificate of public convenience and necessity authorizing construction and operation of underground storage facilities in Acadia Parish, Louisiana previously filed with the Commission on February 16, 1996, in Docket No. CP96–199–000.

Egan Hub states that the purpose of the amendment is to revise Egan Hub's proposed FERC Gas Tariff to clarify the nature of services to be offered.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 5, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22564 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG96–17–000]

El Paso Natural Gas Co.; Notice of Filing

August 29, 1996.

Take notice that on August 21, 1996, El Paso Natural Gas Company (El Paso) filed revised standards of conduct under section 161.3 of the Commission's regulations, 18 CFR 161.3. El Paso states that it is updating its standards of conduct to reflect a name change, a corporate acquisition and a corporate relocation.

El Paso states that copies of this filing have been mailed to all interstate pipeline system transportation customers of El Paso and interested regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before September 13, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22566 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG96–16–000]

Mojave Pipeline Operating Co.; Notice of Filing

August 29, 1996.

Take notice that on August 19, 1996, Mojave Pipeline Operating Company (Mojave) filed standards of conduct under section 161.3 of the Commission's regulations, 18 CFR 161.3.

Mojave states that copies of this filing have been mailed to all interstate pipeline system transportation customers of Mojave and interested regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before September 13, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22565 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–718–000]

Northwest Pipeline Corporation; Notice of Request under Blanket Authorization

August 29, 1996.

Take notice that on August 15, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP96–718–000 a request pursuant to Section 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for permission and approval to abandon, its Columbia meter station in Klickitat County, Washington, since the power plant and associated pipeline to be served by the Columbia meter station were never constructed. Northwest makes such request, under it's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Northwest indicates that it constructed the Columbia meter station pursuant to prior notice approval in Docket No. CP92–571–000. Northwest states that the Columbia meter station was built to deliver natural gas to a new pipeline that was planned to be built by Columbia Power Associates, an affiliate of Columbia Aluminum Corporation, to serve a planned new power generating facility adjacent to existing plant facilities of Columbia Aluminum.

It is indicated that Golendale Aluminum Company (Goldendale) successor to Columbia Aluminum, does not object to Northwest's proposed abandonment. Northwest therefore, indicates that it proposes to remove the existing meter facilities and appurtenances, the meter building, all cement foundations and underground piping from the station site, but that the above ground tap valve extension will be retired in place.

Northwest further states that the estimated cost of removing the Columbia meter station is approximately $30,000, with an estimated salvage value of $133,954 for the materials to be returned to inventory.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If not protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22611 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–86–000]

Pacific Gas Transmission Company; Notice of Annual Charge Adjustment

August 29, 1996.

Take notice that on August 26, 1996, Pacific Gas Transmission Company (PGT) tendered for filing and acceptance Thirteenth Revised Sheet No. 4, Fifth Revised Sheet No. 4A, Thirteenth Revised Sheet No. 5, and Fourth Revised Sheet No. 6C to be included in its FERC Gas Tariff, First Revised Volume No. 1–A and Eleventh Revised Sheet No. 7 to be included in its FERC Gas Tariff, Second Revised Volume No. 1, to become effective October 1, 1996.

PGT asserts that the purpose of this filing is to reflect a modification to the Annual Charge Adjustment fee, in accordance with the Commission's most recent Annual Charge billing to PGT. PGT further states that a copy of this filing has been served upon all jurisdictional customers and upon interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22570 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–348–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

August 29, 1996.

Take notice that on August 26, 1996, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing, to be effective October 1, 1996.

Panhandle states that the purpose of this filing is to modify Panhandle's FERC Gas Tariff, First Revised Volume No. 1 to: (1) clarify Section 7.2 of the General Terms and Conditions to state the responsibilities of Panhandle and shippers and to establish time lines in connection with a shipper's exercise of its Right of First Refusal to continue a Long-Term Agreement for Firm Service; (2) establish a Primary Path priority for firm shippers by defining Primary Path in Section 1, modifying the scheduling provisions in Section 8.9 and revising the curtailment provisions in Section 9.3 of the General Terms and Conditions and to implement more fully the scheduling of gas based upon economic value; (3) add Section 12.16 to the General Terms and Conditions to provide for an overrun penalty for gas taken in excess of a shipper's Maximum Daily Contract Quantity (MDCQ); (4) add Section 12.17(a) to the General Terms and Conditions to provide for escalating daily scheduling charges during periods when Panhandle has declared an extreme condition; and (5) add Section 12.17(b) to the General Terms and Conditions to provide for escalating overrun penalties for unauthorized takes during periods when Panhandle has declared an extreme condition.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22569 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–931–009, et al.]

PowerNet Corporation, et al.; Electric Rate and Corporate Regulation Filings

August 28, 1996.

Take notice that the following filings have been made with the Commission:

1. PowerNet Corporation Prairie Winds Energy, Inc.

[Docket No. ER94–931–009; Docket No. ER95–1234–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On August 20, 1996, PowerNet Corporation filed certain information as required by the Commission's April 22, 1994, order in Docket No. ER94–931–000. On August 12, 1996, Prairie Winds Energy, Inc. filed certain information as required by the Commission's August 28, 1995, order in Docket No. ER95–1234–000.

2. Florida Power Corporation

[Docket Nos. ER96–85–000 and ER96–89–000]

Take notice that on August 12, 1996, Florida Power Corporation filed refund information pursuant to the Commission's order approving the Settlement Agreement issued June 28, 1996. Florida Power states that because the rates billed under the tariff were less than the settlement rates, no refunds were required. Further, in order to conserve Staff resources, Florida Power did not provide a formal report; but will make detailed information available on request.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Duke/Louis Dreyfus Energy Services (New England) L.L.C.

[Docket No. ER96–1121–001]

Take notice that on July 25, 1996, Duke/Louis Dreyfus Energy Services (New England) L.L.C. filed its revised code of conduct.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Company

[Docket No. ER96–2040–000]

Take notice that on August 16, 1996, New England Power Company tendered for filing an amendment to its June 3, 1996 filing in the above-referenced docket.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Energy2, Inc.

[Docket No. ER96–2361–000]

Take notice that on August 21, 1996, Energy2, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Northeast Energy Services, Inc.

[Docket No. ER96–2523–000]

Take notice that on August 19, 1996, Northeast Energy Services, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Hubbard Power & Light, Inc.

[Docket No. ER96–2583–000]

Take notice that on August 19, 1996, Hubbard Power & Light Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Company

[Docket No. ER96–2702–000]

Take notice that on July 31, 1996, Northeast Utilities Service Company (NUSCO) on behalf of the Northeast Utilities system operating companies (NU System Companies), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement for Network Integration Transmission Service between Designated Agent for the retail customers of PSNH who are participating in the New Hampshire Retail Competition Pilot Program initiated by the New Hampshire Public Utilities Commission.

NUSCO requests an effective date for the Service Agreement of July 9, 1996. NUSCO requests that the Commission waive the 60-day notice requirement in Section 205 of the Federal Power Act as necessary to permit the Service Agreement to be placed into effect on such date.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Public Service Corporation

[Docket No. ER96–2740–000]

Take notice that on August 19, 1996, Wisconsin Public Service Corporation, tendered for filing Supplement No. 1 with Consolidated Water Power Company under its CS–1 Coordination Sales Tariff, Service Agreement No. 3.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER96–2741–000]

Take notice that on August 19, 1996, Arizona Public Service Company (APS), tendered for filing the proposed Wholesale Power Agreement No. 1 between APS and the Idaho Power Company (IPC).

The agreement proposes that APS will sell to IPC, 100 MW of firm capacity and associated energy during the months of September, October, November, December, January, February and March, commencing on September 1, 1996 and ending March 31, 2001.

A copy of this filing has been served on IPC, the Idaho Public Service Commission and the Arizona Corporation Commission.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER96–2743–000]

Take notice that on August 19, 1996, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, revised sheets to PacifiCorp FERC Electric Tariff, Second Revised Volume No. 3 and Informational Rates Sheet for PacifiCorp FERC Electric Tariffs, Second Revised Volume No. 4 and Original Volume No. 6.

These tariff sheets were removed from PacifiCorp's compliance filing under Order No. 888 and are resubmitted in this filing at the request of the Commission's staff.

Copies of this filing were supplied to the Public Service Commission of Utah, Wyoming Public Service Commission, the Public Utility Commission of Oregon and PacifiCorp's wholesale requirements customers.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER96–2744–000]

Take notice that on August 19, 1996, Wisconsin Public Service Corporation, tendered for filing an executed service agreement with Morgan Stanley Capital Group, Inc. under its CS–1 Coordination Sales Tariff.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER96–2745–000]

Take notice that on August 19, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Rainbow Energy Marketing Corp. under Rate GSS.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Louisville Gas and Electric Company

[Docket No. ER96–2746–000]

Take notice that on August 19, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas and Electric Company

[Docket No. ER96–2747–000]

Take notice that on August 19, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Entergy Services, Inc. under Rate GSS.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas and Electric Company

[Docket No. ER96–2748–000]

Take notice that on August 19, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Vitol Gas & Electric L.L.C. under Rate GSS.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Interstate Power Company

[Docket No. ER96–2749–000]

Take notice that on August 19, 1996, Interstate Power Company, tendered for filing a Notice of Cancellation of its Municipal Electric Wholesale Agreement with the City of St. Charles filed with FERC under Original Volume No. 1.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Interstate Power Company

[Docket No. ER96–2750–000]

Take notice that on August 19, 1996, Interstate Power Company, tendered for filing a Notice of Cancellation of its Municipal Electric Wholesale Agreement with the City of Fredericksburg filed with FERC under Original Volume No. 1.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Florida Power & Light Company

[Docket No. ER96–2751–000]

Take notice that on August 19, 1996, Florida Power & Light Company (FPL), filed the Contract for Sales of Power and Energy by FPL to Virginia Electric & Power Company. FPL requests an effective date of August 21, 1996.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric

[Docket No. ER96–2752–000]

Take notice that on August 19, 1996, Louisville Gas and Electric Company (LG&E), tendered for filing a Service Agreement between LG&E and Engelhard Power Marketing, Inc. under Rate Schedule GSS—Generation Sales Service.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Interstate Power Company

[Docket No. ER96–2753–000]

Take notice that on August 19, 1996, Interstate Power Company, tendered for filing a Notice of Cancellation of its Municipal Electric Wholesale Agreement with the City of Rushford filed with FERC under Original Volume No. 1.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER96–2754–000]

Take notice that on August 19, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Tariff (the Tariff) entered into between Cinergy and PacifiCorp Power Marketing, Inc.

Cinergy and PacifiCorp Power Marketing, Inc. are requesting an effective date of August 15, 1996.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Wisconsin Public Service Corporation

[Docket No. ER96–2755–000]

Take notice that on August 19, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Morgan Stanley Capital Group Inc. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

WPSC asks that the agreement become effective on the date of execution by WPSC.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. UtiliCorp United Inc.

[Docket No. ER96–2756–000]

Take notice that on August 19, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with *VTEC Energy, Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to *VTEC Energy Inc.* pursuant to the tariff, and for the sale of capacity and energy by *VTEC Energy Inc.* to WestPlains Energy-Colorado pursuant to *VTEC Energy Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *VTEC Energy, Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Florida Power Corporation

[Docket No. ER96–2757–000]

Take notice that on August 19, 1996, Florida Power Corporation, tendered for filing a service agreement providing for service to Tennessee Valley Authority, pursuant to Florida Power's power sales tariff. Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on August 20, 1996.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Northern Indiana Public Service Company

[Docket No. ER96–2758–000]

Take notice that on August 19, 1996, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and Coral Power, L.L.C.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–399–000 and allowed to become effective by the Commission. *Northern Indiana Public Service Company*, 71 FERC ¶ 61,014 (1996). Northern Indiana Public Service Company has requested waiver of the Commission's Regulations to allow the Transmission Service Agreement to become effective as of September 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Commonwealth Edison Company

[Docket No. ER96–2759–000]

Take notice that on August 20, 1996, Commonwealth Edison Company (ComEd), submitted eight Service Agreements, variously dated, establishing Calpine Power Services Company (Calpine), Tennessee Power Company (TPCO), Minnesota Power Light (MP&L), Entergy Power Inc. (EPI), Entergy Power Marketing Corp. (EPMC), Southern Energy Marketing, Inc. (Southern), Illinova Power Marketing, Inc. (Illinova), and PanEnergy Power Services, Inc. (PanEnergy), as non-firm

customers under the terms of ComEd's Open Access Transmission Tariff (OATT). ComEd also submitted for filing an additional Service Agreement establishing Wisconsin Electric Power Company (WEPCO), dated July 26, 1996, as a firm customer under the terms of ComEd's OATT.

ComEd requests an effective date of July 21, 1996 for all seven Non-Firm Service Agreements and an effective date of July 16, 1996 for the Firm Service Agreement, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Calpine, TPCO, MP&L, EPI, EMPT, Illinova, PanEnergy, WEPCO and the Illinois Commerce Commission.

Comment date: September 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22610 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11478–000]

Central Vermont Public Service Corporation; Notice of Availability of Draft Environmental Assessment

August 29, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original license for the Silver Lake Hydroelectric Project, located in Addison County, Vermont, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing, unlicensed project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference and Files Maintenance Branch of the Commission's offices at 888 First Street, NE., Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix "Silver Lake Hydroelectric Project, No. 11478–000" to all comments. For further information, please contact Jim Haines at (202) 219–2780.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22568 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 1932–004, 1933–010, and 1934–010]

Southern California Edison Company; Notice of Intent to Prepare a Multiple Project Environmental Assessment and Conduct Public Scoping Meetings

August 29, 1996.

The Federal Energy Regulatory Commission (FERC) has received applications for new licenses (relicenses) for the existing Lytle Creek Project No. 1932, Santa Ana River 1 and 2 Project No. 1933, and Mill Creek 2/3 Project No. 1934. The Lytle Creek Project is located on Lytle Creek, the Santa Ana River 1 and 2 Project is located on the Santa Ana River, and the Mill Creek 2/3 Project is located on Mill Creek. All three projects are located in San Bernardino County, California.

The FERC staff intends to prepare a Multiple Project Environmental Assessment (EA) on the three hydroelectric projects in accordance with the National Environmental Policy Act.

The staff's EA will objectively consider both site specific and cumulative environmental impacts of the projects and reasonable alternatives, and will include an economic, financial and engineering analysis.

A draft EA will be issued and circulated for review to all the interested parties. All comments filed on the draft EA will be analyzed by the staff and considered in a final EA. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

Site Visit and Scoping Meetings

The FERC will visit the project sites and conduct two scoping meetings. Staff will visit the project sites on September 25, 1996, and will meet at the U.S. Army Corps of Engineers 7 Oaks Dam construction office parking lot, adjacent to the guard office at 8:30 a.m. The parking lot is located on Santa Ana Canyon Road, northeast of Mentone, CA.

Both scoping meetings will be held at the Council Chambers, City Hall of San Bernardino, 300 North D Street, San Bernardino, California, 92418. The first meeting will be held on September 26, 1996, from 9:00 a.m. to 12:00 p.m. and will focus primarily on issues of concern to the resource agencies. The second meeting will also be held on September 26, 1996, from 7:00 p.m. to 10:00 p.m. and will focus primarily on issues of concern to the general public. All interested individuals, organizations, and agencies are invited to attend either or both scoping meetings and assist the staff in identifying the scope of environmental issues that should be analyzed by the EA.

Prior to the site visit and meetings, a scoping document will be mailed to the list of interested parties. The scoping document identifies resource issues to be addressed in the EA. Copies of the scoping document will also be available at the scoping meetings.

Objectives

At the scoping meetings the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) determine the relative depth of analysis for issues to be addressed in the EA; (3) identify resource issues that are not important and do not require detailed analysis; (4) solicit from the meeting participants all available information, especially quantified data, on the resources at issue; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA, including points of view in opposition to, or in support of, the staff's preliminary views.

Procedures

The meetings will be recorded by a stenographer and all statements (oral and written) thereby become a part of the formal record of the Commission proceedings. Individuals presenting statements at the meetings will be asked

to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and assist the staff in defining and clarifying the issues to be addressed in the EA.

Participants at the meetings are asked to keep oral comments brief and concise to allow everyone the opportunity to speak.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, until October 10, 1996.

All written correspondence should clearly show the following caption on the first page: Lytle Creek Project No. 1932, Santa Ana Project No. 1933, or Mill Creek 2/3 Project No. 1934.

All those that are formally recognized by the Commission as intervenors in the licensing proceeding are asked to refrain from engaging staff or its contractor in discussions of the merits of the project outside of any announced meeting.

Further, parties are reminded of the Commission's rules of Practice and Procedures, requiring parties filing documents with the Commission, to serve a copy of the document on each person whose name appears on the official service list.

For further information, please contact Thomas Dean at (202) 219–2778.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22567 Filed 9–4–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5606–6]

Agency Information Collection Activities Under OMB Review; NSPS Synthetic Fiber Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) for NSPS subpart HHH, Synthetic Fiber Production Facilities described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost.

DATES: Comments must be submitted on or before October 7, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1156.07.

SUPPLEMENTARY INFORMATION: Title: NSPS for Synthetic Fiber Production Facilities (subpart HHH); OMB Control No. 2060–0059; EPA ICR No. 1156.07. This requests an extension for a currently approved collection.

Abstract: This ICR collects compliance information from sources subject to NSPS subpart HHH. The recordkeeping and reporting provisions include initial notifications, performance tests, and quarterly excess emissions reports or semiannual reports. In addition to the general recordkeeping and reporting required by NSPS sources, subpart HHH requires a report if a source is claiming exemption under 60.600(a). The information is used to determine initial compliance and continued compliance through proper maintenance and operation. The collection of information is mandatory (40 CFR Part 60, CAA section 111). It has been determined that emissions data is not confidential information. 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. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 26, 1996, Volume 61 number 59; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 32 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of synthetic fiber production plants.

Estimated Number of Respondents: 29.

Frequency of Response: Initial notifications, semiannually and annually.

Estimated Total Annual Hour Burden: 2449 hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1156.07. and OMB Control No. 2060–0059 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW., Washington, DC 20503.

Dated: August 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–22641 Filed 9–4–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5605–6]

Agency Information Collection Activities Under OMB Review; NESHAP for Coke Oven Batteries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP for Coke Oven Batteries. The ICR describes the nature of the information collection and its expected burden and cost.

DATES: Comments must be submitted on or before October 7, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR Number 1362.03.

SUPPLEMENTARY INFORMATION:

Title: National Emission Standards for Coke Oven Batteries, Part 63, Subpart L;

OMB No. 2060–0253; EPA No. 1362.03; expiration date: October 31, 1996. This is an extension of a currently approved collection.

Abstract: Owners or operators of coke oven batteries, whether existing, new, reconstructed, rebuilt or restarted, are required to develop work practice and startup, shutdown, and malfunction plans, and record and submit reports including notifications and semiannual compliance certifications. Daily monitoring of coke oven batteries is required and is conducted by a certified observer provided by the enforcement agency at the respondent expense.

The information and data will be used by EPA and states to: (1) Identify batteries subject to the standards; (2) ensure that MACT and LAER are properly applied; and (3) ensure that daily monitoring and work practice requirements are implemented as required. Effective enforcement of the standard is particularly necessary because of the hazardous nature of coke oven emissions.

Based on recorded and reported information, EPA and states can identify compliance problems and specific records or processes to be inspected at the plant. The records that plants maintain help indicate whether plants are in compliance with the standard, reveal misunderstandings about how the standard is to be implemented, and indicate to EPA whether plant personnel are operating and maintaining their process equipment properly.

Reporting and recordkeeping requirements are mandatory under Sections 112 and 114 of the Clean Air Act as amended. All information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (See 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

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. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 26, 1996.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 11 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of coke oven batteries.

Estimated Number of Respondents: 35.

Frequency of Response: semiannual and on occasion.

Estimated Total Annual Hour Burden: 10,740 hours.

Estimated Total Annualized Cost Burden: $2.4 million.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR Number 1362.03 and OMB Control Number 2060–0253 in any correspondence. Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: August 29, 1996.

Joseph Retzer,

Director Regulatory Information Division.

[FR Doc. 96–22647 Filed 9–4–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5605–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Part B Permit Application, Permit Modifications, and Special Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Part B Permit Application, Permit Modifications, and Special Permits, OMB Control No. 2050–0009, expiring on October 31, 1996. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 7, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1573.05.

SUPPLEMENTARY INFORMATION:

Title: Part B Permit Application, Permit Modifications, and Special Permits, (OMB Control No. 2050–0009) expiring 10/31/96. This is a request for extension of a currently approved collection.

Abstract: Section 3010 of Subtitle C of RCRA, as amended, requires any person who generates or transports regulated waste, or who owns or operates a facility for the treatment, storage, or disposal (TSD) of regulated waste to notify the EPA of their activities, including the location and general description of the activities and the regulated waste handled. Section 3005 of Subtitle C of RCRA requires TSDs to obtain a permit. To obtain the permit, the TSD must submit an application describing the facility's operation. There are two parts to the application—Part A and Part B. Part A defines the processes to be used for treatment, storage and disposal of hazardous waste; the design capacity of such processes; and the specific hazardous wastes to be handled at the facility. Part B requires detailed site specific information such as geologic, hydrologic, and engineering data. In the event that permit modification are proposed by an applicant or EPA, modifications must conform to the requirements under Sections 3004 and 3005. 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. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 4/4/96 (61FR15065); 4 comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for

this collection of information is estimated to average for:

Demonstrations and Exemptions from Requirements

Releases from Regulated Units: 0.0 hours per response
Demonstrations and Exemptions from Requirements: 3.4 hours per response

Contents of the Part B Application

Legal Review: 100.0 hours per response
General Information: 0.0 hours per response
Permit Application: 12.1 hours per response
General Requirements: .1 hours per response
General Facility Standards: 495.2 hours per response
Financial Assurance: 22.0 hours per response
Other Part B Requirements: 12.0 hours per response
Ground-Water Protection: 242.3 hours per response
Solid Waste Management Units: 21.0 hours per response
Specific Part B Information Requirements: 1743.9 hours per response
Schedules of Compliance: 0.7 hours per response

Permit Modifications and Special Permits

Permit Modifications: 2.6 hours per response
Expiration and Continuation of Permits: .9 hours per response
Special Forms of Permits: 100.3 hours per response
Interim Status: 0.0 hours per response

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Hazardous waste treatment, storage, and disposal facilities.

Estimated Number of Respondents: 228
Frequency of Response: 1
Estimated Total Annual Hour Burden: 125,027 hours.
Estimated Total Annualized Cost Burden: $14, 986,151

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. (Please refer to EPA ICR No. 1573.05 and OMB Control No. 2050–0009 in any correspondence.)

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503

Dated: August 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–22652 Filed 9–4–96; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5605–3]

Agency Information Collection Activities Under OMB Review; Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program. OMB Control Number 2040–0164. Expiration Date November 30, 1996. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 7, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202 260–2740, and refer to EPA ICR No. 1654.02.

SUPPLEMENTARY INFORMATION:

Title: Renewal—Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program (OMB Control Number 2040–0164; EPA ICR No. 1654.02) expiring 11/30/96. This is a revision of a currently approved collection.

Abstract: EPA will annually collect water, energy, and cost savings information from "Partners" in the WAVE program. Partners can be commercial businesses, governments, or institutions that voluntarily agree to implement cost-effective water efficiency measures in their facilities. Initially the WAVE Program will target the lodging industry. Another type of participant, "Supporters," will work with EPA to promote water efficiency and provide information on products and services. Supporters could be equipment manufacturers, water management companies, utilities, local governments, or the like.

The purpose of the WAVE Program is pollution prevention. As defined by EPA, pollution prevention means "source reduction" as defined under the Pollution Prevention Act, and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or through protection of natural resources by conservation.

EPA will use this information to monitor the success of the program, to demonstrate that pollution prevention can be accomplished with a non-regulatory approach, and to promote the program to potential partners. Participation in the WAVE Program is voluntary; however, once a participant joins the program, it is required to sign and submit a Memorandum of Understanding (MOU), an annual Results Report, and information on miscellaneous additional activities to EPA to receive and retain program benefits, such as software and publicity. No participant will be required to submit confidential business information. EPA will present aggregated data only in its program progress reports.

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. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/17/96 (61 FR 30609); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average nine hours and 45 minutes per MOU response, four hours and 45 minutes per Results Report

response, and eight hours and 30 minutes for additional information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are commercial businesses, hospitals, educational institutions, and multi-family housing units that voluntarily join EPA's WAVE Program. Major respondents are hotels and motels.

Estimated Number of Respondents: 55

Frequency of Response: Annual.

Estimated Total Annual Hour Burden. 4,654 hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1654.02 and OMB Control No. 2040–0164 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW., Washington, DC 20503.

Dated: August 28, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–22653 Filed 9–4–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5606–7]

Agency Information Collection Activities: Submission for OMB review; Comment Request; General Hazardous Waste Facility Standards; and Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: General Hazardous Waste Facility Standards, OBM No. 2050–0120; and Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types, OMB No. 2050–0050, both expiring on October 31, 1996. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 7, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1571.05 (General Hazardous Waste Facility Standards) and 1572.04 (Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types).

SUPPLEMENTARY INFORMATION:

Title: General Hazardous Waste Facility Standards (OMB Control No. 2050–0120; EPA ICR No. 1571.05); and Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (OMB Control No. 2050–0050; EPA ICR No. 1572.04), both expiring 10/31/96. This is a request for extension of a currently approved collection.

Abstract: Owner/operators of hazardous waste treatment, storage and disposal facilities must comply with the standards developed by EPA under Section 3004(a) (1), (3), (4), (5) and (6) of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended to protect human health and the environment. The standards specified in Section 3004(a) include, but are not limited to, the following requirements:

(1) Maintaining records of all hazardous wastes identified or listed under this title which are treated, stored, or disposed of, * * * and the manner in which such wastes were treated, stored, or disposed of;

(3) Treatment, storage or disposal of all such waste received by the facility pursuant to such operating methods, techniques, and practices as may be satisfactory to the Administrator;

(4) The location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

(5) Contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste; and

(6) The maintenance or operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable.

The regulations implementing these requirements are published in the *Code of Federal Regulations* (CFR) Title 40, Parts 261, 264, 265, and 266, Subpart F. The collection of this information enables EPA to properly determine whether owners/operators or hazardous waste treatment, storage, and disposal facilities meet the requirements of *Section* 3004(a) of RCRA.

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. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 4/4/96 (61FR15066); 1 comment was received.

Burden Statement: The annual public reporting and recordkeeping burden for the General Hazardous Waste Facility Standards collection of information is estimated to average 331 hours per response, and the annual public reporting and recordkeeping burden for the Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types is estimated to average for:

Subpart j—20 hours per response
Subpart K—155 hours per response
Subpart L—19 hours per response
Subpart M—2 hours per response
Subpart N—85 hours per response
Subpart O—233 hours per response
Subpart P—0 hours per response
Subpart Q—0 hours per response
Subpart X—8 hours per response
Subpart W—40 hours per response
Subpart AA—815 hours per response
Subpart BB—95 hours per response
Subpart DD—61 hours per response
Part 266—Specific Hazardous Waste Recovery/Recycling Facilities—4 hours per response

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

For the General Hazardous Waste Facility Standards

Respondents/Affected Entities: Hazardous waste treatment, storage and disposal facilities.
Estimated Number of Respondents: 5772
Frequency of Response: 1
Estimated Total Annual Hour Burden: 1,927,553 hours.
Estimated Total Annualized Cost Burden: $79,246,198

For the Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types:

Respondents/Affected Entities: Hazardous waste treatment, storage, and disposal facilities
Estimated Number of Respondents: 6658
Frequency of Response: 1
Estimated Total Annual Hour Burden: 368,543 hours
Estimated Total Annualized Cost Burden: $19,081,484

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. (In any correspondence, please refer to EPA ICR No. 1571.05 and OMB Control No. 2050–0120 when referring to the General Hazardous Waste Facility Standards; and EPA ICR No. 1572.04 and OMB No. 2050–0050 when referring to Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types.)

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503

Dated: August 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–22657 Filed 9–04–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5605–5]

Draft Guidance for the Implementation of EPA's Radiation Protection Standards for Management and Storage of Radioactive Waste at the Waste Isolation Pilot Plant ("WIPP Subpart A Guidance")

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Pursuant to the 1992 Waste Isolation Pilot Plant Land Withdrawal Act (LWA), Public Law 102–579, EPA is required to determine, on a biennial basis, whether the Waste Isolation Pilot Plant (WIPP) complies with 40 CFR Part 191, Subpart A, the standards for management and storage of radioactive waste. EPA is developing guidance for the implementation of the generally applicable standards of Subpart A at the WIPP to evaluate the facility's compliance with radiation dose limits to the public during the receipt and emplacement of waste in the disposal system, and associated activities. EPA is hereby announcing that draft guidance, known as the WIPP Subpart A Guidance, is available for public comment. The EPA will fully consider timely public comments in revising the guidance document.

DATES: Comments in response to today's document must be received by October 7, 1996.

ADDRESSES: Copies of the draft WIPP Subpart A Guidance are available to the public by calling EPA's WIPP Information Line at 1–800–331–WIPP. Copies of the draft WIPP Subpart A Guidance and supporting materials are also available for review at EPA's Office of Radiation and Indoor Air located at 501 3rd Street, N.W., Washington, D.C. 20001; and at the following addresses in New Mexico where EPA maintains public information files for the guidance: (1) Government Publications Department of the Zimmerman Library of the University of New Mexico in Albuquerque, New Mexico (open from 8:00 a.m. to 9:00 p.m. on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, and 1:00 p.m. to 9:00 p.m. on Sunday); (2) The Fogelson Library of the College of Santa Fe, located at 1600 St. Michael's Drive, Santa Fe, New Mexico (open from 8:00 a.m. to 12:00 midnight on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, and 1:00 p.m. to 9:00 p.m. on Sunday); and (3) The Municipal Library of Carlsbad, New Mexico, located at 101 South Halegueno (open from 10:00 a.m. to 9:00 p.m. on Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Friday and Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday). Citizens wishing to review these materials should request to see the EPA "WIPP Subpart A Guidance File."

Comments on the draft WIPP Subpart A Guidance should be submitted in duplicate to: Betsy Forinash, U.S. Environmental Protection Agency, Office of Radiation and Indoor Air (6602J), 401 M Street, S.W., Washington, D.C. 20460; (202) 233–9310.

FOR FURTHER INFORMATION CONTACT: Betsy Forinash, U.S. Environmental Protection Agency, Office of Radiation and Indoor Air (6602J), 401 M Street, S.W., Washington, D.C. 20460; (202) 233–9310.

SUPPLEMENTARY INFORMATION: The draft guidance document pertains to the requirements established in the WIPP LWA and the federal regulations at 40 CFR Part 191, Subpart A. The document does not establish new binding requirements but will guide EPA's implementation of 40 CFR Part 191, Subpart A at the WIPP. Subpart A is a generally applicable radiation protection standard that limits radiation doses to the public from management of transuranic radioactive waste at disposal facilities operated by the Department of Energy (DOE). The DOE is proposing to use the WIPP, located in Eddy County, New Mexico, as a deep geologic repository for the disposal of transuranic radioactive waste generated by nuclear defense activities. The Subpart A regulations apply to activities associated with receiving and emplacing the waste in the disposal system. (Limitations on radiation doses which may occur after closure of the disposal system are separately addressed by EPA's disposal regulations at Subparts B and C of 40 CFR Part 191, and by WIPP compliance criteria at 40 CFR Part 194.) The WIPP LWA requires EPA to determine, on a biennial basis, whether WIPP complies with Subpart A of 40 CFR Part 191. EPA may also conduct this determination at any other time. If EPA determines that the WIPP does not comply with the Subpart A dose standards at any time after emplacement

of waste has begun, the WIPP LWA requires the DOE to submit a remedial plan to EPA.

This guidance describes the application of Subpart A to activities associated with the 25- to 30-year period during which packaged waste would arrive at the above ground portion of the WIPP, be unloaded and prepared for emplacement in the underground repository, and ultimately lowered down a mechanical hoist and emplaced in the mined-out repository, if the WIPP is approved for use as a disposal system. During this period, the annual doses from radiation received by members of the general public must not exceed the limits specified by Subpart A. The WIPP Subpart A Guidance interprets Subpart A for the WIPP and provides the Agency's recommendations for methods used to demonstrate and document compliance with the standards. The guidance also describes information DOE should report to EPA for the Agency's evaluation of the WIPP's compliance with the Subpart A dose limits.

By today's action, the EPA is inviting the public to comment on the WIPP Subpart A Guidance, available in draft at the addresses identified above, by submitting written comments for EPA's consideration. EPA requests comments on all aspects of the draft guidance for the implementation of 40 CFR Part 191, Subpart A for the WIPP.

The draft WIPP Subpart A Guidance will be revised and made available to the public. Revised guidance is expected to be made available in fall 1996. The draft guidance interprets 40 CFR Part 191, Subpart A. The guidance does not establish a new standard and does not establish binding rights or duties, but will be a non-binding guide for EPA's evaluation of the WIPP's compliance with Subpart A. Because it is a non-binding, interpretive document, the WIPP Subpart A Guidance is not subject to the notice-and-comment rulemaking requirements of the Administrative Procedures Act, 5 U.S.C. 553. Thus, EPA does not plan to provide written responses to the public comments submitted. Nevertheless, EPA will fully consider public comments in developing the WIPP Subpart A Guidance.

Dated: August 28, 1996.

Richard Wilson,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 96–22651 Filed 9–04–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5604–8]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing its Fall meeting of the Ozone Transport Commission to be held on October 8, 1996.

This meeting is for the Ozone Transport Commission to deal with appropriate matters within the transport region, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on October 8, 1996 from 10:00 a.m. to 4:00 p.m.

PLACE: The meeting will be held at: The Sheraton Inn Plymouth, 180 Water Street, Plymouth, MA 02360, (508) 747–4900.

FOR FURTHER INFORMATION CONTACT: *EPA:* Susan Studlien, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, MA 02203, (617) 565–3800.

THE STATE CONTACT: *Host Agency:* Sonia Hamel, Executive Office of Environmental Affairs, 100 Cambridge Street, Boston, MA 02202, (617) 727–9800, ext. 244.

FOR DOCUMENTS AND PRESS INQUIRIES CONTACT: Stephanie A. Cooper, Ozone Transport Commission, 444 North Capitol Street, N.W., Suite 638, Washington, DC 20001, (202) 508–3840, e-mail: ozone@sso.org.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the commission in New York City on May 7, 1991. The purpose of the Transport Commission is to deal with appropriate matters within the transport region.

The purpose of this notice is to announce that this Commission will meet on October 8, 1996. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of Transport Commissions are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

TYPE OF MEETING: Open.

AGENDA: Copies of the final agenda will be available from Stephanie Cooper of the OTC office (202) 508–3840 (or by e-mail: ozone@sso.org) on Tuesday, October 1, 1996. The purpose of this meeting is to review air quality needs within the Northeast and Mid-Atlantic States, including reduction of motor vehicle and stationary source air pollution. The OTC is also expected to address issues related to the transport of ozone into its region, and to discuss market-based programs to reduce pollutants that cause ozone.

Dated: August 27, 1996.

John DeVillars,

Regional Administrator, EPA Region I.

[FR Doc. 96–22643 Filed 9–4–96; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Committee of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: September 26–27, 1996. The Hay-Adams Hotel, The John Hay Room, First Floor, 16th and H Streets, NW, Washington, DC 20006.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The PCAST will meet in open session on Thursday, September 26, 1996, at approximately 9:30 AM to discuss the work of various PCAST panels. This session will end at approximately 12:00 Noon. The Committee will reconvene in open session at approximately 2:00 PM to discuss current activities of the National Science and Technology Council (NSTC), and to review the university-government partnership. This session will end at approximately 5:00 PM.

The Committee will meet again in open session on Friday, September 27, 1996, at approximately 9:30 AM, to discuss science and technology policies of national importance and future PCAST activities. This session will end at approximately 12:00 Noon.

Any of the morning or afternoon sessions may be interrupted for the PCAST to gather at the White House to meet with the President and/or Vice President of the United States.

FOR FURTHER INFORMATION: For information regarding time, place, and agenda, please call Jeanie Hall, at (202) 456–6100, prior to 3:00 PM on Friday, September 20, 1996. Other questions may be directed to Angela Phillips Diaz, Executive Secretary of PCAST, or Elizabeth M. Gunn, Senior Policy Analyst for PCAST, at (202) 456–6100. Please note that public seating for this meeting is limited, and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established on November 23, 1993, by Executive Order 12882, as amended, and continued through September 30, 1997, by Executive Order 12974. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by John H. Gibbons, Assistant to the President for Science and Technology, and John Young, former President and CEO of Hewlett-Packard Company.

Dated: August 29, 1996.

Barbara Ann Ferguson,

Assistant Director for Budget and Administration, Office of Science and Technology Policy.

[FR Doc. 96–22471 Filed 9–4–96; 8:45 am]

BILLING CODE 3170–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

August 29, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 7, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This collection of information was not submitted to OMB as part of an NPRM since it was developed as a result of comments received in WT 95–56 .

OMB Approval Number: New Collection.

Title: Section 95.1015 Disclosure Policies.

Form No: N/A.

Type of Review: New Collection.

Respondents: Business or other for-profit.

Number of Respondents: 3.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 3 hours.

Estimated Costs Per Respondent: 0.

Needs and Uses: This collection of information is made necessary by the amendments of the Commission's Rules regarding the Low Power Radio and Automated Maritime Telecommunications System (AMTS) operations in the 216–217 MHz band. The reporting requirement is necessary to ensure that television stations that may be affected by harmful interference from AMTS operations are notified. The information will be used by Commission staff and affected television stations in order to be aware of the location of potential harmful interference from AMTS operations.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–22700 Filed 9–4–96; 8:45 am]

BILLING CODE 6712–01–P

[CC Docket No. 96–45; DA 96–1432]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On August 27, 1996 the Federal Communications Commission released a public notice, as required by law, to announce a meeting of the Federal-State Joint Board on September 13, 1996. The purpose of the notice is to inform the general public of a meeting that will be held by the Federal-State Joint Board on universal service.

FOR FURTHER INFORMATION CONTACT: John Clark, Universal Service Branch, Accounting and Audits Division, Common Carrier Bureau, at (202) 530–6024.

SUPPLEMENTARY INFORMATION: The Federal-State Joint Board in CC Docket No. 96–45 will hold an Open Meeting on Friday, September 13, 1996 at 9:00 a.m., in Room 856 at 1919 M Street, N.W., Washington, D.C. At the meeting, the Federal-State Joint Board will hear from a panel of experts addressing universal service issues set forth in Section 254 of the Telecommunications Act.

Federal Communications Commission.

Mary Beth Richards,

Deputy Bureau Chief, Common Carrier Bureau.

[FR Doc. 96–22535 Filed 9–4–96; 8:45 am]

BILLING CODE 6712–01–P

[Report No. 2150]

Petitions for Reconsideration of Action in Rulemaking Proceedings

August 30, 1996.

Petitions for reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by September 20, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Moncks Corner, Kiawah Island and Sampit, SC) (MM Docket No. 94–70, RM–8474, RM–8706).

Number of Petition Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Chester, Shasta Lake City, Alturas, McCloud and Weaverville, CA) (MM Docket No. 94–76, MM Docket No. 94–77, RM–8470, RM–8477, RM–8523, RM–8524).

Number of Petition Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Shingletown, CA) (MM Docket No. 95–51, RM–8591).

Number of Petition Filed: 1.

Subject: Amendment of Part 95 of the Commission's Rules to Allow Interactive Video and Data Service Licensees to Provide Mobile Service to Subscribers. (WT Docket No. 95–47)*.

Number of Petitions Filed: 3.

*This Public Notice includes the petition filed by William J. Franklin on behalf of ITV, Inc and IVDS Affiliates, LC. A previous Public Notice, Report No. 2146, was released on August 7, 1996 and published in the Federal Register on August 14, 1996, listed only two petitions filed on July 25, 1996. We are therefore placing all three petitions on public notice at this time.

Subject: Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services. (CC Docket No. 96–21).

Number of Petition Filed: 1.

Subject: Order to Show Cause Why the License for Station KOJC(FM), Cedar Rapids, Iowa Should Not Be Revoked. (MM Docket No. 96–47).

Number of Petition Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–22534 Filed 9–4–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy on the Use of Offering Circulars

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Revision of Statement of Policy.

SUMMARY: The FDIC is revising its Statement of Policy Regarding Use of Offering Circulars in Connection with Public Distribution of Bank Securities. The revision updates the informational standards for the public distribution of bank securities by insured state nonmember banks, clarifies the meaning of certain standards, and provides references for bank management and counsel for mutual-to-stock conversions, public distribution of securities and private placements. The FDIC Board of Directors believes that the statement of policy enhances public confidence in the banking system by providing for full disclosure in offering circulars.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Lawrence H. Pierce, Section Chief, (202/898–8902) or Mary S. Frank, Senior Financial Analyst, (202/898–8903), Division of Supervision; Gerald Gervino, Senior Attorney, (202/898–3723), Legal Division.

SUPPLEMENTARY INFORMATION:

I. Current Statement

The current statement of policy was adopted by the FDIC's Board of Directors in July 1979. The policy discusses the antifraud provisions of the securities laws and contains a brief statement of the information that should be furnished when a state nonmember bank offers and sells equity or debt securities in a public offering.

II. Need for Revision

The offer and sale of securities issued by financial institutions are subject to the antifraud provisions of the federal securities laws. These antifraud provisions presume certain common disclosure standards on the banking industry. The standards and needs of the industry have evolved in the 17 years since the FDIC Board of Directors issued the initial statement of policy. These revisions represent an update and clarification of the standards delineated in the initial statement of policy and are expected to enhance capital formation.

III. Modifications

The primary changes to the original statement of policy pertain to mutual-to-stock conversions and sales of the bank's securities on bank premises. The revisions reflect the FDIC's expanded review responsibility with respect to mutual-to-stock conversions and also the need to enhance disclosures in response to changes in the securities markets.

Other areas of change pertain to limitations on advertising activity, minimum requirements for subscription order forms, and references to regulations of the Office of Thrift Supervision and the Securities Exchange Commission in particular circumstances. The statement of policy no longer refers to the Securities Offering Disclosure Rules (12 CFR part 16) of the Comptroller of the Currency because part 16 has been cross-referenced to the regulations of the Securities and Exchange Commission since April 1995. The list of essential items of disclosure is also revised.

Additional guidance in the areas of disclosure and advertising, suitability and sales practices, as well as setting and circumstances relating to sales activities on the premises of a depository institution is provided by the "Interagency Statement on Retail Sales of Nondeposit Investment Products". Portions of that statement may be applicable when a bank sells or distributes securities as part of the capital formation process.

IV. Approach

The revised statement of policy does not impose a filing requirement, although the FDIC will continue to review offering circulars used in connection with mutual-to-stock conversions and deposit insurance applications. This approach provides flexibility to small banks and allows the banks to incorporate disclosure material prepared for other purposes, including state securities requirements, in offering circulars. The statement of policy allows for informal consultation with the staff in the Registration and Disclosure Section. This method of review has proven beneficial to small banks over the past few years.

V. The Statement of Policy

The text of the statement of policy follows:

Statement of Policy Regarding Use of Offering Circulars in Connection With Public Distribution of Bank Securities

This statement of policy concerns the use of offering circulars in connection with the public distribution of bank securities by insured state nonmember banks. The FDIC is issuing this statement in view of its statutory duties relating to capital adequacy, the safety and soundness of insured banks, and its review responsibilities with respect to mutual-to-stock conversions of FDIC-regulated financial institutions. The statement of policy also is intended to protect insured state nonmember banks against the risk of serious capital loss or litigation that could result if bank securities are sold in violation of the antifraud provisions of the federal securities laws.[1]

The issuance of securities by banks is subject to the antifraud provisions of the federal securities laws which require full and adequate disclosure of material facts.[2] It is the FDIC's goal to have banks comply with the antifraud provisions of the federal securities laws in a manner which meets the needs of investors, depositors and issuers. It is the responsibility of bank management and the promoters of a bank in organization to understand these requirements and utilize an offering circular in appropriate situations.[3]

In view of the FDIC's statutory duty to determine capital adequacy when passing upon an application for federal deposit insurance, the FDIC reviews whether public investors have been provided sufficient disclosure of material facts by an insured state nonmember bank in organization. The FDIC also reviews any offering circular used by a bank operating under an administrative order, or used in a mutual-to-stock conversion as part of the application process.

The FDIC believes that every insured state nonmember bank or bank in organization publicly offering its securities, including offerings under preemptive rights, should use an offering circular.

(1) The offering circular should include the following statements in capital letters printed in boldfaced type:

THESE SECURITIES ARE NOT DEPOSITS. THESE SECURITIES ARE NOT INSURED BY THE FDIC OR ANY OTHER AGENCY, AND ARE SUBJECT TO INVESTMENT RISK, INCLUDING THE POSSIBLE LOSS OF PRINCIPAL.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION NOR HAS THE FEDERAL DEPOSIT INSURANCE CORPORATION PASSED ON THE ADEQUACY OR ACCURACY OF THIS OFFERING CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

(2) The offering circular should indicate in capital letters and boldfaced type, if debt securities are offered:

THESE OBLIGATIONS ARE SUBORDINATE TO THE CLAIMS OF DEPOSITORS AND OTHER CREDITORS AS MORE FULLY DESCRIBED IN THE OFFERING CIRCULAR.

(3) The offering circular should identify the offeror and principal business address; state the title, number, aggregate dollar amount and per unit price of securities offered; describe the subscription rights and limitations, risk factors, business of the offeror, use of proceeds and capital structure, management and principal shareholders, compensation and business transactions, material features of the securities offered, dividend policy, the plan of distribution, and legal or administrative proceedings; provide selected financial data for each of the last five fiscal years and interim periods, and a management's discussion and analysis of the results of operation for at least the past two years and the interim periods; and present comparative financial statements, footnotes and schedules of the bank.

The financial statements, footnotes and schedules for each fiscal year and interim period presented should be at least as inclusive as that required by the annual disclosure statement for insured state nonmember banks (12 CFR part 350). Banks that have an annual audit of financial statements by an independent public accountant, which the FDIC strongly encourages, should include the audited financial statements in the offering circular. Banks are encouraged to include an introductory "plain English" summary of the essential information contained in the offering circular, along with a profile of the terms of the offer and the telephone number of the principal executive office of the bank.

Banks in organization should disclose the expected relationship that the institution will have with each promoter, organizer, proposed director and executive officer, including compensation, business transactions, and stock option or award plans. A balance sheet and statement of organizational and pre-operating expenses, a pro forma capitalization table and a business plan should be provided as of the latest practicable date for the bank in organization.

(4) The offering circular should be accompanied by a subscription order form that states the maximum subscription price per share of capital stock, the maximum and minimum number of shares that may be purchased pursuant to subscription rights, the time period within which the subscription rights must be exercised, any withdrawal rights, any required method of payment, and the escrow arrangements. The subscription order form should provide specifically designated blank spaces for dating and signing. The order form should contain an acknowledgement by the subscriber that he or she received an offering circular prior to signing.

Sales of securities issued by insured state nonmember banks should be conducted in a segregated area of the depository institutions' offices, whenever possible. Offers and sales should be conducted by authorized personnel, excluding tellers, in places where deposits are not ordinarily received. An insured depository institution should obtain a signed and dated certification from the purchaser confirming that the purchaser has read and understands the disclosures set out in paragraphs (1) and (2) above. The certification should contain a separate place where a purchaser should indicate, by initialing or by comparable method, that the purchaser is aware of the absence of deposit insurance covering the securities being sold.[4]

Any written advertisement, letter, announcement, film, radio, or television broadcast which refers to a present or proposed public offering of securities covered by this Statement of Policy

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[1] The FDIC recognizes the efforts of certain states in regulating the offering of securities by insured state nonmember banks and encourages the adoption of regulations and review procedures at the state level; however, because of a lack of uniformity among all states, FDIC considers the adoption of this statement of policy which will apply to all insured state nonmember banks appropriate.

[2] Section 17(a) of the Securities Act of 1933 (15 U.S.C. 77q(a)) and rule 10b–5 (17 CFR 240.10b–5) of the Securities Act of 1933 ("SEC") promulgated under section 10(b) of the Securitites Exchange Act of 1934 (15 U.S.C. 78j(b)).

[3] SEC rule 10b–5 (17 CFR 240.10b–5) makes it unlawful in connection with the offer or sale of a security: * * *

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

[4] Sales of securities on bank premises are also subject to the guidance contained in the "Interagency Statement on Retail Sales of Nondeposit Investment Products" dated February 15, 1994.

should contain: (a) A statement that the announcement is neither an offer to sell nor a solicitation of an offer to buy any of the securities and that the offer may be made only by an offering circular, (b) the names and addresses of the bank and the lead underwriter, (c) the title of the security, the dollar amount and the number of securities being offered, and the per unit offering price to the public, (d) instructions for obtaining an offering circular and (e) a statement that the securities are neither insured nor approved by the FDIC.

The FDIC uses the Office of Thrift Supervision's conversion regulations as a frame of reference in reviewing the form and content of offering circulars used in connection with mutual-to-stock conversions. Banks utilizing an offering circular in connection with a mutual-to-stock conversion should consult 12 CFR 563b.102 (Form OC—Offering Circular).

The disclosure goals of this statement of policy will be met if:

(A) The offer and sale satisfy the information and disclosure requirements of SEC Regulation A—Conditional Small Issues Exemption (17 CFR part 230), or Regulation S–B (Small Business Issuers) (17 CFR part 228), or

(B) The securities are offered and sold in a transaction that satisfies the requirements of SEC Regulation D (17 CFR 230.501–230.506), relating to private offers and/or sales to accredited investors, or

(C) The securities are offered and sold in a transaction that satisfies the informational requirements of SEC Rule 701(17 CFR 230.701) for certain employee benefit plans, or

(D) The securities are offered and sold in a transaction that satisfies the information and disclosure requirements of OTS's part 563g—Securities Offerings (12 CFR 563g).

Inasmuch as the statement of policy does not impose the burden of filing and awaiting regulatory approval, and allows for certain flexibility, the FDIC believes it will be beneficial to small banks.

Banks or their legal counsel may contact the FDIC's Registration and Disclosure Section, Division of Supervision, for a copy of Suggested Form and Content for Offering Circular (Existing Bank) or Suggested Form and Content for Offering Circular (Bank in Organization). The address is Registration and Disclosure Section, Division of Supervision, 550 17th Street, N.W., Washington, D.C. 20429. (202) 898–8902.

By order of the Board of Directors, dated at Washington, DC, this 13th day of August, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–22622 Filed 9–4–96; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, September 10, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, September 12, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, DC (Ninth floor).

STATUS: This meeting will be open the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Advisory Opinion 1996–25: Stanley M. Brand on behalf of Seafarers Political Activity Donation ("SPAD")
Advisory Opinion 1996–34: Susan Wenger, Treasurer, Thornberry for U.S. Congress Committee
Advisory Opinion 1996–36: Robert F. Bauer on behalf of the Honorable Martin Frost, Sheila Jackson Lee, Ken Bentsen, Gene Green, and Eddie Bernice Johnson
Advisory Opinion 1996–37: Kindra L. Hefner, Director, Brady for Congress Committee
Clinton/Gore '96 Primary Committee, Inc.—Request to Suspend Public Funds (LRA #485)
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 96–22841 Filed 9–3–96; 3:11 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1133–DR]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1133–DR), dated August 21, 1996, and related determinations.

EFFECTIVE DATE: August 21, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 21, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Iowa, resulting from severe storms and flooding on June 15–30, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Eric Jenkins of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Iowa to have been

affected adversely by this declared major disaster:

The Counties of Audubon, Boone, Cherokee, Crawford, Hamilton, Hardin, Harrison, Ida, Monona, Plymouth, Pottawattamie, Sac, Shelby, Story and Woodbury for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–22672 Filed 9–4–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1132–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1132–DR), dated August 14, 1996, and related determinations.

EFFECTIVE DATE: August 14, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 14, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of West Virginia, resulting from heavy rains, high winds, flooding and slides on July 18–31, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of West Virginia to have been affected adversely by this declared major disaster:

Barbour, Braxton, Clay, Gilmer, Monongalia, Nicholas, Randolph, and Webster Counties for Individual Assistance, Public Assistance and Hazard Mitigation; and,

Cabell and Upshur Counties for Individual Assistance and Hazard Mitigation only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–22671 Filed 9–4–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

United Shipping Agent, Inc., 15 Penn Plaza, Suite 107, New York, NY 10001,

Officers: Mohamed Abouelmaati, President; Blanche Yarkish, Vice President

J F Hillebrand USA West Coast Inc., 621 West Spain Street, Sonoma, CA 95476

Officers: Christophe Bernard, President; Jo Garces Ruzicka, Secretary

Dated: August 29, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–22528 Filed 9–4–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, September 9, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 30, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–22739 Filed 8–30–96; 4:42 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 705]

Grants for Injury Control Research Centers; Notice of Availability Of Funds for Fiscal Year 1997

Introduction

The Centers for Disease Control and Prevention (CDC) announces that grant applications are being accepted for Injury Control Research Centers (ICRCs). CDC is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Violent and Abusive Behavior and Unintentional Injuries. For ordering a copy of "Healthy People 2000," see the Section Where to Obtain Additional Information.

Authority

This program is authorized under Sections 301 and 391–394A of the Public Health Service Act (42 U.S.C. 241 and 280b–280b–3). Program regulations are set forth in 42 CFR Part 52.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are limited to organizations in Region 1 (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont), Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands), Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin) and Region 6 (Louisiana, New Mexico, Oklahoma, Texas, Arkansas). This will enable funding for ICRCs in regions which do not have funded centers or have re-competing centers. Presently, there are existing funded centers in Regions 3, 4, 7, 8, 9 and 10 who are eligible for supplemental funding.

Eligible applicants include all nonprofit and for-profit organizations in Regions 1, 2, 5 and 6. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local health departments, and small, minority and/or women-owned businesses are eligible for these grants. Applicants from non-academic institutions should provide evidence of a collaborative relationship with an academic institution. Current recipients of CDC injury control research center grants and injury control research program project grants are eligible to apply for continued support.

Availability of Funds

Approximately $750,000 is expected to be available in fiscal year (FY) 1997 to fund one new or re-competing center project. It is expected that the award will begin on or around August 1, 1997, and will be made for a 12-month budget period, not to exceed a project period of three years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

New center grant awards will not exceed $500,000 per year (*total of direct* and *indirect costs*) with a project period not to exceed three years. Depending on availability of funds, re-competing center awards may range from $750,000 to $1,500,000 per year (*total of direct* and *indirect costs*) with a project period not to exceed five years. The range of support provided is dependent upon the degree of comprehensiveness of the center in addressing the *phases of injury control (i.e., Prevention, Acute Care, and Rehabilitation)* as determined by the Injury Research Grants Review Committee (IRGRC).

Incremental levels within this range for successfully re-competing ICRCs will be determined as follows:

Base funding (included in figures below)—Up to $750,000
One phase ICRC (addresses one of the three phases of injury control)—Up to $1,000,000
Two phase ICRC (addresses two of the three phases of injury control)—Up to $1,250,000
Comprehensive ICRC (addresses all three phases of injury control)—Up to $1,500,000

Subject to program needs and the availability of funds, supplemental awards to expand/enhance existing projects, to add a new phase(s) to an existing ICRC grant, or to add biomechanics project(s) that support phases may be made for up to $250,000 per year.

Purpose

The purposes of this program are:

A. To support injury prevention and control research on priority issues as delineated in: *Healthy People 2000; Injury Control in the 1990's: A National Plan for Action; Injury in America; Injury Prevention: Meeting the Challenge; and Cost of Injury: A Report to the Congress.* Information on these reports may be obtained from the individuals listed in the section Where to Obtain Additional Information;

B. To support ICRCs which represent CDC's largest national extramural investment in injury control research and training, intervention development, and evaluation;

C. To integrate collectively, in the context of a national program, the disciplines of engineering, epidemiology, medicine, biostatistics, public health, law and criminal justice, and behavioral and social sciences in order to prevent and control injuries more effectively;

D. To identify and evaluate current and new interventions for the prevention and control of injuries;

E. To bring the knowledge and expertise of ICRCs to bear on the development and improvement of effective public and private sector programs for injury prevention and control; and

F. To facilitate injury control efforts supported by various governmental agencies within a geographic region.

Program Requirements

The following are applicant requirements:

A. Applicants must demonstrate and apply expertise (as defined in the Section Background and Definitions of the program announcement included in the application kit) in at least one of the three phases of injury control (prevention, acute care, or rehabilitation) as a core component of the center. The second and/or third phases do not have to be supported by core funding but may be achieved through collaborative arrangements. Comprehensive ICRCs must have all three phases supported by core funding.

B. Applicants must document ongoing injury-related research projects or control activities currently supported by other sources of funding.

C. Applicants must provide a director (Principal Investigator) who has specific authority and responsibility to carry out the project. The director must report to an appropriate institutional official, e.g., dean of a school, vice president of a university, or commissioner of health. The director must have no less than 30 percent effort devoted solely to this project with an anticipated range of 30 to 50 percent.

D. Applicants must demonstrate experience in successfully conducting, evaluating, and publishing injury research and/or designing, implementing, and evaluating injury control programs.

E. Applicants must provide evidence of working relationships with outside agencies and other entities which will allow for implementation of any proposed intervention activities.

F. Applicants must provide evidence of involvement of specialists or experts in medicine, engineering, epidemiology, law and criminal justice, behavioral and social sciences, biostatistics, and/or public health as needed to complete the plans of the center. These are considered the disciplines and fields for ICRCs. An ICRC is encouraged to involve biomechanicists in its research. This, again, may be achieved through collaborative relationships as it is no longer a requirement that all ICRCs have biomechanical engineering expertise.

G. Applicants must have an established curricula and graduate training programs in disciplines relevant to injury control (e.g., epidemiology, biomechanics, safety

engineering, traffic safety, behavioral sciences, or economics).

H. Applicants must demonstrate the ability to disseminate injury control research findings, translate them into interventions, and evaluate their effectiveness.

I. Applicants must have an established relationship, demonstrated by letters of agreement, with injury prevention and control programs or injury surveillance programs being carried out in the State or region in which the ICRC is located. Cooperation with private-sector programs is encouraged.

Applicants should have an established or documented planned relationship with organizations or individual leaders in communities where injuries occur at high rates, e.g., minority health communities.

Grant funds will not be made available to support the provision of direct care. Studies may be supported which evaluate methods of care and rehabilitation for potential reductions in injury effects and costs. Studies can be supported which identify the effect on injury outcomes and cost of systems for pre-hospital, hospital, and rehabilitative care and independent living.

Eligible applicants may enter into contracts, including consortia agreements (as set forth in the PHS Grants Policy Statement, dated April 1, 1994), as necessary to meet the requirements of the program and strengthen the overall application.

Evaluation Criteria

Upon receipt, applications will be reviewed by CDC staff for completeness and responsiveness as outlined under the previous heading Program Requirements. Incomplete applications and applications that are not responsive will be returned to the applicant without further consideration.

Applications which are complete and responsive may be subjected to a preliminary evaluation by a peer review group to determine if the application is of sufficient technical and scientific merit to warrant further review (triage). CDC will withdraw from further consideration applications judged to be noncompetitive and promptly notify the principal investigator/program director and the official signing for the applicant organization. Those applications judged to be competitive will be further evaluated by a dual review process. The primary review will be a peer evaluation by the Injury Research Grant Review Committee/(IRGRC), for the scientific and technical merit of the application. The final review will be conducted by the CDC Advisory Committee for Injury Prevention and Control (ACIPC), which will consider the results of the peer review together with program need and relevance. Funding decisions will be made by the Director, National Center for Injury Prevention and Control (NCIPC), based on merit and priority score ranking by the IRGRC, program review by the ACIPC, and the availability of funds.

A. Review by the Injury Research Grants Review Committee

Peer review of ICRC grant applications will be conducted by the IRGRC, which may recommend the application for further consideration or not for further consideration. As a part of the review process the committee may conduct a site visit to the applicant organization for re-competing ICRCs. New applicants may be asked to travel to CDC for a meeting with the committee.

Factors to be considered by IRGRC include:

1. The specific aims of the application, e.g., the long-term objectives and intended accomplishments.

2. The scientific and technical merit of the overall application, including the significance and originality (e.g., new topic, new method, new approach in a new population, or advancing understanding of the problem) of the proposed research.

3. The extent to which the evaluation plan will allow for the measurement of progress toward the achievement of stated objectives.

4. Qualifications, adequacy, and appropriateness of personnel to accomplish the proposed activities.

5. The soundness of the proposed budget in terms of adequacy of resources and their allocation.

6. The appropriateness (e.g., responsiveness, quality, and quantity) of consultation, technical assistance, and training in identifying, implementing, and/or evaluating intervention/control measures that will be provided to public and private agencies and institutions, with emphasis on State and local health departments, as evidenced by letters detailing the nature and extent of this commitment and collaboration. Specific letters of support or understanding from appropriate governmental bodies must be provided.

7. Evidence of other public and private financial support.

8. Details of progress made in the application if the applicant is submitting a re-competing application. Documented examples of success include: development of pilot projects; completion of high quality research projects; publication of findings in peer reviewed scientific and technical journals; number of professionals trained; provision of consultation and technical assistance; integration of disciplines; translation of research into implementation; impact on injury control outcomes including legislation/regulation, treatment, and behavior modification interventions.

B. Review by CDC Advisory Committee for Injury Prevention and Control (ACIPC)

Factors to be considered by ACIPC include:

1. The results of the peer review.

2. The significance of the proposed activities as they relate to national program priorities and the achievement of national objectives.

3. National and programmatic needs and geographic balance.

4. Overall distribution of the thematic focus of competing applications; the nationally comprehensive balance of the program in addressing the three phases of injury control (prevention, acute care, and rehabilitation); the control of injury among populations who are at increased risk, including racial/ethnic minority groups, the elderly and children; the major causes of intentional and unintentional injury; and the major disciplines of injury control (such as biomechanics and epidemiology).

5. Within budgetary considerations, the ACIPC will establish annual funding levels as detailed under the heading, Availability of Funds.

C. Applications for Supplemental Funding

Existing CDC Injury Centers may submit an application for supplemental grant awards to support research work or activities. Applications should be clearly labeled to denote their status as requesting supplemental funding support. These applications will be reviewed by the IRGRC and the ACIPC.

D. Continued Funding

Continuation awards within the project period will be made on the basis of the availability of funds and the following criteria:

1. The accomplishments of the current budget period show that the applicant's objectives as prescribed in the yearly workplans are being met;

2. The objectives for the new budget period are realistic, specific, and measurable;

3. The methods described will clearly lead to achievement of these objectives;

4. The evaluation plan allows management to monitor whether the methods are effective by having clearly

defined process, impact, and outcome objectives, and the applicant demonstrates progress in implementing the evaluation plan;

5. The budget request is clearly explained, adequately justified, reasonable, and consistent with the intended use of grant funds; and

6. Progress has been made in developing cooperative and collaborative relationships with injury surveillance and control programs implemented by State and local governments and private sector organizations.

Funding Preference

Special consideration will be given to re-competing Injury Control Research Centers.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirement.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.136.

Other Requirements

A. Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

B. Animal Subjects

If the proposed project involves research on animal subjects, the applicant must comply with the "PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions." An applicant organization proposing to use vertebrate animals in PHS-supported activities must file an Animal Welfare Assurance with the Office for Protection from Research Risks at the National Institutes of Health.

C. Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. In conducting review for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment.

This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Application Submission and Deadlines

A. Preapplication Letter of Intent

In order to schedule and conduct site visits as part of the formal review process, potential applicants are encouraged to submit a nonbinding letter of intent to apply. It should be postmarked no later than one month prior to the submission deadline (October 6, 1996, for November 6, 1996, submission). The letter should be submitted to the Grants Management Specialist whose address is given in Section B, below. The letter should identify the relevant announcement number for the response, name the principal investigator, and specify the injury control theme or emphasis of the proposed center (e.g., acute care, biomechanics, epidemiology, prevention, intentional injury, or rehabilitation). The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently.

B. Applications

Applicants should use Form PHS–398 (OMB 0925–0001) and adhere to the ERRATA Instruction Sheet contained in the Grant Application Kit. The narrative section for *each* project within an ICRC should not exceed 25 typewritten pages. Refer to section 1, page 6, of PHS–398 instructions for font type and size. *Applications not adhering to these specifications may be returned to applicant.*

Applicants must submit an original and five copies on or before November 6, 1996 to Kathy Raible, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, MS E–13, Atlanta, GA 30305.

C. Deadlines

Applications shall be considered as meeting the deadline above if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the peer review committee. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications which do not meet the criteria in C.1. or C.2. above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404)332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement 705. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from Kathy Raible, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers For Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., MS–E13, Atlanta, GA 30305, telephone (404) 842–6803. Internet address: kcr8@opspgo.1.em.cdc.gov.

Programmatic technical assistance may be obtained from Tom Voglesonger, Program Manager, Injury Control Research Centers, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, MS–K58, Atlanta, GA 30341–3724, telephone (770) 488–4265. Internet address: tdv1@cipcod1.em.cdc.gov.

Please refer to Announcement 705 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report; Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report; Stock No. 017–001–00473–1), referenced in the Introduction, through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: August 29, 1996.

Arthur C. Jackson,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–22601 Filed 9–4–96; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 95F–0255]

GE Silicones; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by GE Silicones to indicate that the petitioner also proposed that the food additive regulations be amended to provide for the safe use of diallyl maleate as an optional polymerization inhibitor and dimethyl(methyl hydrogen) polysiloxane as a cross-linking agent for vinyl-containing siloxanes used in coatings on paper and paperboard that contact food. The agency is also clarifying that the petitioner proposed to expand the safe use of vinyl-containing siloxanes in coatings that contact additional food types and under additional conditions of use. The previous filing notice stated that the petition proposed that the food additive regulations be amended to list 1-ethynyl-1-cyclohexanol as an optional inhibitor for vinyl-containing siloxanes and to increase to 200 parts per million (ppm) the level of platinum used in the manufacture of the additive.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 25, 1995 (60 FR 49414), FDA announced that a food additive petition (FAP 5B4475) had been filed by GE Silicones, c/o 700 13th St. NW., Washington, DC 20005, proposing to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of vinyl-containing siloxanes as a component of coatings for paper and paperboard in contact with food, to provide for the safe use of 1-ethynyl-1-cyclohexanol as an optional inhibitor (more accurately termed a polymerization inhibitor) for the additive, and to increase the level of platinum catalyst used in the manufacture of the additive to 200 ppm.

Upon further review of the petition, the agency notes that the petitioner also requested the use of diallyl maleate as an optional polymerization inhibitor and dimethyl(methylhydrogen) polysiloxane as a cross-linking agent in the manufacture of vinyl-containing siloxanes. In addition, the agency would like to clarify that the petitioner proposed to expand the safe use of coatings with vinyl-containing siloxanes for contact with additional food types and under additional conditions of use. Therefore, FDA is amending the filing notice of September 25, 1995, to state that the petitioner requested that the food additive regulations be amended: (1) To provide for the safe use of diallyl maleate and 1-ethynyl-1-cyclohexanol as optional polymerization inhibitors and dimethyl(methyl hydrogen) polysiloxane as a cross-linking agent in the manufacture of vinyl-containing siloxanes that are used in coatings for paper and paperboard that contact food; (2) to increase the level of the platinum catalyst used in the manufacture of vinyl-containingsiloxanes to 200 ppm; and (3) to expand the safe use of coatings with vinyl-containing siloxanes for contact with additional food types and under additional conditions of use.

Dated: August 5, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–22693 Filed 9–4–96; 8:45 am]

BILLING CODE 4160–01–F

Open Meeting for Clinical Investigators, Coordinators, and Institutional Review Board Personnel

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing an open educational meeting entitled "Current Issues in Human Subject Protection: An FDA Perspective." This national conference will present a unique opportunity for participants to hear about issues in human research subject protections from an FDA perspective. Current regulatory issues, historical perspectives, and future directions will be presented. The meeting will be chaired by Stuart L. Nightingale, Associate Commissioner for Health Affairs, and Sharon Smith Holston, Deputy Commissioner for External Affairs.

DATES: The meeting will be held on Friday, September 13, 1996, from 7:30 a.m. to 4:15 p.m.

ADDRESSES: The meeting will be held at the National Institutes of Health, Bldg. 45, Natcher Auditorium, 9000 Rockville Pike, Bethesda, MD. There will be no registration fee, however, space is limited. Persons will be registered in the order in which registration forms are received. Registration information can be obtained from the FDA Office of Health Affairs FAX-back line at 800–993–0098, document number 24 or from the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Regarding information concerning the meeting and registration forms: Gary L. Chadwick, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1685.

Dated: August 29, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–22696 Filed 9–4–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[Document Identifier: HCFA–R–197]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions;

(2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. HCFA–R–197 *Type of Information Collection Request:* New collection; *Title of Information Collection:* Maximizing the Effective Use of Telemedicine: A study of the Effects, Cost Effectiveness and Utilization Patterns of Consultations via Telemedicine."; *Form No.:* HCFA–R–197; *Use:* The major objective of this study is to evaluate the medical and cost effectiveness of three different categories of telemedicine services; *Frequency:* Other (periodically); *Affected Public:* Individuals and households, Business or other for profit, not for profit institutions; *Number of Respondents:* 1819; *Total Annual Responses:* 11,095; *Total Annual Hours:* 1,564.

To obtain copies of the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 26, 1996.

Edwin J. Glatzel,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–22547 Filed 9–4–96; 8:45 am]

BILLING CODE 4210–03–P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Authorization Agreement for Electronic Funds Transfer; *Form No.:* HCFA–588; *Use:* This information is needed to allow providers to receive funds electronically in their bank; *Frequency:* On occasion; *Affected Public:* Business or other for profit, not for profit institutions; *Number of Respondents:* 78,550; *Total Annual Responses:* 78,550; *Total Annual Hours:* 9,819.

2. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Application for Health Insurance Under Medicare for Individuals with Chronic Renal Disease; *Form No.:* HCFA–43; *Use:* This form is used as a standard method of eliciting information necessary to determine entitlement to Medicare under the end stage renal disease provision of the law; *Frequency:* On occasion; *Affected Public:* Individuals and households, Federal government; *Number of Respondents:* 80,000; *Total Annual Responses:* 80,000; *Total Annual Hours:* 34,400.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments Application Form; *Form No.:* HCFA–116; *Use:* This application is completed by entities performing laboratory testing on human specimens for health purposes; *Frequency:* Biennially; *Affected Public:* Business or other for profit, not for profit institutions, Federal government and State, local or tribal governments; *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 20,000.

4. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Post Laboratory Survey Questionnaire—Surveyor; *Form No.:* HCFA–668A; *Use:* This survey provides the surveyor with an opportunity to evaluate the survey process. The form is completed in conjunction with the HCFA form 668B. This information will help HCFA evaluate the entire survey process from the surveyor's prospective; *Frequency:* Biennially; *Affected Public:* Business or other for profit, not for profit institutions, Federal government and State, local or tribal governments; *Number of Respondents:* 1,560; *Total Annual Responses:* 1,560; *Total Annual Hours:* 390.

To obtain copies of the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 27, 1996.

Edwin J. Glatzel,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–22548 Filed 9–4–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

HRSA Competing Training Grant Application, Instructions and Related Regulations—(0915–0060)—Extension and Revision

The Health Resources and Services Administration uses the information in the application to determine the eligibility of applicants for awards, to calculate the amount of each award, and to judge the relative merit of applications. This is a request for renewed clearance with several changes in the application form. The form will be distributed electronically via the Internet, the budget will be negotiated for all years of the project period based on this application, and program-specific instructions will include greater standardization of content for the project summary and the detailed description of the project. Regulations which authorize the application form and other reporting requirements for various programs are cleared in this package. No changes were made to the regulations.

The estimated annual application burden is as follows:

Type of collection	Number of respondents	Number of responses per respondents	Average burden response	Total burden hours
Basic Application	1769	1	61.25	108,351
Statutory Requirements*	1121	1	105	117,705

*In 1992, a law was passed which required applicants for selected grant programs to provide specified data in the grant application.

The burden for the regulatory requirements included in this package are as follows:

Type of requirement	Number of respondents	Number of responses per respondents	Average burden response (hours)	Total burden hours
Reporting Requirements	28	1.4	1	39
Disclosure Requirements	148	1.4	3.3	669

Type of requirements	Number of recordkeepers	Hours per recordkeeper per year (hours)	Total burden hours
Recordkeeping	17	10	170

The total burden for these activities is 226,934 hours.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 29, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–22605 Filed 9–4–96; 8:45 am]

BILLING CODE 4160–15–P

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–549–8263/800–833–3984 (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

CORNING Clinical Laboratories, 4771 Regent Blvd., Irving, TX 75063, 800–526–0947 (formerly: Damon Clinical Laboratories, Damon/MetPath)

CORNING Clinical Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–284–7515, (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories)

CORNING Clinical Laboratories, 4444 Giddings Road, Auburn Hills, MI 48326, 800–444–0106/810–373–9120 (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath)

CORNING Clinical Laboratories Inc., 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888 (formerly; MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING Clinical Laboratories, South Central Divison, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 (formerly: Metropolitan Reference Laboratories, Inc.)

CORNING Clinical Laboratory, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200, (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672, (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300, (formerly: Harrison & Associates Forensic Laboratories)

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927, (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100, (Formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America, 21903 68th Ave. South, Kent, WA 98032, 206–395–4000, (Formerly: Regional Toxicology Services)

Laboratory Corporation of America Holdings, 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199

MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808(x4512)

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294, (formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272

Premier Analytical Laboratories, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784, (formerly: Drug Labs of Texas)

Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640

Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–244–8800, 800–999–LABS

Sierra Nevada Laboratories, Inc., 888 Willow St., Reno, NV 89502, 800–648–5472

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–989–2520

SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010, (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447, (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301, (formerly: SmithKline Bio-Science Laboratories)
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373, (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191, (formerly: MetWest-BPL Toxicology Laboratory)

The following laboratory withdrew from the National Laboratory Certification Program on August 1:

Drs. Weber, Palmer, Macy, Chartered, 338 N. Front St., Salina, KS 67401, 913–823–9246.

Pat Bransford,

Director of Personnel, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–22387 Filed 9–4–96; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–818911

Applicant: John Thrower, Saxonburg, PA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–816948

Applicant: The Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to export and reimport one male Asian elephant (*Elephas maximus*) born in captivity at the applicant's facilities. The export and reimport will be to/from worldwide locations to enhance the survival of the species through conservation education.

PRT–819035

Applicant: Siegfried & Roy Enterprises, Inc., Las Vegas, NV.

The applicant requests a permit to import one Bengal tiger (*Panthera tigris tigris*) from Guadalajara Zoo, Mexico for the purpose of enhancement of the species through propagation and conservation education.

PRT–818603

Applicant: University of Georgia, Athens, GA.

The applicant requests a permit to import frozen serum samples from a female Asian elephant (*Elephas maximus*) from Calgary Zoo, Canada for the purpose of enhancement of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: August 30, 1996.

Carol Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–22640 Filed 9–4–96; 8:45 am]

BILLING CODE 4310–55–U

Notice of Availability of a Draft Recovery Plan for the Alabama Cave Shrimp (Palaemonias alabamae) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Alabama cave shrimp (*Palaemonias alabamae*). The albinistic Alabama cave shrimp has been found in five caves (three cave systems) near the city of Huntsville, Madison County, Alabama. One cave is found on the Redstone Arsenal, an army installation, while the other four caves are privately owned. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before November 15, 1996, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Jackson Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Jacobson at the above address (601–965–4900, ext. 30).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of

the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The species considered in this draft recovery plan is the Alabama cave shrimp (*Palaemonias alabamae*). The Alabama cave shrimp is a small, colorless, and nearly transparent decapod crustacean up to 30 millimeters (1.2 inches) in total length. The shrimp occurs in pools of water in a cave environment. In caves with high energy flows, the shrimp must have access through cave windows (openings) to calmer groundwater habitat. This species was listed as endangered on September 7, 1988. Available information indicates the overall population may be declining and the shrimp is apparently extirpated from Shelta Cave, the type locality. Groundwater contamination represents the major threat to this cave-dwelling species. Other threats include destruction of habitat, collecting, and predation.

The objective of this proposed plan is reclassification of the Alabama cave shrimp to threatened status. Reclassification will be considered when five reproducing populations have been identified and protected in five groundwater basins, and the populations persist in these basins, as evidenced by monitoring, over a 20-year period. Proper public stewardship of groundwater and surface water quality and quantity surrounding the five populations is essential for recovery. Actions needed to reach this goal—1) protecting populations and habitat, 2) encouraging local stewardship for caves and recharges areas through education, 3) monitoring populations, 4) searching for additional populations, 5) studying species biology, and 6) modifying or replacing gated entrance to Shelta cave.

This Plan is being submitted for agency review. After consideration of comments received during the review period, it will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 29, 1996.

Cary Norquist,

Acting Field Supervisor.

[FR Doc. 96–22602 Filed 9–4–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[NV–930–1430–01; N–40257, N–40258, N–40259, N–40260, N–40261, N–40262, N–40263, N–40264, N–40268, N–40269, N–40270, N–40990]

Termination of Desert Land Act/Carey Act Classification and Opening Order, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates Desert Land Act/Carey Act classifications N–40257, N–40258, N–40259, N–40260, N–40261, N–40262, N–40263, N–40264, N–40268, N–40269, N–40260, and N–40990 in their entirety and opens the land to appropriation under the public land laws and general mining laws, subject to any valid existing rights.

EFFECTIVE DATE: September 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mary R. Craggett, Bureau of Land Management, Battle Mountain Field Office, 50 Bastian Road, P.O. Box 1420, Battle Mountain, Nevada 89820, (702) 635–4000.

SUPPLEMENTARY INFORMATION: On August 20, 1985, the public lands described below were classified as suitable for entry under the Desert Land Act (19 Stat. 377; 43 U.S.C. 231, as amended) and the Carey Act (28 Stat. 372, 422; 43 U.S. C. 641–647, as amended)

Mount Diablo Meridian, Nevada

T. 3 N., R. 53 E.,
Sec. 1, lots 3 & 4, S½NW¼, SW¼;
Sec. 3, S½;
Sec. 7, lots 1 & 2, NE¼, E½NW¼;
Sec. 8, N½;
Sec. 10, N½;
Sec. 12, N½.
T. 4 N., R. 53 E.,
Sec. 14;
T. 4 N., R. 54 E.,
Sec. 2, SW¼;
Sec. 3, SE¼;
Sec. 7, lot 4, SE¼SW¼, S½SE¼;
Sec. 16;
Sec. 18, lot 1, N½NE¼, NE¼NW¼.

The area described contains 3,833.84 acres in Nye County.

Entry to the lands was allowed in June and July of 1990 under provisions of the Desert Land Act, segregating the entered land from all other forms of appropriation under the public land laws, including location under the mining laws. Final proof on each entry was due within four years of entry allowance. Final proof was not made on any of the 12 entries, which were cancelled in 1995.

The classification no longer serves any purpose; accordingly, pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272), the aforementioned classification for entry under the Desert Land Act or the Carey Act is hereby terminated.

At 10 a.m. on September 20, 1996, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, other segregation of record, and the requirements of applicable law.

At 10 a.m. on September 20, 1996, the land will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing and material disposal laws, subject to valid existing rights, the provision of existing withdrawals, other segregation of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 22, 1996.

Gerald M. Smith,

District Manager, Battle Mountain.

[FR Doc. 96–22549 Filed 9–04–96; 8:45 am]

BILLING CODE 4310–HC–P

[AZ-055-1430-01; AZA 28642]

Public Land Order No. 7212; Withdrawal of Public Lands for the Gila River Cultural Area of Critical Environmental Concern; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,720 acres of public lands from surface entry and mining for a period of 50 years for the Bureau of Land Management to protect the archaeological resources within the Gila River Cultural Area of Critical Environmental Concern. The lands have been and will remain open to mineral leasing. An additional 1,900 acres of non-Federal lands, if acquired by the United States, would also be withdrawn by this order.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Debbie DeBock, BLM Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, 520-726-6300.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2(1988)), but not from leasing under the mineral leasing laws, to protect the Bureau of Land Management's Gila River Cultural Area of Critical Environmental Concern:

Gila and Salt River Meridian

Public Lands

T. 6 S., R. 11 W.,
Sec. 1, SW¼SW¼;
Sec. 3, S½SE¼;
Sec. 4, S½;
Sec. 9, N½, E½SW¼, and SE¼;
Sec. 10, NE¼, and N½NW¼;
Sec. 11, N¼N¼, N½S½N½, S½SW¼NW¼, and N½S½;
Sec. 12, NW¼NW¼, and N½SW¼NW¼.

The areas described aggregate 1,720 acres in Yuma County.

2. The following described non-Federal lands are located within the boundary of the Gila River Cultural Area of Critical Environmental Concern. In the event these lands return to public ownership, they would be subject to the terms and conditions of this withdrawal as described in Paragraph 1:

Non-Federal Lands

T. 6 S., R. 11 W.,
Sec. 2, S½;
Sec. 3, SW¼, and N½SE¼;
Sec. 9, W½SW¼;
Sec. 10, S½NW¼, and S½;
Sec. 11, S½S½NE¼, S½SE¼NW¼, and S½S½;
Sec. 15, N½;
Sec. 16, N½.

The areas described aggregate 1,900 acres in Yuma County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: August 27, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96-22582 Filed 9-4-96; 8:45 am]

BILLING CODE 4310-32-P

[AZ-950-5700-77; AZA 5968, AZA 29172]

Public Land Order No. 7214; Partial Revocation and Modification of Public Land Order No. 5279; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 103.81 acres of National Forest System lands withdrawn for the Payson Administrative Site and the Cline Cabin Wildlife Enclosure. The revocation is needed to accommodate a proposed land exchange. Of the 103.81 acres being revoked, 63.81 acres are temporarily closed to mining by a Forest Service land exchange proposal, and 40 acres will be opened to mining. This order also modifies the withdrawal on the remaining 296.41 acres to establish a 20-year term under which these lands would remain closed to mining. All of the lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Cliff Yardley, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-650-0509.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 5279, which withdrew lands for an administrative site and a wildlife enclosure, is hereby revoked insofar as it affects the following described lands:

Gila and Salt River Meridian

Tonto National Forest

1a. Payson Administrative Site

T. 10 N., R. 10 E.,
Sec. 2, lots 5, 7, 9, and 11.

1b. Cline Cabin Wildlife Enclosure

T. 4 N., R. 9 E.,
Sec. 3, NE¼NE¼.

The areas described aggregate 103.81 acres in Gila and Maricopa Counties.

2. The land described under Paragraph 1a above is temporarily segregated by a pending land exchange and will not be opened at this time.

3. At 10 a.m. on October 7, 1996 the land described under Paragraph 1b above will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described under Paragraph 1b of this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. Public Land Order No. 5279 is hereby modified to expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended insofar as it affects the following described land:

Gila and Salt River Meridian

Tonto National Forest

T. 10 N., R. 10 E.,
Sec. 2, lots 6, 8, 10, and 12, SE¼NW¼, SW¼NE¼, N½SW¼, and NW¼SE¼.

The area described contains 296.41 acres in Gila County.

5. The land described in Paragraph 4 continues to be withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2

(1988)), but not from leasing under the mineral leasing laws, to protect the Forest Service's Payson Administrative Site.

Dated: August 27, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–22587 Filed 9–4–96; 8:45 am]

BILLING CODE 4310–32–P

National Park Service

Niobrara/Missouri National Scenic Riverways

AGENCY: National Park Service, Interior.

ACTION: Availability of final environmental impact statement for Niobrara National Scenic River in Brown, Cherry, Keya Paha, and Rock counties, Nebraska.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the National Park Service (NPS) announces the availability of a final environmental impact statement (FEIS) for the Niobrara National Scenic River. The draft environmental impact statement for the scenic river was on 45-day public review from April 5 to May 20, 1996.

The NPS will manage a 76-mile section of the Niobrara River. The action is in response to a mandate by Congress in P.L. 102–50, an amendment to the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) designating 40 miles of the river from Borman Bridge downstream to Chimney Creek, and a 30 mile section from Rock Creek to the Highway 137 bridge as a National Scenic River. A 6-mile segment from Chimney Creek to Rock Creek could be added after May 24, 1996 if no water resources projects were proposed within that section. The plan recommends the 6-mile addition. The FEIS was prepared by the NPS.

The NPS's preferred alternative for the Niobrara National Scenic River is identified in the FEIS as Alternative B: Local Council Management with Federal Funding. Under the preferred alternative a local council would be developed by the county commissions of Brown, Cherry, Keya Paha, and Rock counties. The local council and the National Park Service would sign a cooperative agreement giving the council certain management responsibilities along the scenic river. Three other alternatives were also considered: The no action alternative; an alternative under which the National Park Service would coordinate management of the river through cooperative agreements with private landowners and public agencies; and an alternative calling for direct National Park Service management.

DATES: The 30-day no action period for review of the FEIS will end on October 7, 1996. A record of decision will follow the no action period.

FOR FURTHER INFORMATION CONTACT:

Superintendent, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763. Telephone 402–336–3970.

Dated: August 28, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–22526 Filed 9–4–96; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before AUGUST 24, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by September 20, 1996.

Carol D. Shull,

Keeper of the National Register.

Arkansas

Perry County

Hollis CCC Camp Site (Facilities Constructed by the Civilian Conservation Corps in Arkansas MPS) Approximately 4,000 ft. N of jct. of Co. Rd. 4 and AR 7, Hollis vicinity, 96001019

Colorado

Otero County

Art Building, Arkansas Valley Fairgrounds, near jct. of Main St. and US 50, Rocky Ford, 96001027

Georgia

Toombs County

Vidalia Commercial Historic District, Roughly bounded by Meadow, Jackson, Pine, and Thompson Sts., Vidalia, 96001020

Illinois

Peoria County

Grand View Drive, Roughly bounded by N. Prospect Rd., the Illinois River bluffs, Adams St., and the Grand View Dr. W. right of way, Peoria, 96000399

New Jersey

Morris County

Sisters of Charity Dairy Barn, 184 Park Ave., Borough of Florham Park, Morristown vicinity, 96001021

New York

Jefferson County

Rottiers, John N., Farm (Orleans MPS) E side of NY 180, approximately 2 mi. S of the Hamlet of Lafargeville, Orleans, 96001022

Suffolk County

Setauket Presbyterian Church and Burial Ground, 5 Caroline Ave., Village of Setauket, Brookhaven, 96001023

Oklahoma

Oklahoma County

Edwards Historic District, Roughly bounded by N. Page Ave., N.E. 16th St., N.E. Grand Blvd., and E. Park Pl., Oklahoma City, 96001028

South Carolina

Orangeburg County

Orangeburg City Cemetery (Orangeburg MRA) Jct. of Bull and Windsor Sts., Orangeburg, 96001025

South Carolina State College Historic District (Civil Rights Movement in Orangeburg County MPS) 300 College St., Orangeburg, 96001024

Wisconsin

Crawford County

Carved Cave (Indian Rock Art Sites MPS) Address Restricted, Petersburg vicinity, 96001026

[FR Doc. 96–22527 Filed 9–4–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation 332–368]

Crawfish: Competitive Conditions in the U.S. Market

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

EFFECTIVE DATE: August 28, 1996.

SUMMARY: Following receipt on July 31, 1996, of a request from the Committee on Ways and Means, U.S. House of Representatives, the Commission instituted investigation No. 332–368, Crawfish: Competitive Conditions in the U.S. Market, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested by the Committee, the Commission's report on the investigation will focus on the period 1991–95, and to the extent possible, 1996, and will include the following:

(1) U.S. and foreign industry profiles, with special emphasis on the Chinese crawfish industry;

(2) a description of U.S. and foreign markets;

(3) U.S. imports and exports, and U.S. market penetration;

(4) price comparisons of domestic and imported crawfish; and

(5) any other information relating to competitive factors that affect the U.S. crawfish industry, including government programs.

As requested by the Committee, the Commission will transmit its report to the Committee no later than February 28, 1997.

FOR FURTHER INFORMATION CONTACT: Information on industry aspects may be obtained from David Ludwick, Office of Industries (202–205–3329) or William Hoffmeier, Office of Industries (202–205–3321); economic aspects, from Ronald Babula, Office of Industries (202–205–3331); and legal aspects, from William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Public Hearing

A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on November 7, 1996. All persons will have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m. October 22, 1996. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m. October 28, 1996; the deadline for filing posthearing briefs or statements is 5:15 p.m. November 22, 1996. In the event that, as of the close of business on October 25, 1996, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after October 25, 1996, to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the public hearing, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than November 22, 1996. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The Commission may wish to use the confidential business information you provide in this investigation in other investigations of the same products which are conducted under other statutory authority, but will do so only with your consent. Any confidential business information so used will be afforded the protection provided under the appropriate statutory authority. In your request for confidential treatment, please state whether you consent to such use. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: August 29, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–22636 Filed 9–4–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–738 (Final)]

Foam Extruded PVC and Polystyrene Framing Stock From the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the investigation.

EFFECTIVE DATE: August 23, 1996.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov* or *ftp://ftp.usitc.gov*).

SUPPLEMENTARY INFORMATION: Effective May 10, 1996, the Commission instituted this final antidumping investigation and established a schedule for its conduct in the **Federal Register** (61 FR 27097, May 30, 1996). The Commission is hereby amending its published schedule for the investigation as follows: the deadline for filing prehearing briefs is September 23, 1996; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 27, 1996; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 1, 1996; and the deadline for filing posthearing briefs is October 4, 1996. If briefs contain business proprietary information, a nonbusiness proprietary version is due the following business day.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.20 of the Commission's rules.

Issued: August 26, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–22632 Filed 9–4–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 701–TA–367 (Final), 731–TA–740 (Final), 731–TA–741–743 (Final), 731–TA–744 (Final), 731–TA–745 (Final), 731–TA–746 (Final), 731–TA–747 (Final), and 731–TA–748 (Final)]

Certain Laminated Hardwood Flooring From Canada; Sodium Azide From Japan; Melamine Institutional Dinnerware From China, Indonesia, and Taiwan; Certain Brake Drums and Rotors From China; Steel Concrete Reinforcing Bars From Turkey; Beryllium Metal and High-Beryllium Alloys From Kazakhstan; Fresh Tomatoes From Mexico; Engineered Process Gas Turbo-Compressor Systems From Japan

AGENCY: United States International Trade Commission.

ACTION: Notice of commencement of final phase countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the commencement of final phase countervailing duty Investigation No. 701–TA–367 (Final) under section 705(b) of the Tariff Act of 1930 (the Act) (19 U.S.C. § 1671d(b)) to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of subsidized imports of certain laminated hardwood flooring from Canada, provided for in subheadings 4421.90.98 and 9905.44.50 of the Harmonized Tariff Schedule of the United States.

The Commission additionally gives notice of the commencement of the following final phase antidumping investigations under section 735(d) of the Act (19 U.S.C. § 1673d(b)):

1. Investigation No. 731–TA–740 (Final), to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of sodium azide from Japan, provided for in subheading 2850.00.50 of the Harmonized Tariff Schedule of the United States.

2. Investigations Nos. 731–TA–741–743 (Final), to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of melamine institutional dinnerware from China, Indonesia, and Taiwan, provided for in subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States.

3. Investigation No. 731–TA–744 (Final), to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of certain brake drums and rotors from China, provided for in subheading 8708.39.50 of the Harmonized Tariff Schedule of the United States.

4. Investigation No. 731–TA–745 (Final), to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of steel concrete reinforcing bars from Turkey, provided for in subheadings 7213.10.00 and 7214.20.00 of the Harmonized Tariff Schedule of the United States.

5. Investigation No. 731–TA–746 (Final), to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of beryllium metal and high-beryllium alloys from Kazakhstan, provided for in subheadings 8112.11.30, 8112.11.60, and 7601.20.90 of the Harmonized Tariff Schedule of the United States.

6. Investigation No. 731–TA–747 (Final), to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of fresh tomatoes from Mexico, provided for in subheadings 0702.00.20, 0702.00.40, and 0702.00.60 of the Harmonized Tariff Schedule of the United States.

7. Investigation No. 731–TA–748 (Final), to determine whether an industry in the United States is materially injured, or threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of engineered process gas turbo-compressor systems from Japan, provided for in subheadings 8406.81.10, 8406.82.10, 8406.90.20 through 8406.90.45, 8414.80.20, 8414.90.40, 8419.60.50, and 9032.89.60 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended in 61 FR 37818 (July 22, 1996).

EFFECTIVE DATE: August 21, 1996.

FOR FURTHER INFORMATION CONTACT: Vera A. Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Amendments to the Commission's Rules of Practice and Procedure concerning countervailing duty and antidumping investigations in 19 C.F.R. parts 201 and 207 became effective on August 21, 1996. Under its revised regulations, the Commission will conduct a single, continuous, countervailing duty or antidumping investigation, in contrast to the discrete preliminary and final investigations it previously conducted. The regulations provide that the Commission will normally commence its final phase investigation at the same time that it publishes notice of an affirmative preliminary determination.

The Commission has reached affirmative preliminary determinations in each of the captioned investigations. Because these determinations were issued before the amendments to the Commission's regulations became effective, the Commission did not commence final phase investigations at the time it published notice of these determinations. It does so now to conform these investigations to the single, continuous investigation concept of the amended regulations, which are applicable to ongoing antidumping and countervailing duty investigations as well as those initiated by petitions filed after the effective date of the amendments.

Accordingly, persons wishing to participate in any of the investigations as parties, who did not enter an appearance in the applicable preliminary investigation, may file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(3) of the Commission rules. The entry of appearance for an

investigation must be filed no later than 21 days before the scheduled hearing date in that investigation. That scheduled hearing date will be specified in the Final Phase Notice of Scheduling which will be published for each investigation in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in that investigation under section 703(b) or 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 705(a) or 735(a) of the Act. (In the *Sodium Azide* and *Melamine* investigations, in which Commerce has issued affirmative preliminary determinations, the Commission will issue Final Phase Notices of Scheduling when it receives further information from Commerce concerning scheduling of Commerce's final investigation.) Parties that filed entries of appearance in a preliminary investigation need not enter a separate appearance for the final phase of that investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to each investigation.

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make business proprietary information (BPI) available to authorized applicants (which must be interested parties that are parties to the investigation) under the Administrative Protective Order (APO) issued in each investigation, provided that the application is made not later than the time that entries of appearance are due in that investigation. A separate service list will be maintained by the Secretary for each investigation for those parties authorized to receive BPI under the APO.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to any of the captioned investigations must be served on all other parties to that investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Act. This notice is published pursuant to section 207.20(a) of the Commission's rules.

Issued: August 29, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–22635 Filed 9–4–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–736 and 737 (Final)]

Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Germany and Japan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from Germany and Japan of large newspaper printing presses (LNPPs) and components thereof, whether assembled or unassembled, whether complete or incomplete, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).[3] [4] The subject imports are provided for in subheadings 8443.11.10, 8443.11.50, 8443.21.00, 8443.30.00, 8443.40.00, 8443.59.50, 8443.60.00, and 8443.90.50 of the Harmonized Tariff Schedule of the United States (HTS). LNPP computerized control systems (including equipment and/or software) may enter under HTS subheadings 8471.49.10, 8471.49.21, 8471.49.26, 8471.50.40, 8471.50.80, and 8537.10.90.

Background

The Commission instituted these investigations effective February 28, 1996, following preliminary determinations by the Department of Commerce that imports of LNPPs and components thereof, whether assembled or unassembled, whether complete or incomplete, from Germany and Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 13, 1996 (61 FR 10381). The hearing was held in Washington, DC, on July 17, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on August 28, 1996. The views of the Commission are contained in USITC Publication 2988 (August 1996), entitled "Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan: Investigations Nos. 731–TA–736 and 737 (Final)."

Issued: August 27, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–22633 Filed 9–4–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–749 (Preliminary)]

Persulfates From China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of persulfates, provided for in subheadings 2833.40.20 and 2833.40.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[3]

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, as amended in 61 FR 37818 (July 22, 1996), the

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Miller did not participate.

[3] Commissioner Crawford determines that an industry in the United States is materially injured by reason of the LTFV imports.

[4] Vice Chairman Bragg, and Commissoners Newquist, Nuzum, and Watson, who find that an industry in the United States is threatened with material injury, further determine pursuant to 19 U.S.C. § 1673d(b)(4)(B), that they would not have found material injury but for the suspension of liquidation of entries of the merchandise under investigation.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Miller not participating.

[3] Commissioners Crawford and Watson find a reasonable indication of material injury by reason of the subject imports.

Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On July 11, 1996, a petition was filed with the Commission and the Department of Commerce by FMC Corp., Chicago, IL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of persulfates from China. Accordingly, effective July 11, 1996, the Commission instituted antidumping Investigation No. 731–TA–749 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 17, 1996 (61 FR 37283). The conference was held in Washington, DC, on July 31, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 26, 1996. The views of the Commission are contained in USITC Publication 2989 (August 1996), entitled "Persulfates from China: Investigation No. 731–TA–749 (Preliminary)."

Issued: August 27, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–22634 Filed 9–4–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq.

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed partial consent decree in *United States* v. *Excel Corp.*, Civil Action No. 3:93CV0119RM, was lodged on August 13, 1996 with the United States District Court for the Northern District of Indiana. The consent decree resolves the claims alleged against Excel Corporation, Elkhart Products Corporation, Detrex Corporation, NIBCO, Inc., Miles, Inc. and Adams & Westlake, Ltd. under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, ("CERCLA"). The proposed Consent Decree provides for the payment by these settling parties of $4,452,500 of the United States unrecovered response costs at the Main Street Well Field Site in Elkhart, Indiana (the "Site"). The proposed Consent Decree also resolves the United States claim against Detrex Corporation for a civil penalty for its alleged failure to perform response activities at the Site pursuant to an administrative order issued by the United States Environmental Protection Agency.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Excel Corp.*, DOJ Ref. #90–11–3–799.

The proposed consent decree may be examined at the office of the United States Attorney, 301 Federal Building, 204 South Main Street, South Bend, Indiana; the Region 5 Office of the Environment Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $10.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–22552 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed Settlement Agreement in *In re: The Parson's Company*, Case No. 82 B 751, was lodged with the United States Bankruptcy Court for the Northern District of Illinois, on August 27, 1996, among the United States, on behalf of the Environmental Protection Agency ("EPA"), the State of Illinois, and the debtor. The United States filed an application for reimbursement of administrative expenses against the debtor in the action for the debtor's liability under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, for investigation and clean-up costs at the debtor's property, in Belvidere, Illinois. The State also filed a claim against the debtor for the State's own clean-up costs. Under the Settlement Agreement, the debtor will pay the United States and the State, in equal shares, the assets remaining in the estate after payment of professionals' fees and taxes. The Settlement Agreement includes a covenant not to sue by the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and under Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973 ("RCRA").

The Department of Justice will receive comments relating to the proposed Settlement Agreement for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530. All comments should refer to *In re: The Parson's Company*, D.J. Ref. 90–11–2–891. Commenters may request an opportunity for a public hearing in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed Settlement Agreement may be examined at the office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and at the Consent Decree Library, 1120 G Street, N.W., 4th floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $3.25 for the Agreement (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *In re: The Parson's Company*, D.J. Ref. No. 90–11–2–891.

Bruce S. Gelber,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–22551 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Departmental policy, notice is hereby given that a proposed Consent Decree in *United States* v. *Pesses, et al.*, Civil Action No. 90–654 (W.D. Pa.), was lodged on August 19, 1996 with the United States District Court for the Western District of Pennsylvania. This proposed Consent Decree will, if entered, settle a complaint filed against twenty-six defendants by the United States on behalf of the Environmental Protection Agency ("EPA"), pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA") 42 U.S.C. § 9607, in connection with the Metcoa Radiation Superfund Site, in Pulaski, Pennsylvania. Certain defendants in turn sued over two hundred (200) third party defendants and brought counterclaims against various federal agencies, the counterclaim defendants.

The proposed Consent Decree provides for reimbursement of past response costs incurred by the United States in the amount of $1,950,000.00 and payment of future response costs, and for performance of response actions at the Metcoa Radiation Superfund Site. The proposed Consent Decree also provides for payment of response costs by the counterclaim defendants in the amount of $291,000.00.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Pesses, et al.*, DOJ Ref. #90–11–3–613.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Pennsylvania, 633 Post Office and Courthouse, Seventh and Grant Street, Pittsburgh, Pennsylvania 15219; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $50.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–22553 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed consent decree in *United States* versus *Rohm and Haas Company, et al.*, Civil Action No. 85–4386, was lodged on August 21, 1996, with the United States District Court for the District of New Jersey, Camden Vicinage. The proposed decree resolves the United States' claims under CERCLA against defendants Manor Care, Inc., Manor Healthcare Corp., and Portfolio One, Inc. (the "Manor Defendants") with respect to the Lipari Landfill Superfund Site, in Mantua Township, New Jersey. The Manor Defendants are the alleged successors to a transporter that disposed of hazardous substances at the Site. Under the terms of the proposed decree, the Manor Defendants will pay $2,100,000 in reimbursement of past and future response costs incurred and to be incurred by the United States and the State of New Jersey.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* versus *Rohm and Haas Company, et al.*, DOJ Ref. #90–11–3–86.

The proposed consent decree may be examined at the office of the United States Attorney, 402 East State Street, Trenton, New Jersey; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York; and at the consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $11.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–22571 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993, Michigan Materials and Processing Institute

Notice is hereby given that, on August 13, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Michigan Materials and Processing Institute ("MMPI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The following companies were recently accepted as a Class A Shareholders in MMPI: Applied Sciences, Inc., Cedarville, OH; Brennan Recycling, Inc., St. Claire, Shores, MI; Quantum Consultants, Inc., East Lansing, MI; and Nanocor, Inc., Arlington Heights, IL. Lincoln Composites, Inc., is no longer a Class A Shareholder in MMPI.

No other changes have been made in either the membership or the planned activity of the group research project. Membership in this group research project remains open, and MMPI intends to file additional written notification disclosing all changes in membership.

On August 7, 1990, MMPI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 6, 1990, 55 Fed. Reg. 36710. The last notification was filed with the Department on March 13, 1996. A notice was published in the **Federal Register** on April 22, 1996, 61 Fed. Reg. 17728.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–22554 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 13, 1996, Noramco of Delaware, Inc., Division of McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application, which was received for processing on June 27, 1996, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances for distribution to its customers as bulk product.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 4, 1996.

Dated: August 21, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–22631 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–09–M

Foreign Claims Settlement Commission

Privacy Act of 1974; New System of Records Notice; Registration of Potential Claims Against Iraq

AGENCY: Foreign Claims Settlement Commission; Justice.

ACTION: Notice of new system of records.

SUMMARY: The Foreign Claims Settlement Commission (FCSC) hereby publishes notice of the establishment of an additional records system to be effective as of October 1, 1996, and designated "FCSC–38, Iraq, Registration of Potential Claims Against." Any person interested in commenting on this system may do so by submitting comments in writing to the Administrative Office of the Foreign Claims Settlement Commission, 600 E Street, NW, Washington, DC 20579. Comments must be submitted on or before October 1, 1996. This record system will be added to the Commission's current Privacy Act Systems of Records.

EFFECTIVE DATE: The system of records designated "FCSC–38, Iraq, Registration of Potential Claims Against" shall be established and become effective on October 1, 1996, as published herein unless amended by notice published prior to that date. The existing systems of records continue in effect.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission, 600 E Street NW, Room 6002, Washington, DC 20579, telephone (202) 616–6975, fax (202) 616–6993.

FCSC–38

SYSTEM NAME:

Iraq, Registration of Potential Claims Against.

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 600 E Street NW, Room 6002, Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Natural and juridical persons with potential claims against Iraq that are outside the jurisdiction of the United Nations Compensation Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim information, including name and address of claimant and representative, if any; date and place of birth or naturalization; nature and valuation of claim, including description of property or other asset or interest that is the subject of the claim; other evidence establishing entitlement to compensation for claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Information in the system was collected under the Foreign Claims Settlement Commission's general authority to adjudicate claims conferred by 22 U.S.C. 1621 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF THE USES:

Records are used for the purpose of determining the validity and amount of potential claims, to facilitate planning for adjudication of such claims in the future. Names and other information furnished by registrants may be used for verifying citizenship status with the Immigration and Naturalization Service. Names and addresses of individual registrants will be subject to public disclosure. Other information provided by the individual registrants will be maintained as confidential information which will be exempt from disclosure to the public.

Law Enforcement: In the event that a system of records maintained by the FCSC to carry out its functions indicates a violation or potential violation of law, whether civil or criminal or regulatory in nature and whether arising by general statute or particular program statute or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her official capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by registration number. Alphabetical index used for identification of registrant.

SAFEGUARDS:

At FCSC: Building employs security guards.

Records are maintained in a locked room accessible to authorized FCSC personnel and other persons when accompanied by such personnel.

RETENTION AND DISPOSAL:

Records are maintained in accordance with 5 U.S.C. 301. Disposal of records will be in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW, Room 6002, Washington, DC 20579; telephone 202–616–6975, fax 202–616–6993.

NOTIFICATION PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Registrant on whom the record is maintained.

Delissa A. Ridgway,

Chair.

[FR Doc. 96–22662 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–01–M

Privacy Act of 1974; New System of Records Notice; Holocaust Survivors Claims Program

AGENCY: Foreign Claims Settlement Commission, Justice.

ACTION: Notice of new system of records.

SUMMARY: The Foreign Claims Settlement Commission (FCSC) hereby publishes notice of the establishment of an additional records system to be effective as of October 1, 1996, and designated "FCSC–37, Germany, Holocaust Survivors' Claims Against." Any person interested in commenting on this system may do so by submitting comments in writing to the Administrative Office of the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC 20579. Comments must be submitted on or before October 1, 1996. This records system will be added to the Commission's current Privacy Act Systems of Records.

EFFECTIVE DATE: The system of records designated "FCSC–37, Germany, Holocaust Survivors' Claims Against" shall be established and become effective on October 1, 1996, as published herein unless amended by notice published prior to that date. The existing systems of records continue in effect.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission, 600 E Street NW., Room 6002, Washington, DC 20579, telephone (202) 616–6975, fax (202) 616–6993.

FCSC–37

SYSTEM NAME:

Germany, Holocaust Survivors' Claims Against.

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 600 E Street NW., Room 6002, Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Natural persons who assert claims for loss of liberty or damage to body or health as a result of National Socialist measures of persecution conducted directly against them.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim information, including name and address of claimant and representative, if any; date and place of birth or naturalization; nature and valuation of claim, including description of measures of persecution; other evidence establishing entitlement to compensation for claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 104–99, and the Agreement Between the Government of the United States of America and the Government of the Federal Republic of Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution of September 19, 1995.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF THE USES:

Records are used for the purpose of determining the validity and amount of claims; issuance of decisions concerning eligibility to receive compensation under the Act and Agreement; notifications to claimants of rights to appeal; preparation of decisions for certification to the Secretary of State for use in diplomatic settlement negotiations with Germany; and preparation of certifications of awards to the Secretary of the Treasury for payment. Names and other information furnished by claimants may be used for verifying citizenship status with the Immigration and Naturalization Service. As required by the authorizing statute, the information contained in this system of records will be maintained as confidential information which will be exempt from disclosure to the public.

Law Enforcement: In the event that a system of records maintained by the FCSC to carry out its functions indicates a violation or potential violation of law, whether civil or criminal or regulatory in nature and whether arising by general statute or particular program statute or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her official capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. Alphabetical index used for identification of claim.

SAFEGUARDS:

At FCSC: Building employees security guards.

Records are maintained in a locked room accessible to authorized FCSC personnel and other persons when accompanied by such personnel.

RETENTION AND DISPOSAL:

Records are maintained in accordance with 5 U.S.C. 301. Disposal of records will be in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful.

SYSTEM MANAGERS AND ADDRESS:

Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579; telephone 202–616–6975, fax 202–616–6993.

NOTIFICATION PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Claimant on whom the record is maintained.

Delissa A. Ridgway,

Chair.

[FR Doc. 96–22663 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

[INS No. 1783–96; AG Order No. 2052–96]

RIN 1115–AC83

Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iranian and Libyan Travel Documents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice provides for the registration and fingerprinting of certain nonimmigrants bearing Iranian or Libyan travel documents who apply for admission to the United States. This notice is published in response to concern for national security resulting from terrorist attacks and uncovered plots directed by nationals of Iran and Libya. This procedure is necessary to assist in protecting national security.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Patrice Ward, Acting Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536, telephone number: (202) 514–0964.

SUPPLEMENTARY INFORMATION: On January 16, 1991, a final regulation was published in the **Federal Register** at 56 FR 1566 requiring the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents. The requirement was promulgated in response to the United States condemnation of Iraq's invasion of Kuwait, United States sanctions against Iraq, and the theft of thousands of Kuwaiti passports during the occupation of Kuwait by Iraq, all of which heightened the potential for domestic anti-United States terrorist activities.

The Service published an interim rule in the **Federal Register** on December 23, 1993 at 58 FR 68024 that removed the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents and added a new paragraph (f) to 8 CFR 264.1. Paragraph (f) provides that the Attorney General may require, by public notice in the **Federal Register**, certain nonimmigrants of specific countries to be registered and fingerprinted upon arrival in the United States, pursuant to section 263(a)(5) of the Immigration and Nationality Act.

Notice of Requirement for Registration and Fingerprinting of Certain Iranian and Libyan Nonimmigrants

Recent terrorist activities perpetrated against the United States make it necessary for the United States to register and fingerprint certain nonimmigrants from Iran and Libya upon their application for admission to the United States. Therefore, all nonimmigrants bearing Iranian or Libyan travel documents who apply for admission to the United States, except those applying for admission under section 101(a)(15)(A) or 101(a)(15)(G) of the Immigration and Nationality Act, shall be registered on Form I–94 (Arrival/Departure Record), photographed, and fingerprinted on Form FD–258 (Fingerprint Chart) by the Service at the Port-of-Entry where the aliens apply for admission to the United States.

Dated: August 28, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–22609 Filed 9–4–96; 8:45 am]

BILLING CODE 4410–10–M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

Time and Date: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Tuesday, November 12, 1996 from 8:30 a.m. to 9:45 a.m. The public sessions of the Commission and the Committee meeting will be held on Tuesday, November 12, from 10:00 a.m. to 6:00 p.m., on Wednesday, November 13, from 9:00 a.m. to 6:00 p.m., and on Thursday, November 14, from 9:00 a.m. to 12:30 p.m.

Place: Amelia Island Plantation, Amelia Island, Florida 32305.

Status: The executive session will be closed to the public. At it, matters relating to personnel, the internal practices of the Commission, and international negotiations in process will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed if time permits and it is determined to be desirable by the Chairman.

Matters To Be Considered: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. For most of the meeting discussion will focus on the conservation of manatees in Florida and right whales in the northwest Atlantic. While subject to change, other major issues that the Commission plans to consider at the meeting include: efforts to reduce the take of harbor porpoise incidental to commercial fisheries; marine mammal conservation in Russia, including cooperative efforts between Russia and the United States; the Arctic Environmental Protection Strategy; co-management plans for marine mammals in Alaska; the care and maintenance of captive marine mammals; and the effects of pollutants and contaminants on marine mammals.

Contact Person for More Information: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 1825 Connecticut Avenue, N.W., Room 512, Washington, D.C. 20009, 202/606–5504.

Dated: August 29, 1996.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 96–22738 Filed 8–30–96; 4:25 pm]

BILLING CODE 6820–31–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–116]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee.

DATES: September 18, 1996, 8:30 to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aeronautics, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Overview
—University Strategy Update
—Potential for Propulsion Advancements
—National Transonic Facility (NTF)
—Subcommittee Restructuring
—Aviation Safety Reporting System
—Aeronautics Enterprise (Metrics)
—Global Strategy Workshop
—High-Speed Research IIA
—Environmental Research Aircraft and Sensor Technology (ERAST)

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: August 28, 1996.

Alan M. Ladwig,

Associate Administrator for Policy and Plans, National Aeronautics and Space Administration.

[FR Doc. 96–22530 Filed 9–4–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice 96–107]

NASA Advisory Council, Advisory Committee on the International Space Station (ACISS); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 42919; Notice Number 96–094, August 19, 1996.

PREVIOUSLY ANNOUNCED DATES AND ADDRESSES OF MEETING: September 11, 1996, 8:30 a.m. to 5:00 p.m. Marshall Space Flight Center, Building 4200, Room P110, Huntsville, AL 35812.

CHANGES IN THE MEETING: Dates changed to include September 12, 1996, 3:30 p.m. to 5:00 p.m. Address for this date only changed to Marshall Space Flight Center, Building 4203, Room 2002, Huntsville, AL 35812.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Luna, Code M–4, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1101.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: August 29, 1996.

Alan M. Ladwig,

Associate Administrator for Policy and Plans, National Aeronautics and Space Administration.

[FR Doc. 96–22673 Filed 9–4–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice 96–105]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Active Control eXperts, Inc. of Cambridge, MA 02142–1227, has applied for a partially exclusive license to practice the invention disclosed in NASA Case No. LAR–15348–1, entitled "Thin-Layer Composite-Unimorph Piezoelectric Driver Sensor, 'THUNDER'" for which a U.S. Patent Application was filed by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ms. Kimberly Chasteen, Patent Attorney, Langley Research Center.

DATE: Responses to this notice must be received by (insert 60 days from the date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Chasteen, Patent Attorney, Langley Research Center, (804) 864–3227.

Dated: August 27, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–22531 Filed 9–4–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice 96–104]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Rochester Gas & Electric Corporation, of Rochester, New York 14649–0001, has applied for a partially exclusive license to practice the invention disclosed in NASA Case No. LAR–15327–1–CU, entitled "Process for Coating Substrates with Catalytic Materials," for which a U.S. Patent Application was filed by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. George F. Helfrich, Patent Counsel, Langley Research Center.

DATES: Responses to this notice must be received by (insert 60 days from date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Mr. George F. Helfrich, Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681; telephone (757) 864–9260; (757) 864–9260.

Dated: August 27, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–22532 Filed 9–4–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Establishment

The Deputy Director of the National Science Foundation has determined that the establishment of the Advisory Panel for Biomolecular Processes is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 *et seq.* This determination follows consultation with the Office of Management and Budget and with the Committee Management Secretariat, General Services Administration.

NAME OF COMMITTEE: Advisory Panel for Biomolecular Processes.

PURPOSE & OBJECTIVE: Primarily, to advise on the merit of proposals for research in Biomolecular Processes and for research-related purposes submitted to NSF for financial support. Additionally, the Panel provides perspective and advice regarding progress in the scientific areas supported by the program.

BALANCED MEMBERSHIP PLANS: The panel consists of 50 members, of whom approximately 28 attend a given meeting. Every effort is made to select panel members who are outstanding scientifically and are objective. A balance is needed and scientists knowledgeable in the areas of science encompassed by the program is essential. These factors are important and weight is given to geographical distribution, gender, minority status, institution, and scientific maturity.

DURATION: Continuing.

RESPONSIBLE NSF OFFICIALS: Dr. Julius H. Jackson, Director, Division of Molecular and Cellular Biosciences, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, telephone 202/306–1440.

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–22563 Filed 9–4–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(1194)

Date and Time: September 20, 1996, 8:30 a.m.–5:00 p.m.

Place: Room 380, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Anthony Centodocati, SBIR Director, SBIR Office (703) 306–1391, John Rosendale, Program Officer, CISE/ASE, (703) 306–1370, Frank Anger, Program Officer, CISE/CCR, (703) 306–1912, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate SBIR Phase I Advanced Scientific Computing proposals and Computer and Computational Research: Software Engineering and Languages proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a priorietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–22558 Filed 9–4–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (1194) submitted to the Phase I Small Business Innovation Research Program in the areas of Civil Mechanical Systems, Mechanics and Materials, Computer and Computational Research: Computer Graphics, Computer and Computational Research: Software Systems and Architectures. In order to review the large volume of proposals, panel meetings will be held on September 20, 1996 in rooms 340, 375, and 530, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA. from 8:30 a.m. to 5:00 p.m. each day.

Contact Person: Anthony Centodocati, SBIR Program Manager, SBIR Office, (703) 306–1391, George Patrick Johnson, SBIR Program Manager, SBIR Office, (703) 306–1391, Ken Chong, Program Manager, CMS/ENG, (703) 306–1361, Kamal Abdali, Program Manager, CISE/CCR, (703) 306–1912, Anand R. Tripathi, CISE/CCR, (703) 306–1912, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–22559 Filed 9–4–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(1194).

Date and Time: September 25, 26, and 27, 1996, 8:30 a.m.–5:00 p.m.

Place: Rooms 360, 365, and 530 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Yousef Hashimi, SBIR Director, SBIR Office, (703) 306–1391, Sara Nerlove; SBIR Director, SBIR Office, (703) 306–1391, George Patrick Johnson, SBIR Director, SBIR Office, (703) 306–1391, Paul Werbos, Program Officer, ECS/ENG, (703) 306–1339, Jorn Larsen-Basse, Program Officer, (703) 306–1361, Edward Bryan, BES/ENG, (703) 306–1320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate SBIR Phase I Next Generation Vehicles, Systems Integration and Control proposals, Civil Mechanical Systems, Tribology proposals, and Environmental Engineering proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–22560 Filed 9–4–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following two meetings of the Special Emphasis Panel in Materials Research #1203.

1. Dates & Times: 9–25–96, 7:00 p.m.–9:00 p.m., 9–26 and 9–27–96, 8:00 a.m.–5:00 p.m. Contact Person: Dr. H. Hollis Wickman, Program Director, Condensed Matter Physics, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone (703) 306–1818.

Purpose of Meeting: To provide advice and recommendations concerning the Condensed Matter Physics Program, Science and Technology Center for Superconductivity, University of Illinois at Urbana-Champaign.

2. Dates & Times: 9–26–96, 5:00 p.m.–9:00 p.m. and 9–27–96, 8:00 a.m.–5:00 p.m. Contact Person: Dr. W. Lance Haworth, Coordinating Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, NSF, 4201 Wilson Blvd., Arlington, VA 22230, Telephone (703) 306–1815.

Purpose of Meeting: To review progress and provide advice and recommendations concerning support for the Materials Research Science and Engineering Center, University of California—San Diego.

Agenda for both meetings: Presentation and evaluation of progress.

Types of Meetings: Closed.

Reason for Closings: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–22562 Filed 9–4–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis for NSFNET Connections Panel (#1207)

Date and Time: September 25, 1996; 8:30 a.m. to 5:00 p.m.

Place: Room 1175

Type of Meeting: Closed

Contact Person(s): Mark Luker, Program Director, CISE/NCRI, Room 1175, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1950.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted for the NSFNET Connections Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–22561 Filed 9–4–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 86th meeting on September 26 and 27, 1996, at the Hotel San Remo, 115 East Tropicana Avenue, Las Vegas, Nevada, in Chateau 1 and Chateau 2. The date of this meeting was previously published in the **Federal Register** on Wednesday, December 6, 1995 (60 FR 62485).

The entire meeting will be open to public attendance. The agenda for this meeting shall be as follows: *Thursday, September 26, 1996—8:30 A.M. until. 6:00 P.M. Friday, September 27, 1996—8:30 A.M. until the conclusion of business*

During this meeting, the Committee plans to consider the following:

A. *Radionuclide Transport at Yucca Mountain*—The Committee will investigate the status and results of studies and modeling of radionuclide transport in the saturated and unsaturated zone at Yucca Mountain. This topic will constitute the entire meeting on Thursday. Specific focus will be on the transport of radionuclides in fracture systems at Yucca Mountain. This will include the ingress of water to the repository horizon and geochemical processes that affect transport of radionuclides out of the repository via fracture systems.

B. *Site Characterization*—The Committee will discuss site characterization integration through the use of performance assessment. A continuation of discussions with the Department of Energy on Total System Performance Assessment will be held with emphasis on the use of expert elicitation panels.

C. *Repository Design for Viability Assessment*—The Committee will discuss the advanced conceptual design for the proposed repository at Yucca Mountain, Nevada, with representatives of the Department of Energy and other interested parties.

D. *Public Comments*—The Committee will hear comments from members of the public on concerns related to nuclear waste disposal.

E. *Preparation of ACNW Reports*—The Committee will discuss proposed reports, including: radionuclide transport at Yucca Mountain, specifying a critical group and reference biosphere to be used in a performance assessment of a nuclear waste disposal facility, the consideration of coupled processes (thermal-mechanical-hydrological-chemical) in the design of a high-level waste repository, time of compliance in high- and low-level waste disposal, and the DOE program plan and waste isolation strategy.

F. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

G. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 27, 1995 (60 FR 49924). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

Dated: August 29, 1996

Andrew L. Bates,

Advisory Committee Management Office.

[FR Doc. 96–22612 Filed 9–04–96; 8:45 am]

BILLING CODE 7590–01–P

Issuance of a Memorandum of Understanding between the Nuclear Regulatory Commission and the Pennsylvania Department of Environmental Protection

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance of a Memorandum of Understanding.

SUMMARY: This notice is to advise the public of the issuance of a Memorandum of Understanding (MOU)

between the U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Pennsylvania Department of Environmental Protection (PADEP). The MOU provides the basis for cooperation between the agencies to facilitate the safe and timely remediation and decommissioning of Site Decommissioning Management Plan Sites (SDMP) and other decommissioning sites in Pennsylvania at which both agencies exercise regulatory authority.

The broad MOU expresses the desire of PADEP and the NRC to cooperate in areas subject to the jurisdiction of both parties. Under the MOU, PADEP and NRC will designate site coordinators for each SDMP site in Pennsylvania. Each agency will provide the other with reasonable notice of inspections, and meetings with other agencies or the public which concern a particular SDMP site. The MOU also provides the basis for the dissemination of information between the agencies and the review and comment of draft documents.

EFFECTIVE DATE: This MOU was effective July 15, 1996.

FOR FURTHER INFORMATION CONTACT: Heather Astwood, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop T–7–F27, Washington, D.C., 20555, telephone (301) 415–5819.

Dated at Rockville, MD this 28th day of August 1996.

For the U.S. Nuclear Regulatory Commission.

Michael F. Weber,

Chief Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

Memorandum of Understanding Between the United States Nuclear Regulatory Commission and the Commonwealth of Pennsylvania Department of Environmental Protection

1. *Purpose.* This Memorandum of Understanding ("MOU") is intended to provide a framework for voluntary cooperation between the United States Nuclear Regulatory Commission ("NRC") and the Commonwealth of Pennsylvania, Department of Environmental Protection ("DEP") to facilitate the safe and timely remediation and decommissioning of Site Decommissioning Management Plan ("SDMP") and other decommissioning sites in Pennsylvania at which both agencies exercise regulatory authority.

2. *Regulatory Authority.* The NRC regulates radioactive material and related activities at SDMP sites and licensed nuclear facilities under authority of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 *et seq.* The DEP administers and enforces Pennsylvania's environmental statutes, including the Solid Waste Management Act, 35 P.S. § 6018.101 *et seq.*; the Clean Streams Law, 35 P.S. § 691.1 *et seq.*; and the Radiation Protection Act, 35 P.S. § 7110.101 *et seq.*

3. *Designation of Site Coordinators.* Within ninety (90) days after execution of this MOU, each agency will designate a site coordinator for each SDMP site identified in Appendix A. Each agency shall notify the other, in writing, of the name, address, telephone and facsimile numbers of each site coordinator. Each agency may also designate coordinators for other decommissioning sites. Any changes in the designation of a coordinator will be communicated in writing to the other agency.

4. *Meetings and Conference Calls between the Agencies.* At the request of either agency, with reasonable notice, a meeting or conference call will be scheduled between the site coordinators and other agency representatives to discuss coordination of remediation and decommissioning activities.

5. *Technical and Regulatory Consultation.* At the request of either agency, with reasonable notice, representatives of each will be made available to discuss technical or regulatory matters pertaining to the SDMP site or other decommissioning sites.

6. *Meetings with the Public.* Except in response to site emergencies, each agency will notify the other, at least two weeks in advance, of any public meeting related to remediation or decommissioning activities at an SDMP or other decommissioning site.

7. *Meetings with Other Regulatory Entities.* At its discretion, an agency may invite representatives of the other agency to attend meetings with other regulatory entities who share some responsibility for the SDMP or other decommissioning site. At a minimum, an agency will keep the other agency informed of such meetings and the results of those meetings. It should be noted that the NRC has an Open Meeting Policy which would require these meetings to be open to the public because they would almost always involve discussions concerning a specific licensee (Open Meeting Statement of NRC Staff Policy, 59 **Federal Register** 48340, 9/20/94).

8. *Notice of Site Inspections.* Each agency will make a good faith effort to coordinate routine site inspections of SDMP sites and other decommissioning sites by providing advance notice to the other agency.

9. *Dissemination of Information to Other Agencies.* As necessary to effectively implement remediation and decommissioning of SDMP and other decommissioning sites, the agencies will coordinate pertinent and appropriate dissemination of information to other Federal, State and local Government agencies.

10. *Exchange of Information Between Agencies.*

A. The agencies will exchange information concerning the remediation and decommissioning of SDMP or other decommissioning sites as follows:

i. Within two weeks of receipt, the following information will be forwarded from one agency to the other: plans and reports relating to site assessment/characterization; remediation or decommissioning; and all available related analytic data generated through site remediation or decommissioning.

ii. Upon request, NRC will make available to DEP for review and copying any documents disclosable to the public under the Freedom of Information Act, 5 U.S.C. § 552, NRC regulations in 10 CFR Part 9, Public Records, and in 10 CFR Part 2.790, public inspections, exemptions, requests for withholding, and any other applicable Federal statute, regulation, or policy.

iii. Upon request, DEP will make available to the NRC for review and copying any documents disclosable to the public under the Public Right to Know Act, 65 P.S. § 66.1 *et seq.*, DEP's public information policy, and any other applicable Pennsylvania statute, regulation, or policy.

B. All documents exchanged by the agencies will be addressed to the designated coordinator for the SDMP site.

C. Nothing in this MOU shall be construed as compelling either agency to produce information or documents which the agency deems confidential or privileged. If such documents are exchanged, each agency will respect the confidentiality of the information and will make every attempt to avoid disclosure in accordance with administrative procedures.

11. *Disclosure of Information to the Public.* The right of access by the public to information under Federal and State law, regulation, or policy is not affected by this MOU.

12. *Review and Comment on Documents.*

A. Each agency should expeditiously forward drafts of documents it has prepared, or copies of documents

received from third persons which potentially impact remediation of hazards under the other agency's jurisdiction, to solicit the other agency's review and comments.

B. The agency requesting comments will specify the date by which a response is needed. The review and comments should be completed in a reasonable time (or approximately 30 days).

C. Comments will be returned within the specified response period. In cases where there are no comments, that information will be provided within the response period.

D. Requests for comments or responses will be addressed to the agency's site coordinator.

E. Final agency decisions and documents potentially impacting remediation of hazards under the other agency's jurisdiction will be transmitted by facsimile the same day these documents are sent to the facility management or released to the public.

13. *Modifications.* Any modifications or changes to this MOU shall only be effective if agreed to by the parties and set forth in writing as an amendment of this MOU.

14. *Reservation of Rights.* Nothing in this MOU shall affect the rights, duties and authority of either agency under the law. The agencies reserve their respective authority and rights to take any enforcement action which they deem necessary to fulfill their duties and responsibilities under the law.

15. *Non-binding Memorandum.* This memorandum is not intended to and does not create any contractual rights or obligations with respect to the NRC, DEP, or any other parties.

Dated: April 11, 1996.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission.

Dated: July 15, 1996

James W. Rue,

Deputy Secretary, Air, Recycling and Radiation Protection, Commonwealth of Pennsylvania, Department of Environmental Protection.

Appendix A—Site Decommissioning Management Plan Sites in the Commonwealth of Pennsylvania

Babcock & Wilcox; Apollo, PA
Babcock & Wilcox; Parks Township, PA
Cabot Corporation; Boyertown, PA
Cabot Corporation; Reading, PA
Cabot Corporation; Revere, PA
Molycorp, Inc.; Washington, PA
Molycorp, Inc.; York, PA
Permagrain Products; Media, PA
Pesses Company, METCOA Site; Pulaski, PA
Safety Light Corporation; Bloomsburg, PA
Schott Glass Technologies; Duryea, PA
Westinghouse Electric Corporation; Waltz Mill, PA
Whittaker Corporation; Greenville, PA

[FR Doc. 96–22614 Filed 9–4–96; 8:45 am]
BILLING CODE 7590–01–P

Draft Regulatory Guides; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment drafts of six guides planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

These draft guides, presently identified by their task numbers, endorse industry consensus standards of the Institute of Electrical and Electronics Engineers. The guides and the standards they endorse are DG–1054, "Verification, Validation, Reviews, and Audits for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 1012–1986, "IEEE Standard for Software Verification and Validation Plans," and IEEE Std 1028–1988, "IEEE Standard for Software Reviews and Audits"; DG–1055, "Configuration Management Plans for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 828–1990, "IEEE Standard for Software Configuration Management Plans," and ANSI/IEEE Std 1042–1987, "IEEE Guide to Software Configuration Management"; DG–1056, "Software Test Documentation for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses ANSI/IEEE Std 829–1983, "IEEE Standard for Software Test Documentation"; DG–1057, "Software Unit Testing for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses ANSI/IEEE Std 1008–1987, "IEEE Standard for Software Unit Testing"; DG–1058, "Software Requirements Specifications for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 830–1993, "IEEE Recommended Practice for Software Requirements Specifications"; and DG–1059, "Developing Software Life Cycle Processes for Digital Computer Software Used in Safety Systems of Nuclear Power Plants," which endorses IEEE Std 1074–1995, "IEEE Standard for Developing Software Life Cycle Processes." These guides will be in Division 1, "Power Reactors." These draft guides are being developed to provide current guidance on methods acceptable to the NRC staff for complying with the NRC's regulations for promoting high functional reliability and design quality in software used in safety systems of nuclear power plants.

The draft guides have not received complete staff review and do not represent official NRC staff positions. No backfitting is intended or approved in connection with the issuance of these proposed guides. Any backfitting that may result from application of this new guidance to operating plants will be justified in accordance with established NRC backfitting guidance and procedures. These draft guides have been released to encourage public participation in their development. Except in those cases in which an applicant proposes an acceptable alternative method for complying with specified portions of the NRC's regulations, the methods to be described in the active guide reflecting public comments will be used in the evaluation of submittals in connection with applications for construction permits, standard design certifications and design approvals, and combined operating licenses. The active guides will also be used to evaluate submittals from operating reactor licensees who propose modifications that go beyond the current licensing basis, if those modifications are voluntarily initiated by the licensee and there is a clear connection between the proposed modifications and this guidance. The final guides will be used in conjunction with, and will eventually be reflected in, the Standard Review Plan, which is currently under revision.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by October 31, 1996.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." For further information about options available for NRC at FedWorld, consult the "Help/Information Center" from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703–321–3339, or by using Telnet via Internet, fedworld.gov. If using 703–321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. There is a 15-minute time limit for FTP access.

Although FedWorld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)415–5780; e-mail AXD3@nrc.gov. For more information on this draft regulatory guide, contact J.J. Kramer at the NRC, telephone (301)415–5891; e-mail JJK@nrc.gov.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Distribution and Mail Services Section; or by fax at (301)415–2260. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 2nd day of August 1996.

For the Nuclear Regulatory Commission.

M. Wayne Hodges,

Director, Division of Systems Technology, Office of Nuclear Regulatory Research.

[FR Doc. 96–22613 Filed 9–4–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy; Notice of Availability of Draft Performance-Based Service Contracting (PBSC) Documents on Professional and Technical Services

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy (OFPP).

SUMMARY: OFPP initiated an interagency project to develop generic guidance materials to assist agencies in converting selected professional and technical services to PBSC methods. Working groups, consisting of agency technical and procurement personnel, are developing generic PBSC documents that include: performance requirements, performance standards, quality assurance techniques, positive and negative incentives, and evaluation criteria for selected services. Draft documents have been prepared for software development and ADP maintenance services. We are still in the developmental stages for preparation of documentation for such services such as training, telephone customer assistance 800 numbers, aircraft maintenance, and test range support. After the documents have been finalized, they will be published as a reference source for agency voluntary use. We feel that public review and comment on the draft documents would provide us with valuable feedback and insight. OFPP will review and consolidate this information and provide it to the specific workgroups for their information and potential use.

ADDRESSES: Those persons interested in reviewing and obtaining a copy of the draft documents should contact Ms. Linda Mesaros, OFPP, New Executive Office Building, Room 9001, 725 17th Street, NW., Washington, DC 20503.

ADDITIONAL INFORMATION: For additional information contact Linda Mesaros at 202–395–4821.

Steven Kelman,

Administrator.

[FR Doc. 96–22595 Filed 9–04–96; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 1996, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, § 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted

appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Reinvention Office, Room 6A12, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, or by calling (202) 606–0830.

The following exceptions were current on June 30, 1996.

Schedule A

Section 213.3102 Entire Executive Civil Service

(a) Positions of Chaplain and Chaplain's Assistant.

(b) (Reserved).

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment that was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his or her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS–3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Temporary and less-than-full time positions for which examining is impracticable. These are:

(1) Positions in remote/isolated locations where examination is impracticable. A remote/isolated location is outside of the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area. For this purpose, a population center is a town with housing, schools, health care, stores and other businesses in which the servicing examining office can schedule tests and/or reasonably expect to attract applicants. An individual appointed under this authority may not be employed in the same agency under a combination of this and any other appointment to positions involving related duties and requiring the same qualifications for more than 1,040 working hours in a service year. Temporary appointments under this authority may be extended in 1-year increments, with no limit on the number of such extensions, as an exception to the service limits in § 213.104.

(2) Positions for which a critical hiring needs exists. This includes both short-term positions and continuing positions that an agency must fill on an interim basis pending completion of competitive examining, clearances, or other procedures required for a longer appointment. Appointments under this authority may not exceed 30 days and may be extended up to an additional 30 days if continued employment is essential to the agency's operations. The appointments may not be used to extend the service limit of any other appointing authority. An agency may not employ the same individual under this authority for more than 60 days in any 12-month period.

(3) Other positions for which OPM determines that examining is impracticable.

(j) Positions filled by current or former Federal employees eligible for placement under special statutory provisions. Appointments under this authority are subject to the following conditions:

(1) *Eligible employees.* (i) Persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) who are entitled to placement under § 353.110 of this chapter, or who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) or 5 U.S.C. 8456 by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment;

(ii) Executive branch employees (other than employees of intelligence agencies) who are entitled to placement under § 353.110 but who are not eligible for reinstatement or noncompetitive appointment under the provisions of part 315 of this chapter.

(iii) Legislative and judicial branch employees and employees of the intelligence agencies defined in 5 U.S.C. 2302(a)(2)(C)(ii) who are entitled to placement assistance under § 353.110.

(2) *Employees excluded.* Employees who were last employed in Schedule C or under a statutory authority that specified the employee served at the discretion, will, or pleasure of the agency are not eligible for appointment under this authority.

(3) *Position to which appointed.* Employees who are entitled to placement under § 353.110 will be appointed to a position that OPM determines is equivalent in pay and grade to the one the individual left, unless the individual elects to be placed in a position of lower grade or pay. National Guard Technicians whose eligibility is based upon a disability may be appointed at the same grade, or equivalent, as their National Guard Technician position or at any lower grade for which they are available.

(4) *Conditions of appointment.* (i) Individuals whose placement eligibility is based on an appointment without time limit will receive appointments without time limit under this authority. These appointees may be reassigned, promoted, or demoted to any position within the same agency for which they qualify.

(ii) Individuals who are eligible for placement under § 353.110 based on a time-limited appointment will be given appointments for a time period equal to the unexpired portion of their previous appointment.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, and technical experts for consultation purposes.

(m) (Reserved).

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p)–(s) (Reserved).

(t) Positions when filled by mentally retarded persons in accordance with the

guidance in Federal Personnel Manual chapter 306. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v)–(w) (Reserved).

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) (Reserved).

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except when the authority is specifically included in a delegated examining agreement with OPM.

(cc)–(ee) (Reserved).

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Public Law 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg)–(hh) (Reserved).

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to 1 additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj–kk) (Reserved).

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) (Reserved).

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–14; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) *Office of National Drug Control Policy.* (1) Not to exceed 15 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

Section 213.3104 Department of State

(a) *Office of the Secretary.* (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Office of the Under Secretary for Management.

(2) One position of Museum Curator (Arts), in the Office of the Under Secretary for Management, whose incumbent will serve as Director, Diplomatic Reception Rooms.

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c)–(d) (Reserved).

(e) *Bureau of Oceans and International Environmental and Scientific Affairs.* (1) Two Physical Science Administration Officer positions at GS–16.

(f) (Reserved)..

(g) *Office of Refugee and Migration Affairs.* (1) Not to exceed 10 positions at grades GS–5 through 11 on the staff of the Office.

(h) *Bureau of Administration.* (1) One Presidential Travel Officer. No new appointments may be made under this authority after June 11, 1981.

(2) One position of the Director, Art in Embassies Program, GM–1001–15.

Section 213.3105 Department of the Treasury

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2)–(5) (Reserved).

(6) Two hundred positions of Criminal Investigator for special assignments.

(7)–(8) (Reserved).

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of the Comptroller of the Currency.* (1) Not to exceed six positions filled under the Professional Accounting Fellow Program. Appointments under this authority may not exceed 2 years, but may be extended for not to exceed an additional 90 days to complete critical projects.

(d) *Office of Thrift Supervision.* (1) All positions in the supervision policy and supervision operations functions of OTS. No new appointments may be made under this authority after December 31, 1993.

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(2) Two positions of Senior Visiting Pension Actuary, GS–1510–14/15. Appointments to these positions must be for periods not to exceed 24 months.

(f) (Reserved).

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(h) (Reserved).

(i) *Bureau of Government Financial Operations.* (1) Clerical positions at grades GS–5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophes or natural disasters requiring emergency disbursing services. Employment under this authority may not exceed 1 year.

Section 213.3106 Department of Defense

(a) *Office of the Secretary.* (1)–(5) (Reserved).

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: *Provided,* that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(c) *Defense Contract Audit Agency.* (1) Not to exceed two positions of Accounting Fellow, Auditor, GM–511–14, filled under the Accounting Fellowship Program. Appointments under this authority may not exceed 2 years.

(d) *General.* (1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.*

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

(h) *Defense Systems Management College, Fort Belvoir, Va.* (1) The Provost and professors in grades GS–13 through 15.

(i) *George C. Marshall European Center for Security Studies, Garmisch, Germany.* (1) The Director, Deputy

Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

Section 213.3107 Department of the Army

(a) *General.* (1) Not to exceed 30 positions on the faculty and staff which are classified in the GS–1700 occupational group and the GS–1410 Librarian series, located at the U.S. Army Russian Institute, Garmisch, Germany, and the U.S. Army Foreign Language Training Center Europe, Munich, Germany.

(2) (Reserved).

(3) Not to exceed 500 Medical and Dental Intern, Resident and Fellow positions, whose incumbents are training under graduate medical/dental education programs in Army Medical Department facilities worldwide, and whose compensation is fixed under 5 U.S.C. 5351–5356. Employment under this authority may not exceed 4 years, unless extended with prior approval of OPM.

(b) *Aviation Systems Command.* (1) One scientific and professional research position in the U.S. Army Research and Technology Laboratories, the duties of which require specific knowledge of aviation technology in non-allied nations.

(c) *Corps of Engineers.* (1)–(2) (Reserved).

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e) *U.S. Army School of the Americas, Fort Benning, Georgia.* (1) Positions of Translator (Typing), GS–1040–5/9, and Supervisory Translator, GS–1040–11. No new appointments may be made under this authority after December 31, 1985.

(f) *Central Identification Laboratory.* (1) One position of Scientific Director, GM–190–15, and four positions of Forensic Scientist, GM–190–14. Initial appointment to these positions is NTE 3–5 years, with provision for indefinite numbers of renewals in 1-, 2-, or 3-year increments.

(g) *Defense Language Institute.* (1) All positions on the faculty and staff which are classified in the GS–1700 occupational group, the GS–1040 Language Specialist series, and the GS–303 Bilingual Clerk series, that require either a proficiency in a foreign language or a knowledge of foreign language teaching methods.

(h) *Army War College, Carlisle Barracks, PA.* (1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(2) Nine senior policy analyst positions, GS–14/15, at the Strategic Studies Institute, Army War College, with appointments to be made initially for up to 3 years and thereafter extended annually if needed.

(i) (Reserved).

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head, and Instructor.

(k) *U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.* (1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4, or 5-year increments indefinitely thereafter.

Section 213.3108 Department of the Navy

(a) *General.* (1) (Reserved).

(2) Positions of Student Pharmacist for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, clinics and departments when filled by students who are enrolled in an approved pharmacy program in a participating nonfederal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(3) (Reserved).

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from nonfederal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351–54.

(5) (Reserved).

(6) Positions of Student Operating Room Technician for temporary, part-time, or intermittent employment in U.S. naval regional medical centers and hospitals, when filled by students who are enrolled in an approved operating room technician program in a participating nonfederal institution, whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(7) Positions of Student Social Worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(8) Positions of Student Practical Nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a nonfederal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351–54.

(9) (Reserved).

(10) Positions of Medical Technology Intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in nonfederal institutions. Employment under this authority may be on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of Medical Intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating nonfederal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of Student Speech Pathologist at U.S. naval regional medical centers, hospitals, and

dispensaries, when filled by persons who are enrolled in participating nonfederal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of Student Dental Assistant in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating nonfederal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) (Reserved).

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and social counselors at the Naval Academy.

(c) *Chief of Naval Operations.* (1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e) *Pacific Missile Range Facility, Barking Sands, Hawaii.* (1) All positions. This authority applies only to positions that must be filled pending final decision on contracting of Facility operations. No new appointments may be made under this authority after July 29, 1988.

(f) (Reserved).

(g) *Office of Naval Research.* (1) Scientific and technical positions, GS/GM–13/15, in the Office of Naval Research Asian Office in Tokyo, Japan, which covers East Asia, New Zealand and Australia. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

Section 213.3109 Department of the Air Force

(a) Office of the Secretary. (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Ninety-five positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM-ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) (Reserved).

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved).

(f) *Air Force Office of Special Investigations.* (1) Not to exceed 250 positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15.

(g) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) *Air University, Maxwell Air Force Base, Alabama.* (1) Positions of Professor, Instructor, or Lecturer.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio.* (1) Civilian deans and professors.

(j) *Air Force Logistics Command.* (1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

Section 213.3110 Department of Justice

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions established to implement the Crime Control and Law Enforcement Act of 1994 or the Violent Crime Control Appropriations Act, 1995. No new appointments may be made under this authority after September 30, 1996.

(3) U.S. Marshal in the Virgin Islands.

(4) Positions at GS–15 and below on the staff of an office of an independent counsel, that is established under 28 CFR Part 600. No office may use this authority for more than 4 years to make appointments and position changes unless prior approval of OPM is obtained.

(b) *Immigration and Naturalization Service.* (1) (Reserved).

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9.

(3) Not to exceed 25 positions, GS–15 and below, with proficiency in speaking, reading, and writing the Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, Russia.

(c) *Drug Enforcement Administration.* (1) (Reserved).

(2) One hundred and fifty positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

Section 213.3112 Department of the Interior

(a) *General.* (1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, 8 range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this

authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, That an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved).

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) (Reserved).

(e) *Office of the Assistant Secretary, Territorial and International Affairs.* (1) (Reserved).

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved).

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) *National Park Service.* (1–2) (Reserved).

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved).

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; State performance assistants in the Consolidated Farm Service Agency; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided*, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (i) and (m) of § 213.3102 or positions within the Forest Service.

(6) (Reserved).

(7) Not to exceed 34 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b)–(c) (Reserved).

(d) *Consolidated Farm Service Agency.* (1) (Reserved).

(2) Members of State Committees: *Provided*, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) *Farmers Home Administration.* (1) (Reserved).

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program. (3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM be further extended for additional periods not to exceed 1 year each.

(4)–(5) (Reserved).

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved).

(l) *Food Safety and Inspection Service.* (1)–(2) (Reserved).

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Grain Inspection, Packers and Stockyards Administration.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

Section 213.3114 Department of Commerce

(a) *General.* (1)–(2) (Reserved).

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) One position of Administrative Assistant, GS–301–8, in the Office of Economic Affairs. New appointments may not be made after March 30, 1979.

(c) (Reserved).

(d) *Bureau of the Census.* (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for (1) temporary, part-time, or intermittent employment in connection with major economic and demographic censuses or with surveys of a nonrecurring or noncyclical nature; and (2) indefinite employment for the duration of each decennial census for key employees located at the Master District Offices (MDO) and Processing Offices (PO): *Provided*, that temporary, part-time employment of the nature described in (1) above will be for periods not to exceed 1 year; and that such appointments may be extended for additional periods of not to exceed 1 year each; but that prior Office approval is required for extension of total service beyond 2 years.

(2) Current Program Interviewers employed on an intermittent or part-time basis in the field service.

(3) Not to exceed 20 professional and scientific positions at grades GS–9 through GS–12 filled by participants in the ASA research trainee program. Employment of any individual under this authority may not exceed 2 years.

(e)–(h) (Reserved).

(i) *Office of the Under Secretary for International Trade.* (1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved).

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration.* (1) Subject to prior approval of OPM, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) (Reserved).

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved).

(l) *National Telecommunication and Information Administration.* (1) Seventeen professional positions in grades GS–13 through GS–15.

Section 213.3115 Department of Labor

(a) *Office of the Secretary.* (1) Chairman and five members,

Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b) *Bureau of Labor Statistics.* (1) Not to exceed 500 positions involving part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–6 and below. Employment under this authority may not exceed 1,600 work hours in a service year. No new appointment may be made under this authority after December 31, 1984.

(c) (Reserved).

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services

(a) (Reserved).

(b) *Public Health Service.* (1) Not to exceed five positions a year of Medical Technologist Resident, GS–644–7, in the Blood Bank Department, Clinical Center, of the National Institutes of Health. Appointments under this authority will not exceed 1 year.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved).

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions; *Provided*, that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351–5356.

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) Twelve positions of Therapeutic Radiologic Technician Trainee in the Radiation Oncology Branch, National Cancer Institute. Employment under this authority shall not exceed 1 year for any individual. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351–5356.

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11) Pharmacy Resident positions at GS–7 in the National Institutes of Health's Clinical Center, Pharmacy Department. Employment in these positions is confined to graduates of approved schools of pharmacy and is limited to a period not to exceed 12 months pending licensure.

(12) Hospital Administration Resident positions at GS–9 in the National Institutes of Health's Clinical Center, Bethesda, Maryland. Employment in these positions is confined to graduates of approved hospital or health care administration programs and is limited to a period not to exceed 1 year.

(13) Not to exceed 30 positions of Cancer Control Science Associate in the Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, for assignments at a level of difficulty and responsibility at or equivalent to GS–11/13. No one may be employed under this authority for more than 3 years, and no more than 10 appointments will be made under the authority in any 1 year.

(14) Not to exceed 30 positions at grades GS–11/13 associated with the postdoctoral training program for interdisciplinary toxicologists in the National Institute of Environmental Health Sciences, National Institutes of Health, Research Triangle Park, North Carolina.

(15) Not to exceed 200 staff positions, GS–15 and below, in the Office of Refugee Health, for an emergency staff to provide health related services to Haitian entrants.

(c)–(e) (Reserved).

(f) *The President's Council on Physical Fitness.* (1) Four staff assistants.

(g)–(i) (Reserved).

(j) *Health Care Financing Administration.* (1) (Reserved).

(2) Not to exceed 10 professional positions, GS–9 through GS–15, to be filled under the Health Care Financing Administration Professional Exchange Program. Appointments under this authority will not exceed 1 year.

(k) *Office of the Secretary.* (1) (Reserved).

(2) Not to exceed 10 positions at grades GS–9/14 in the Office of the Assistant Secretary for Planning and Evaluation filled under the Policy Research Associate Program. New appointments to these positions may be made only at grades GS–9/12. Employment of any individual under this authority may not exceed 2 years.

Section 213.3117 Department of Education

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3121 Corporation for National and Community Service

(a) All positions on the staff of the Corporation for National Community Service. No new appointments may be made under this authority after September 30, 1995.

Section 213.3124 Board of Governors, Federal Reserve System

(a) All positions.

Section 213.3127 Department of Veterans Affairs

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) *Board of Veterans' Appeals.* (1) Positions, GS–15, when filled by a member of the Board. Except as

provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

Section 213.3128 U.S. Information Agency

(a) *Office of Congressional and Public Liaison.* (1) Two positions of Liaison Officer (Congressional), GS–14.

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS–13 and GS–14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco, and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3129 Thrift Depositor Protection Oversight Board

(a) All positions. No new appointments may be made under this authority after December 31, 1995.

Section 213.3130 Securities and Exchange Commission

(a)–(b) (Reserved).

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC Accounting Fellow Program, as follows: (1) Seven positions, for employment of any one individual not to exceed 2 years; and

(2) Two additional identical positions, for employment of any one individual not to exceed 90 days, which may be used to provide a period of transition and orientation between Fellowship appointments. These additional identical positions must be filled by persons who either have completed a 2-year Fellowship or have been selected as replacement Fellows for a 2-year term. Appointments of outgoing Fellows under this authority must be made without a break in service of 1 workday following completion of their 2-year term; incoming Fellows appointed under this provision must be appointed to 2-year Fellowships without a break in service of 1 workday following their 90-day appointments.

(d) Positions of Economist, GS–13 through 15, when filled by persons selected under the SEC Economic Fellow Program. No more than four positions may be filled under this authority at any one time. An employee may not serve under this authority longer than 2 years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. 3372(b)(2).

(e) Not to exceed 10 positions of accountant, GS–12/13, when filled by persons selected as SEC Accounting Fellows for the Full Disclosure Program. Employment under this authority may not exceed 2 years.

(f) Not to exceed four positions of Accountant, GS–14/15, when filled by persons selected as SEC Accounting Fellows for the Capital Markets Risk Assessment Program. Employment under this authority may not exceed 2 years.

Section 213.3131 Department of Energy

(a) (Reserved).

(b) *Bonneville Power Administration.* (1) Five Area Managers.

Section 213.3132 Small Business Administration

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(c) Positions of Community Economic-Industrial Planner, GS–7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Entrepreneurship Teams of which they are members. No new appointments may be made under this authority after May 1, 1977.

Section 213.3133 Federal Deposit Insurance Corporation

(a)–(b) (Reserved).

(c) Temporary positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions. New appointments may be made under this authority only during the 60 days immediately following the institution's closing date. Such appointments may not exceed 1 year, but may be extended for not to exceed 1 additional year.

Section 213.3136 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Positions when filled by member-residents of the Home.

Section 213.3137 General Services Administration

(a) (Reserved).

(b) Not to exceed 25 positions at grades GS–14/15, in order to bring into the agency current industry expertise in various program areas. Appointments under this authority may not exceed 2 years.

(c) All Law Clerk positions in the Board of Contract Appeals' Law Clerk Fellows Program. Appointments under this authority at GS–11 and GS–12 will be limited to 2 years with provision for a 1-year extension at the GS–13 level only in cases of exceptional circumstances, as determined by the Chief Judge and Chairman.

Section 213.3138 Federal Communications Commission

(a) Fifteen positions of Telecommunications Policy Analyst, GS–301–13/14/15. Initial appointment to these positions will be for a period of not to exceed 2 years with provision for two 1-year extensions.

Section 213.3142 Export-Import Bank of the United States

(a) One Special Assistant to the Board of Directors, grade GS–14 and above.

Section 213.3146 Selective Service System

(a) State Directors.
(b)–(c) (Reserved).
(d) Executive Secretary, National Selective Service Appeal Board.

Section 213.3148 National Aeronautics and Space Administration

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.
(b) Not to exceed 40 positions of fully qualified pilot and mission specialists astronauts.
(c)–(e) (Reserved).
(f) Positions of Program Coordinator/Counselor at grades GS–7/9/11 for part-time and summer employment in connection with the High School Students Summer Research Apprenticeship Program.

Section 213.3152 U.S. Government Printing Office

(a) Not to exceed three positions of Research Associate at grades GS–15 and below, involved in the study and analysis of complex problems relating to the reduction of the Government's printing costs and to provision of more efficient service to customer agencies and the public. Appointments under this authority may not exceed 1 year, but may be extended for not to exceed 1 additional year.
(b) Positions in the printing trades when filled by students majoring in printing technology employed under a cooperative education agreement with the University of the District of Columbia.

Section 213.3155 Social Security Administration

(a) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.
(b) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.
(c) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

Section 213.3156 Commission on Civil Rights

(a) Twenty-five positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Public Law 88–352, as amended. No new appointments may be made under this authority after March 31, 1976.

Section 213.3162 Ounce of Prevention Council

(a) Up to 25 positions established to create the President's Prevention Council Office supporting the Ounce of Prevention Council created by the Violent Crime Control and Law Enforcement Act of 1994. No new appointments may be made under this authority after February 28, 1997.

Section 213.3174 Smithsonian Institution

(a) (Reserved).
(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.
(c) Positions at GS–15 and below in the National Museum of the American Indian requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

Section 213.3175 Woodrow Wilson International Center for Scholars

(a) One East Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, and one Social Science Program Administrator.

Section 213.3178 Community Development Financial Institutions Fund

(a) All positions in the Fund and positions created for the purpose of establishing the Fund's operations in accordance with the Community Development Banking and Financial Institutions Act of 1994, except for any positions required by the Act to be filled by competitive appointment. No new appointments may be made under this authority after September 22, 1996.

Section 213.3180 Utah Reclamation and Conservation Commission

(a) Executive Director.

Section 213.3182 National Foundation on the Arts and the Humanities

(a) *National Endowment for the Arts.*
(1) One position of Assistant Director, Artists-in-Education Programs, Office of Partnerships.
(2) One position of Assistant Director for State Programs.
(3) One position of Director of Literature Programs.
(4) One position of Assistant Director of Theater Programs.
(5) One position of Director of Folk Arts Programs.
(6) One position of Director, Opera/Musical Theater Programs.
(7) One position of Assistant Director of Opera/Musical Theater Programs.
(8) One position of Assistant Director of Literature Programs.
(9) One position of Director of Locals Test Programs, Office of the Deputy to the Chairman for Public Partnership.
(10) One position of Deputy Chairman for Public Partnership.
(11) Four Project Evaluators.
(12) One position of Director of Museum Programs.
(13) One position of Assistant Director of Folk Arts, Office of the Deputy Chairman for Programs.
(14) One position of Assistant Director of Music Programs.
(15) One position of Director of Expansion Arts Programs.
(16) One position of Director of Media Arts Programs.
(17) One position of Director, Challenge and Advancement Grant Program.
(18) One position of Assistant Director, Challenge and Advancement Grant Program.
(19) One position of Art Specialist, International Programs.
(20) One position of Director of Inter Arts Program.
(21) One position of Assistant Director of Expansion of Arts Programs.
(22) One position of Assistant Director of Media Arts Programs.
(23) One position of Assistant Director of Design Arts Program.
(24) One position of Assistant Director of Dance Programs.
(25) One position of Assistant Director of Visual Arts Programs.
(26) One position of Assistant Director of Museum Programs.
(27)–(29) (Reserved).
(30) One position of Director of Education Programs.
(31) One position of Director of Music Programs.

(32) One position of Director of Theater Programs.
(33) One position of Director of Dance Programs.
(34) One position of Director of Visual Arts Programs.
(35) One position of Director of Design Arts Program.
(36) (Reserved).
(37) One Director for State Programs.
(38) One Director for Artists-in-Education Programs.
(39) One position of Assistant Director of Inter-Arts Program.
(40) One position of Assistant Director of the International Program.

Section 213.3184 Department of Housing and Urban Development

(a) One position of Special Advisor to the Regional Administrator, GS–301–14, in San Francisco. Employment under this authority may not exceed 2 years.
(b) *Office of Federal Housing Enterprise Oversight.* (1) All positions on the staff. No new appointments may be made under this authority after September 30, 1996.

Section 213.3191 Office of Personnel Management

(a)–(c) (Reserved).
(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation

(a) *U.S. Coast Guard.* (1) (Reserved).
(2) Lamplighters.
(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Conn.
(b)–(d) (Reserved).
(e) *Maritime Administration.* (1)–(2) (Reserved).
(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.
(4)–(5) (Reserved).
(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.
(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

Section 213.3195 Federal Emergency Management Agency

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.
(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.
(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

Section 213.3199 Temporary Organizations

(a) Positions at GS–15 and below on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s), does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.
(b) Positions at GS–15 and below on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

Schedule B

Section 213.3202 Entire Executive Civil Service

(a) *Student Educational Employment Program—*
(1) The Student Educational Employment Program consists of two components and two appointing authorities:
(i) The Student Temporary Employment Program (Schedule B 213.3202(a)).
(ii) The Student Career Experience Program (Schedule B 213.3202(b)).
(2) The appointment authority for each program is the same regardless of the educational program being pursued. Students may be appointed to these programs if they are pursuing any of the following educational programs:
(i) High School Diploma or General Equivalency Diploma (GED)
(ii) Vocational/Technical Certificate
(iii) Associate Degree
(iv) Baccalaureate Degree
(v) Graduate Degree
(vi) Professional Degree
(3) Student participants in the Harry S. Truman Foundation Scholarship Program under the provision of Public Law 93–842 are eligible for appointments under the student career experience program, Schedule B, 213.3202(b).

* * * * *

[The remaining text of provisions pertaining to the Student Educational Employment Program can be found in 5 CFR 213.3202 (b)–(d).]

(e)–(i) (Reserved).

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding 3 years for one individual.

(k) Positions at grades GS–15 and below when filled by individuals who (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) (Reserved).

(m) Positions when filled under any of the following conditions: (1) Appointment at grades GS–15 and above, or equivalent, in the same or a different agency without a break in service from a career appointment in the Senior Executive Service (SES) of an individual who:

(i) Has completed the SES probationary period;

(ii) Has been removed from the SES because of less than fully successful executive performance or a reduction in force; and

(iii) Is entitled to be placed in another civil service position under 5 U.S.C. 3594(b).

(2) Appointment in a different agency without a break in service of an individual originally appointed under paragraph (m)(1).

(3) Reassignment, promotion, or demotion within the same agency of an individual appointed under this authority.

Section 213.3203 Executive Office of the President

(a) (Reserved).

(b) *Office of the Special Representative for Trade Negotiations.* (1) Seventeen positions of economist at grades GS–12 through GS–15.

Section 213.3204 Department of State

(a)–(c) (Reserved).

(d) Fourteen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) Four Physical Science Administration Officer positions at GS–11 through and GS–13 under the Bureau of Oceans and International Environmental and Scientific Affairs' Science, Engineering and Diplomacy Fellowship Program. Employment under this authority is not to exceed 2½ years.

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Not to exceed 10 positions engaged in functions mandated by Public Law 99–190, the duties of which require expertise and knowledge gained as a present or former employee of the Synthetic Fuels Corporation, as an employee of an organization carrying out projects or contacts for the Corporation, or as an employee of a Government agency involved in the Synthetic Fuels Program. Appointments under this authority may not exceed 4 years.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employment under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years; or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever comes first.

Section 213.3206 Department of Defense

(a) *Office of the Secretary.* (1) (Reserved).

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved).

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) *National Defense University.* (1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS–1811–5/15.

(f) *Department of Defense Polygraph Institute, Fort McClellan, Alabama.* (1) One Director, GM–15.

Section 213.3207 Department of the Army

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

(b) *Brooke Army Medical Center, Fort Sam Houston, Texas.* (1) Two Medical Officer (Surgery) positions, GS–12, in the Clinical Division, U.S. Army Institute of Surgical Research, whose incumbents are enrolled in medical

school surgical residency programs. Employment under this authority shall not exceed 12 months.

Section 213.3208 Department of the Navy

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS–15 level in the Defense Personnel Security Research and Education Center.

(d) All civilian professor positions at the Marine Corps Command and Staff College.

(e) One position of Staff Assistant, GS–301–14, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) One position of Housing Management Specialist, GM–1173–14, involved with the Bachelor Quarters Management Study. No new appointments may be made under this authority after February 29, 1992.

Section 213.3209 Department of the Air Force

(a) Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b) (Reserved).

(c) One Director of Instruction and 14 civilian instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

(d) Positions of Instructor or professional academic staff at the Air University, associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) One position of Director of Development and Alumni Programs, GS–301–13, with the U.S. Air Force Academy, Colorado.

Section 213.3210 Department of Justice

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved).

(e) Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

Section 213.3213 Department of Agriculture

(a) *Foreign Agricultural Service.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Personnel Officer, Agricultural Research Service, or the Personnel Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

Section 213.3214 Department of Commerce

(a) *Bureau of the Census.* (1) (Reserved).

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

(3) Not to exceed 300 Community Awareness Specialist positions at the equivalent of GS–7 through GS–12. Employment under this authority may not exceed December 31, 1992.

(b)-(c) (Reserved).

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor

(a) Positions of Chairman and Member, Wage Appeals Board.

(b) *Office of the Inspector General.* (1) Not to exceed 110 positions of Criminal Investigator (Special Agent), GS–1811–5/15, in the Office of Labor Racketeering.

Section 213.3216 Department of Health and Human Services

(a) *Public Health Service.* (1) Not to exceed 68 positions at GS–11 and below on the Health and Nutrition Examination Survey teams of the National Center for Health Statistics.

(2) One Public Health Education Specialist, GS–1725–15, in the Centers for Disease Control, Atlanta, Georgia.

(b)-(c) (Reserved).

(d) *National Library of Medicine.* (1) Ten positions of Librarian, GS–9, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed 1 year.

Section 213.3217 Department of Education

(a) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

Section 213.3221 Corporation for National and Community Service

(a) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15 in the Department of the Executive Director.

(b) Three positions of Program Specialist at grades GS–7 through GS–15 in the Department of the Executive Director.

Section 213.3227 Department of Veterans Affairs

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

Section 213.3228 U.S. Information Agency

(a) *Voice of America.* (1) Not to exceed 200 positions at grades GS–15 and below in the Cuba Service. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

(b) Positions of English Language Radio Broadcast Intern, GS–1001–5/7/9. Employment is not to exceed 2 years for any intern.

Section 213.3231 Department of Energy

(a) Twenty Exceptions and Appeals Analyst positions at grades GS–7 through 11, when filled by persons selected under DOE's fellowship program in its Office of Hearings and Appeals, Washington, DC. Appointments under this authority shall not exceed 3 years.

Section 213.3234 Federal Trade Commission

(a) Positions filled under the Economic Fellows Program. No more than five new appointments may be made under this authority in any fiscal year. Service of an individual Fellow may not exceed 4 years.

Section 213.3236 U.S. Soldiers' and Airmen's Home

(a) Three GS–11 Medical Officer positions under a fellowship program on geriatrics.

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

Section 213.3237 General Services Administration

(a) One position of Deputy Director of Network Services.

Section 213.3240 National Archives and Records Administration

(a) Executive Director, National Historical Publications and Records Commission.

Section 213.3242 Export-Import Bank of the U.S.

(a) One position of Food Service Worker WG–7804–3/4/5, in the Office of the President and Chairman.

Section 213.3248 National Aeronautics and Space Administration

(a) Not to exceed 40 positions of Command Pilot, Pilot, and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3257 National Credit Union Administration

(a) *Central Liquidity Facility.* (1) All managerial and supervisory positions at pay levels greater than the equivalent of GS–13.

Section 213.3264 U.S. Arms Control and Disarmament Agency

(a) Twenty-five scientific, professional, and technical positions at grades GS–12 through GS–15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3274 Smithsonian Institution

(a) *National Zoological Park.* (1) Four positions of Veterinary Intern, GS–8/9/11. Employment under this authority is not to exceed 36 months.

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

Section 213.3276 Appalachian Regional Commission

(a) Two Program Coordinators.

Section 213.3278 Armed Forces Retirement Home

(a) *Naval Home, Gulfport, Mississippi.* (1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

Section 213.3282 National Foundation on the Arts and the Humanities

(a) (Reserved).

(b) *National Endowment for the Humanities.* (1) Professorial positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require indepth knowledge of a discipline of the humanities.

Section 213.3285 Pennsylvania Avenue Development Corporation

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1-, 2-, or 3-year increments indefinitely thereafter.

Schedule C

(Grades 5 through 15)

Section 213.3303 Executive Office of the President

Council of Economic Advisers

CEA 1 Secretary to the Chairman
CEA 4 Secretary to the Chairman
CEA 5 Secretary to a Council Member
CEA 6 Secretary to a Council Member

Council on Environmental Quality

CEQ 6 Associate Director for Toxics and Environmental Protection to the Chair
CEQ 7 Special Assistant to the Chair

Office of Management and Budget

OMB 80 Confidential Assistant to the Executive Assistant, Office of the Director
OMB 81 Executive Assistant to the Deputy Director for Management
OMB 82 Executive Assistant to the Director, Office of Management and Budget
OMB 92 Confidential Assistant to the Associate Director for Legislative Reference and Administration
OMB 96 Confidential Assistant to the Associate Director for Human Resources
OMB 97 Confidential Assistant to the Administrator, Office of Information and Regulatory Affairs
OMB 102 Special Assistant to the Director, Office of Management and Budget
OMB 103 Staff Assistant to the Deputy Director, Office of Management and Budget.
OMB 104 Legislative Assistant to the Associate Director for Legislative Affairs
OMB 107 Writer-Editor to the Associate Director for Communications
OMB 107 Writer-Editor to the Associate Director for Communications
OMB 108 Staff Assistant to the Executive Associate Director
OMB 109 Confidential Assistant to the Associate Director, Health Personnel
OMB 110 Confidential Assistant to the Executive Associate Director
OMB 111 Special Assistant to the Controller
OMB 112 Confidential Assistant to the Associate Director, National Resources Energy and Science
OMB 113 Confidential Assistant to the Associate Director, Health and Personnel Division

Office of National Drug Control Policy

ONDCP 78 Staff Assistant for Scheduling to the Director
ONDCP 82 Legislative Analyst to the Director, Office of Public Affairs and Legislative Affairs
ONDCP 83 Director, Public Affairs to the Director, Public and Legislative Affairs
ONDCP 84 Director, Communications Planning to the Director
ONDCP 85 Staff Assistant to the Chief of Staff
ONDCP 86 Confidential Assistant to the Director

Office of Science and Technology Policy

OSTP 17 Deputy Director for Management and General Counsel to the Director, Office of Science and Technology Policy
OSTP 18 Special Assistant to the Director, Office of Science and Technology Policy
OSTP 19 Assistant for Intergovernmental Affairs and Policy to the Director, Office of Science and Technology Policy OSTP 21 Confidential Assistant to the Associate Director, Technology Division
OSTP 23 Confidential Assistant to the Associate Director for National Security and International Affairs
OSTP 25 Research Assistant to the Director, Office of Science Technology and Policy

Office of the United States Trade Representative

USTR 36 Confidential Assistant to the U.S. Trade Representative
USTR 39 Supervisory Public Affairs Specialist to the Assistant U.S. Trade Representative for Public Affairs
USTR 40 Confidential Assistant to the Deputy U.S. Trade Representative
USTR 45 Congressional Affairs Specialist to the Assistant U.S. Trade Representative for Congressional Affairs
USTR 47 Public Affairs Specialist to the Assistant U.S. Trade Representative for Public Affairs
USTR 50 Confidential Assistant to the Deputy U.S. Trade Representative, Geneva Switzerland
USTR 51 Confidential Assistant to the Special Counsel for Financial and Investment Policy
USTR 52 Confidential Assistant to the Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison
USTR 53 Private Sector Liaison to the Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison
USTR 54 Congressional Affairs Specialist to the Assistant U.S. Trade Representative for Congressional Affairs
USTR 55 Deputy Assistant U.S. Trade Representative for Congressional Affairs

Official Residence of the Vice President

ORVP 1 Special Assistant to the Special Assistant to the Vice President and Chief of Staff to Mrs. Gore

President's Commission on White House Fellowships

PCWHF 7 Education Director to the Director, President's Commission on White House Fellowships
PCWHF 9 Special Assistant to the Director, President's Commission on White House Fellowships
PCWHF 10 Special Assistant to the Director, President's Commission on White House Fellowships

Section 213.3304 Department of State

ST 329 Staff Assistant to the Deputy Secretary of State
ST 358 Special Assistant to the Secretary of State
ST 359 Legislative Officer to the Under Secretary for Management
ST 364 Special Assistant to the Assistant Secretary for African Affairs, Bureau of African Affairs
ST 374 Special Assistant to the United States Permanent Representative to the Organization of American States, Bureau of Inter-American Affairs
ST 376 Secretary to the Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs
ST 391 Special Assistant to the Counselor to the Department
ST 393 Legislative Analyst to the Assistant Secretary, Bureau of Legislative Affairs
ST 397 Special Assistant to the Principal Deputy Assistant Secretary/ Spokesman for Public Affairs
ST 399 Confidential Assistant to the Secretary of State
ST 400 Special Assistant to the Under Secretary for International Security Affairs
ST 402 Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs
ST 403 Foreign Affairs Officer (Ceremonials) to the Chief of Protocol
ST 405 Supervisory Protocol Officer (Visits) to the Foreign Affairs Officer (Visits)
ST 406 Secretary (Typing) to the Assistant Secretary, Bureau of Economic And Business Affairs
ST 408 Staff Assistant to the Assistant Secretary, Bureau of Public Affairs
ST 411 Protocol Assistant to the Supervisory Protocol Officer for Visits
ST 412 Senior Advisor to the Assistant Secretary, Bureau of Inter-American Affairs
ST 416 Protocol Officer (Visits) to the Supervisory Protocol Officer for Visits
ST 417 Foreign Affairs Officer to the Chief of Protocol
ST 424 Secretary (OA) to the Assistant Secretary, Bureau of Intelligence and Research
ST 425 Public Affairs Specialist to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs
ST 426 Secretary (Steno) to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs
ST 429 Special Assistant to the Assistant Secretary, Bureau of Consular Affairs
ST 431 Special Assistant to the Assistant Secretary, Bureau of Intelligence and Research

ST 432 Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs
ST 433 Correspondence Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 434 Staff Assistant to the Director of White House Liaison
ST 438 Staff Assistant to the Deputy Secretary of State
ST 441 Special Assistant to the Assistant Secretary, Bureau of Economic and Business Affairs
ST 442 Senior Advisor to the Secretary of State
ST 445 Foreign Affairs Officer to the Deputy Assistant Secretary for Public Affairs/Chief Speechwriter
ST 446 Foreign Affairs Officer to the Deputy Secretary
ST 447 Special Assistant to the Assistant Secretary for Economic and Business Affairs
ST 448 Legislative Management Officer to the Assistant Secretary, Legislative Affairs
ST 449 Special Assistant to the Assistant Secretary, Bureau of International Narcotics Matters
ST 450 Special Advisor to the Principal Deputy Assistant Secretary for Public Affairs
ST 451 Special Assistant to the Senior Coordinator
ST 452 Foreign Affairs Officer to the Deputy Assistant Secretary for Public Affairs
ST 456 Staff Assistant to the Assistant Secretary, Legislative Affairs
ST 458 Special Assistant to the Assistant Secretary, Bureau for Population, Refugees and Migration
ST 460 Secretary (Steno) to the United States Ambassador and U.S. Representative to the United Nations
ST 461 Senior Advisor to the Director, Policy Planning Staff
ST 462 Secretary to the Assistant Secretary, Bureau of European and Canadian Affairs
ST 463 Secretary to the Assistant Secretary, Consular Affairs
ST 465 Special Assistant to the U.S. Permanent Representative to the United Nations
ST 467 Protocol Officer to the Chief of Protocol
ST 468 Protocol Assistant to the Deputy Chief of Protocol
ST 469 Legislative Management Officer to the Deputy Assistant Secretary for the House
ST 470 Counselor to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor
ST 471 Special Assistant to the Legal Advisor, Office of the Legal Advisor
ST 473 Senior Advisor to the Assistant Secretary, Bureau of Population, Refugees, and Migration
ST 474 Legislative Management Officer to the Assistant Secretary for Legislative Affairs
ST 475 Staff Assistant to the Deputy Assistant Secretary, Bureau for International Narcotics and Law Enforcement Affairs
ST 476 Special Advisor to the Senior Advisor to the Secretary to Coordinate Economic Initiatives for Ireland
ST 477 Senior Advisor to the Assistant Secretary for Democracy, Human Rights and Labor
ST 478 Foreign Affairs Officer to the Deputy Assistant Secretary for International Labor, External and Multilateral Affairs
ST 479 Resources, Plans and Policy Advisor to the Director, Plans and Policy
ST 480 Legislative Management Officer to the Under Secretary, for Management
ST 481 Special Assistant to the Director of Policy Planning Staff
ST 482 Foreign Affairs Officer to the Deputy Assistant Secretary, Bureau of Public Affairs
ST 483 Foreign Affairs Officer to the Deputy Assistant Secretary, Bureau of Public Affairs
ST 484 Legislative Management Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 485 Member Policy Planning Staff to the Director
ST 486 Policy Analyst to the Assistant Secretary, Oceans and International Environmental and Scientific Affairs
ST 487 Senior Policy Advisor to the Assistant Secretary, Office of Legislative Affairs

International Boundary and Water Commission, the United States and Mexico

IBWC 1 Confidential Assistant (OA) to the Commissioner, United States Section, International Boundary and Water Commission, United States and Mexico

Section 213.3305 Department of the Treasury

TREA 170 Assistant Director, Travel and Special Events Services to the Director, Administrative Operations Division
TREA 202 Director, Office of Legislative Affairs to the Senior Deputy Assistant Secretary for Legislative Affairs
TREA 213 Special Assistant to the Assistant Secretary for Legislative Affairs
TREA 230 Public Affairs Specialist to the Director, Office of Public Affairs
TREA 244 Administrative Assistant to the Director, Office of Thrift Supervision
TREA 250 Senior Advisor and Director, Office of Public Affairs to the Deputy Assistant Secretary (Public Affairs)
TREA 254 Review Officer to the Executive Secretary and Senior Advisor
TREA 284 Director, Office of Business Liaison to the Deputy Assistant Secretary (Public Liaison)
TREA 290 Special Assistant to the Deputy Assistant Secretary for Administration
TREA 291 Confidential Assistant to the Assistant Secretary (Management)
TREA 315 Senior Advisor to the Chief of Staff
TREA 316 Public Affairs Specialist to the Senior Advisor and Director, Office of Public Affairs
TREA 322 Senior Advisor to the Executive Secretary and Senior Adviser to the Secretary
TREA 325 Executive Assistant to the Director of the Mint
TREA 334 Staff Assistant to the Assistant Secretary (Enforcement)
TREA 336 Director, Administrative Operations Division to the Deputy Assistant Secretary (Administration)
TREA 337 Senior Policy Analyst to the Assistant Secretary (Enforcement)
TREA 338 Staff Assistant to the Director, Scheduling and Advance, Office of the Secretary
TREA 339 Policy Analyst to the Under Secretary for Domestic Finance
TREA 340 Senior Advisor and Special Assistant (Public Affairs) to the Assistant Secretary (Public Affairs)
TREA 342 Senior Advisor to the Treasurer of the United States
TREA 343 Deputy Executive Director for Special Programs to the Executive Director, United States Bond Division, Bureau of Public Debt
TREA 345 Policy Advisor to the Assistant Secretary (Enforcement)
TREA 346 Policy Advisor to the Assistant Secretary (Enforcement)
TREA 347 Senior Advisor to the Assistant Secretary (Enforcement)
TREA 349 Senior Advisor to the Assistant Secretary (Management)
TREA 351 Public Affairs Specialist to the Director, Office of Public Affairs
TREA 352 Senior Policy Analyst to the Deputy Assistant Secretary, Governmental Financial Policy
TREA 354 Deputy Director of Scheduling to the Director of Scheduling and Advance
TREA 355 Special Assistant to the Chief of Staff
TREA 356 Policy Advisor to the Deputy Under Secretary, Government Financial Policy
TREA 357 Director, Office of Public Correspondence to the Executive Secretary

TREA 358 Special Assistant to the Assistant Secretary (Economic Policy)
TREA 361 Attorney-Advisor (General) to the General Counsel
TREA 362 Special Assistant to the Assistant Secretary for Financial Institutions
TREA 364 Special Assistant to the Under Secretary for Domestic Finance
TREA 365 Special Assistant to the Assistant Secretary (Legislative Affairs and Public Liaison)
TREA 366 Policy Advisor to the Senior Advisor to the Assistant Secretary (Enforcement)
TREA 367 Senior Advisor to the Comptroller of the Currency
TREA 368 Special Assistant to the Deputy Secretary of the Treasury
TREA 369 Confidential Staff Assistant to the Deputy Secretary of the Treasury
TREA 370 Assistant to the Commissioner of Internal Revenue
TREA 371 Policy Advisor to the Under Secretary (Enforcement)
TREA 372 Special Assistant to the Assistant Secretary (Financial Markets)
TREA 373 Senior Advisor to the Under Secretary of International Affairs
TREA 374 Senior Policy Analyst to the Deputy Executive Secretary

Section 213.3306 Department of Defense

DOD 5 Private Secretary to Deputy Secretary
DOD 19 Personal and Confidential Assistant to the Director, Program Analysis and Evaluation
DOD 22 Personal and Confidential Assistant to the Assistant to the Secretary of Defense for Atomic Energy
DOD 24 Chauffeur to the Secretary of Defense
DOD 33 Personal Secretary to the Deputy Secretary of Defense
DOD 66 Executive Assistant to the Physician to the President
DOD 75 Chauffeur to the Deputy Secretary of Defense
DOD 101 Special Assistant to the Director of Net Assessment to the Director of Net Assessment
DOD 236 Director for Programs to the Assistant to the Secretary of Defense for Public Affairs
DOD 271 Private Secretary to the Principal Deputy Assistant Secretary of Defense (Reserve Affairs)
DOD 279 Personal and Confidential Assistant to the Director Operational Test and Evaluation
DOD 295 Personal and Confidential Assistant to the Under Secretary of Defense for Personnel and Readiness
DOD 298 Confidential Assistant to the Under Secretary for Acquisition and Technology
DOD 310 Civilian Executive Assistant to the Chairman of the Joint Chiefs of Staff
DOD 317 Confidential Assistant to the Director, Defense Research and Engineering
DOD 320 Executive Assistant to the Secretary of Defense
DOD 321 Executive Assistant to the Assistant to the Vice President for National Security Affairs
DOD 332 Personal and Confidential Assistant to the Assistant Secretary of Defense (Regional Security)
DOD 335 Public Affairs Specialist to the Special Assistant to the Secretary for Public Affairs
DOD 339 Speechwriter to the Special Assistant to the Secretary of Defense for Public Affairs
DOD 355 Special Assistant for Strategic Modernization to the Assistant Secretary of Defense (Legislative Affairs)
DOD 368 Personal and Confidential Assistant to the Assistant Secretary of Defense for Legislative Affairs
DOD 386 Personal and Confidential Assistant to the Assistant Secretary of Defense for Reserve Affairs
DOD 434 Speechwriter to the Assistant to Secretary of Defense for Public Affairs
DOD 435 Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs
DOD 439 Staff Specialist to the Under Secretary (Acquisition and Technology)
DOD 440 Personal and Confidential Assistant to the Deputy Under Secretary of Defense for Acquisition Reform
DOD 443 Assistant to the Deputy Secretary of Defense
DOD 449 Staff Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 451 Assistant for Strategy Development to the Deputy Assistant Secretary of Defense (Strategy)
DOD 456 Special Assistant for Family Advocacy and External Affairs to the Deputy Assistant Secretary of Defense, (Prisoner of War/Missing in Action Affairs)
DOD 457 Staff Assistant to the Deputy Assistant Secretary of Defense (Democracy and Human Rights)
DOD 458 Defense Fellow to the Special Assistant to the Secretary of Defense and Deputy Secretary of Defense
DOD 459 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 460 International Counterdrug Specialist to the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support)
DOD 464 Defense Fellow to the Deputy Under Secretary for Logistics
DOD 466 Defense Fellow to the Deputy Under Secretary for Environmental Security
DOD 468 Staff Specialist (International) to the Director, Defense Information Systems Agency
DOD 469 Defense Fellow to the Under Secretary of Defense, Personal and Readiness
DOD 473 Personal and Confidential Assistant to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict
DOD 474 Program Analyst to the Deputy Under Secretary (Environmental Security)
DOD 475 Personal and Confidential Assistant to the Assistant Secretary of Defense (Nuclear Security and Counterproliferation)
DOD 479 Special Assistant to the Assistant to the Secretary of Defense (Legislative Affairs)
DOD 480 Executive Assistant to the Assistant Secretary of Defense (Strategy Requirements and Resources)
DOD 488 Personal and Confidential Assistant to the Comptroller
DOD 493 Special Assistant to the Assistant Secretary of Defense (Policy and Plans)
DOD 494 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DOD 495 Special Assistant for Demining and Landmine Control to the Deputy Assistant Secretary of Defense (Humanitarian and Refugee Affairs)
DOD 500 Staff Specialist to the Project Director for National Performance Review
DOD 501 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DOD 502 Special Assistant to the Under Secretary of Defense for Policy
DOD 503 Counselor and Senior Assistant for Counterproliferation Policy to the Deputy Assistant Secretary of Defense (Counterproliferation Policy)
DOD 504 Special Assistant to the Assistant Secretary of Defense (Special Operations and Low Intensity Conflict)
DOD 506 Staff Specialist to the Assistant Secretary of Defense (Legislative Affairs)
DOD 506 Staff Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DOD 508 Defense Fellow to the Assistant Secretary of Defense (Legislative Affairs)
DOD 508 Defense Fellow to the Assistant Secretary of Defense (Legislative Affairs)

DOD 510 Staff Specialist to the Assistant Secretary of Defense (Legislative Affairs)
DOD 512 Staff Specialist to the Deputy Assistant Secretary for Economic Reinvestment and Base Realignment and Closure
DOD 516 Staff Specialist to the Deputy Under Secretary of Defense for Environmental Security
DOD 519 Private Secretary to the Assistant Secretary of Defense (Regional Security Affairs)
DOD 520 Personal and Confidential Assistant to the Secretary of Defense
DOD 523 Special Assistant to the Assistant Secretary of Defense for Health Affairs
DOD 524 Confidential Assistant to the Deputy Secretary of Defense
DOD 527 Special Assistant for Demand Reduction to the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support)
DOD 529 Staff Specialist to the Assistant to the Secretary of Defense, Legislative Affairs
DOD 534 Confidential Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 535 Special Assistant to the Deputy to the Under Secretary of Defense for Policy Support
DOD 536 Personal and Confidential Assistant to the Assistant Secretary of Defense for Economic Security
DOD 540 Senior Advisor for Defense Conversion Policy to the Deputy Under Secretary of Defense (Threat Reduction Policy)
DOD 545 Public Affairs Specialist to the Office of the Assistant Secretary of Defense (Public Affairs)
DOD 546 Private Secretary to the Assistant Secretary of Defense (International Security Policy)
DOD 547 Personal and Confidential Assistant to the Assistant Secretary of Defense (International and Security Policy)
DOD 548 Special Assistant to the Executive Director, President's Foreign Intelligence Advisory Board
DOD 550 Staff Specialist to the Principal Deputy Assistant Secretary of Defense for Dual Use Technology Policy and International Programs
DOD 551 Secretary to the Assistant Secretary of Defense, Strategy and Requirements
DOD 552 Special Assistant to the Deputy Assistant Secretary of Defense for Drug Enforcement Policy and Support
DOD 553 Program Assistant to the Deputy Under Secretary of Defense for Environmental Security
DOD 555 Confidential Assistant to the General Counsel, Department of Defense
DOD 557 Defense Fellow to the Deputy Assistant Secretary of Defense, Humanitarian and Refugee Affairs
DOD 558 Special Assistant to the Director, Program Analysis and Evaluation
DOD 559 Confidential Assistant to the Assistant Secretary of Defense, Force Management Policy
DOD 560 Staff Assistant to the Deputy Assistant Secretary of Defense (Inter-American Affairs)
DOD 561 Intergovernmental Affairs Specialist to the Under Secretary of Defense (Personal and Readiness)
DOD 562 Defense Fellow to the Assistant Secretary of Defense (International Security Affairs)
DOD 564 Program Analyst to the Deputy Under Secretary (Environmental Secretary)
DOD 566 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense (Policy)
DOD 568 Special Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 569 Staff Assistant to the Counselor and Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 570 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense (Acquisition and Technology)
DOD 571 Secretary (OA) to the Inspector General, Department of Defense
DOD 572 Special Assistant to the Inspector General
DOD 573 Special Assistant for Policy Planning and Analysis to the Head, Plans and Policy Group
DOD 574 Special Assistant to the Assistant Secretary of Defense, International Security Policy
DOD 577 Staff Specialist to the Principal Deputy Assistant Secretary of Defense (Legislative Affairs)
DOD 578 Personal and Confidential Assistant to the Under Secretary of Defense (Policy)
DOD 579 Defense Fellow to the Deputy Assistant Secretary of Defense (European and Nato Policy)
DOD 580 Defense Fellow to the Deputy Assistant Secretary of Defense, African Affairs
DOD 581 Associate Director Communications to the Senior Director, Communications, National Security Council
DOD 582 Foreign Affairs Specialist to the Deputy Assistant Secretary of Defense (Peacekeeping and Peace Enforcement)
DOD 583 Speechwriter to the Assistant to the Secretary of Defense for Public Affairs
DOD 584 Staff Specialist for Cuban Affairs to the Deputy Assistant Secretary of Defense (Inter-American Affairs)
DOD 585 Staff Assistant to the Special Assistant to the Principal Deputy Under Secretary of Defense (Policy)
DOD 586 Personal and Confidential Assistant to the General Counsel
DOD 587 Staff Assistant to the Director, Policy Planning
DOD 588 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 589 Speechwriter to the Assistant to Secretary of Defense for Public Affairs
DOD 590 International Counterdrug Specialist to the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support)
DOD 591 Executive Director (House Affairs) to the Assistant Secretary of Defense (Legislative Affairs)
DOD 592 Program Analyst to the Deputy Assistant Secretary of Defense, Humanitarian and Refugee Affairs
DOD 593 Assistant for China to the Deputy Assistant Secretary of Defense, Asian and Pacific
DOD 594 Director of Requirements to the Deputy Assistant Secretary of Defense (Requirements and Plans)
DOD 595 Confidential Assistant to the Assistant Secretary of Defense (Public Affairs)
DOD 596 Confidential Assistant to the Deputy Advisor for National Security Affairs
DOD 597 Staff Specialist to the Deputy Under Secretary for Logistics
DOD 598 Executive Director (Outreach and Integration) to the Deputy Under Secretary (Industrial Affairs and Installations)
DOD 599 Staff Specialist to the Chief, Plans and Analysis Group
DOD 601 Personal and Confidential Assistant to the Special Assistant to the Secretary of Defense for White House Liaison

Section 213.3307 Department of the Army (DOD)

ARMY 1 Executive Staff Assistant to the Secretary of the Army
ARMY 2 Personal and Confidential Assistant to the Under Secretary of the Army
ARMY 5 Secretary (Stenography/Office Automation) to the Assistant Secretary of the Army (Installations, Logistics and Environment)
ARMY 6 Secretary (Office Automation) to the Assistant Secretary of the Army (Research, Development and Acquisition)
ARMY 21 Secretary (Steno/OA) to the General Counsel
ARMY 55 Secretary (Office Automation) to the Assistant Secretary of the Army (Financial Management)

ARMY 59 Confidential Assistant to the Secretary of the Army
ARMY 68 Special Assistant to the Executive Director (Special Assistant to the Secretary of the Army), World War II Commemorative Committee
ARMY 69 Defense Fellow (Public Affairs) to the Chief of Public Affairs
ARMY 70 Defense Fellow to the Assistant Secretary of the Army (Manpower and Reserve Affairs)
ARMY 71 Special Assistant for Policy to the Secretary of the Army
ARMY 73 Special Assistant for Policy to the Executive Staff Assistant

Section 213.3308 Department of the Navy (DOD)

NAV 49 Staff Assistant to the Under Secretary of the Navy
NAV 50 Staff Assistant to the Assistant Secretary of the Navy (Manpower and Reserve Affairs)
NAV 54 Staff Assistant to the General Counsel
NAV 56 Staff Assistant to the Assistant Secretary of the Navy (Financial Management)
NAV 57 Staff Assistant to the Secretary of the Navy
NAV 59 Staff Assistant to the Assistant Secretary of Navy (Manpower and Reserve Affairs)
NAV 60 Staff Assistant to the Assistant Secretary of Navy (Research, Development and Acquisition)

Section 213.3309 Department of the Air Force (DOD)

AF 1 Secretary (S/OA) to the Secretary of the Air Force
AF 2 Confidential Assistant to the Under Secretary of the Air Force
AF 5 Assistant Secretary (Steno) to the Assistant Secretary Acquisition
AF 6 Secretary (Steno) to the Assistant Secretary (Manpower and Reserve Affairs)
AF 8 Secretary (Steno/OA) to the General Counsel of the Air Force
AF 22 Secretary (Stenography/OA) to the Assistant to the Vice President for National Security Affairs
AF 29 Confidential Assistant to the Secretary of the Air Force
AF 31 Staff Assistant (Typing) to the Assistant to the Vice President for National Security Affairs
AF 39 Secretary (OA) to the Assistant Secretary of the Air Force (Financial Management and Comptroller)
AF 41 Confidential Assistant for Environmental Legislation to the Deputy Assistant Secretary for Environmental Safety and Occupational Health
AF 42 Staff Assistant to the Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations and Environment).

Section 213.3310 Department of Justice

JUS 13 Special Assistant to the Deputy Attorney General
JUS 21 Confidential Assistant to the Assistant Attorney General
JUS 27 Special Assistant to the Assistant Attorney General, Environmental and Natural Resources Division
JUS 37 Secretary (OA) to the United States Attorney, District of Columbia
JUS 38 Secretary (OA) to the United States Attorney, Northern District of Illinois
JUS 40 Secretary (OA) to the United States Attorney, Eastern District of Michigan
JUS 47 Secretary (OA) to the United States Attorney, Western District of New York
JUS 70 Special Assistant to the Assistant Attorney General, Civil Rights Division
JUS 75 Secretary (OA) to the United States Attorney, Northern District of Texas
JUS 97 Staff Assistant to the Attorney General
JUS 114 Staff Assistant to the Attorney General
JUS 115 Staff Assistant to the Assistant Attorney General, Office of Legislative Affairs
JUS 122 Public Affairs Specialist to the Director, Public Affairs
JUS 128 Secretary (OA) to the United States Attorney, District of Arizona
JUS 132 Special Assistant to the Commissioner, Immigration and Naturalization Service
JUS 133 Staff Assistant to the Attorney General
JUS 137 Counselor to the Commissioner, Immigration and Naturalization Service
JUS 140 Attorney Advisor to the Assistant Attorney General
JUS 141 Special Assistant to the Assistant Attorney General (Legislative Affairs)
JUS 144 Special Assistant to the Solicitor General
JUS 149 Special Assistant to the Assistant Attorney General, Environmental and Natural Resources Division
JUS 167 Assistant to the Attorney General
JUS 169 Secretary (OA) to the United States Attorney, Middle District of Florida
JUS 170 Assistant to the Attorney General
JUS 173 Secretary (OA) to the United States Attorney, Western District of Louisiana
JUS 184 Counselor to the Assistant Attorney General, Antitrust Division
JUS 186 Special Assistant to the Assistant Attorney General, Criminal Division
JUS 205 Council to the Executive Director, Office of Congressional and Intergovernmental Relations
JUS 207 Staff Assistant to the Director of Public Affairs
JUS 208 Public Affairs Specialist to the Director, Office of Public Affairs
JUS 216 Special Assistant to the Administrator, Office for Juvenile Justice and Delinquency Prevention
JUS 217 Special Assistant to the Director, Bureau of Justice Assistance
JUS 224 Special Assistant to the Deputy Attorney General
JUS 233 Special Assistant to the Assistant Attorney General, Civil Rights Division
JUS 235 Public Affairs Specialist to the Director of Public Affairs
JUS 242 Special Assistant to the Assistant Attorney General, Civil Division
JUS 243 Staff Assistant to the Assistant Attorney General, Civil Rights Division
JUS 245 Special Assistant to the Assistant Attorney General, Environmental and Natural Resources Division
JUS 247 Special Assistant to the Commissioner, Immigration and Naturalization Service
JUS 264 Confidential Assistant to the Assistant Attorney General
JUS 266 Director, Special Projects to the Director, Office of Public Affairs
JUS 268 Litigation Counsel to the Assistant Attorney General
JUS 270 Special Assistant to the Assistant Attorney General, Civil Rights Division
JUS 273 Special Assistant to the Associate Attorney General
JUS 274 Special Assistant to the Assistant Attorney General, Office of Legal Counsel
JUS 279 Deputy Director, Office of Public Liaison and Intergovernmental Affairs to the Assistant Attorney General, Office of Legislative Affairs
JUS 280 Special Assistant to the Assistant Attorney General, Office of Policy Development
JUS 281 Special Advisor to the Deputy Assistant Attorney General
JUS 282 Special Assistant to the Assistant Attorney General, Office of Policy Development
JUS 285 Logistics Coordinator to the Assistant Attorney General, Office of Legislative Affairs
JUS 288 Associate Deputy Attorney General to the Deputy Attorney General
JUS 289 Special Assistant to the Deputy Attorney General

JUS 293 Special Assistant to the Deputy Attorney General
JUS 296 Special Assistant to the Deputy Attorney General
JUS 299 Public Affairs Assistant to the Director, Office of Public Affairs
JUS 309 Senior Liaison Officer to the Assistant Attorney General, Office of Policy Development
JUS 312 Special Assistant to the Assistant Attorney General
JUS 316 Special Assistant to the Director, Office for Victims of Crime
JUS 324 Special Assistant to the Assistant Attorney General, Office of Legislative Affairs
JUS 330 Assistant Director, Public Liaison and Intergovernmental Affairs to the Assistant Attorney General, Office of Policy Development
JUS 331 Special Assistant to the Director, National Institute of Justice
JUS 353 Confidential Assistant to the Solicitor General
JUS 361 Special Assistant to the Director, Bureau of Justice Statistics
JUS 387 Public Affairs Specialist to the Director, Office of Public Affairs
JUS 388 Special Assistant to the Director, United States Marshals Service
JUS 389 Special Assistant to the Assistant Attorney General, Office of Legal Counsel
JUS 401 Counsel to the Deputy Attorney General
JUS 404 Assistant to the Attorney General
JUS 409 Special Assistant to the Director, Violence Against Women Program
JUS 412 Public Affairs Specialist to the Director, Office of Public Affairs
JUS 418 Secretary (OA) to the United States Attorney, District of Nebraska
JUS 419 Secretary (OA/Stenography) to the United States Attorney, Northern District of Florida
JUS 420 Confidential Assistant to the United States Attorney, Eastern District of Pennsylvania
JUS 421 Special Assistant to the Special Representatives to the United States Attorney, Southern District of California
JUS 422 Secretary (OA) to the United States Attorney, Eastern District of Wisconsin
JUS 423 Secretary to the United States Attorney, District of New Mexico
JUS 424 Secretary to the United States Attorney, Northern District of Iowa
JUS 425 Secretary (OA) to the United States Attorney, Middle District of Pennsylvania
JUS 426 Secretary (OA) to the United States Attorney, Sioux Falls, South Dakota
JUS 427 Secretary (OA) to the United States Attorney, District of New Hampshire
JUS 428 Secretary (OA) to the United States Attorney, District of Minnesota
JUS 431 Secretary (OA) to the United States Attorney, District of Oregon, Portland, OR
JUS 433 Secretary (OA) to the United States Attorney, Middle District of Louisiana
JUS 434 Confidential Assistant, to the United States Attorney, Sacramento, CA
JUS 435 Secretary (OA) to the United States Attorney, Western District of Arkansas
JUS 436 Secretary (OA) to the United States Attorney, Middle District of Alabama
JUS 437 Secretary (OA) to the United States Attorney, District of Delaware
JUS 442 Special Assistant to the Assistant Attorney General, Office of Legislative Affairs
JUS 443 Attorney Advisor (Special Counsel) to the Director, Executive Office for United States Attorney
JUS 444 Deputy Director, Office of Public Liaison and Intergovernmental Affairs to the Assistant Attorney General, Office of Legislative Affairs

Section 213.3312 Department of the Interior

INT 171 Special Assistant to the Commissioner of Reclamation, Bureau of Reclamation
INT 271 Special Assistant to the Director, Minerals Management Service
INT 369 Staff Assistant to the Director, Office of Surface Mining Reclamation and Enforcement
INT 375 Special Assistant to the Secretary and White House Liaison to the Chief of Staff
INT 378 Special Assistant to the Director, Office of Surface Mining
INT 426 Press Secretary to the Director of Communications
INT 431 Special Assistant to the Assistant Secretary for Policy, Management and Budget
INT 436 Special Assistant to the Deputy Director, Bureau of Land Management
INT 442 Special Assistant to the Director, National Parks Service
INT 443 Assistant to the Director and Counselor to the Director, National Park Service
INT 444 Deputy Director for Legislative and Intergovernmental Affairs to the Assistant to the Secretary, Office of Congressional and Legislative Affairs
INT 447 Special Assistant to the Assistant to the Secretary
INT 449 Special Assistant to the Director, Fish & Wildlife Service
INT 450 Special Assistant to the Director, United States Fish & Wildlife Service
INT 451 Deputy Director, Office of Insular Affairs to the Director, Office of Insular Affairs
INT 454 Special Assistant to the Special Assistant to the Deputy Chief of Staff
INT 455 Special Assistant to the Counselor to the Secretary, Deputy Assistant Secretary for Policy
INT 460 Special Assistant and Director of Scheduling and Advance to the Deputy Chief of Staff
INT 461 Special Assistant to the Director, National Park Service
INT 463 Special Assistant to the Director of the National Park Service
INT 466 Special Assistant to the Deputy Director
INT 467 Special Assistant to the Chief of Staff
INT 468 Special Assistant to the Chief of Staff
INT 474 Special Assistant to the Commissioner of Reclamation
INT 475 Special Assistant to the Commissioner of Reclamation
INT 476 Special Assistant to the Director, Bureau of Land Management
INT 479 Special Assistant to the Deputy Director, Minerals Management Service
INT 480 Special Assistant to the Commissioner of Reclamation
INT 483 Special Assistant to the Assistant Secretary, Water and Science
INT 485 Special Assistant to the Deputy Director, External Affairs, U.S. Fish and Wildlife Service
INT 486 Special Assistant (Speech Writer) to the Director, Office of Communications
INT 487 Special Assistant to the Deputy Chief of Staff
INT 490 Special Assistant (Advance) to the Deputy Chief of Staff
INT 491 Deputy Scheduler to the Deputy Chief of Staff
INT 493 Special Assistant and Director of Executive Secretariat to the Deputy Chief of Staff
INT 494 Special Assistant to the Director, National Biological Service
INT 496 Special Assistant to the Deputy Assistant Secretary, Indian Affairs
INT 497 Special Assistant to the Deputy Chief of Staff

Section 213.3313 Department of Agriculture

AGR 3 Confidential Assistant to the Executive Assistant to the Secretary
AGR 24 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 26 Confidential Assistant to the Administrator, Farmers Home Administration

AGR 27 Confidential Assistant to the Director, Legislative Affairs and Public Information Staff
AGR 31 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 32 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 33 Confidential Assistant to the Administrator, Consolidated Farm Service Agency
AGR 34 Special Assistant to the Administrator, Agricultural Stabilization Conservation Service
AGR 35 Staff Assistant to the Administrator, Farm Service Agency
AGR 48 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 56 Private Secretary to the Assistant Secretary for Congressional Relations
AGR 64 Confidential Assistant to the Director of Legislative Affairs and Public Information Staff, Rural Economic and Community Development
AGR 79 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 81 Confidential Assistant to the Director, Legislative Affairs and Public Information Staff
AGR 96 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 100 Special Assistant to the Administrator, Food and Nutrition Service
AGR 106 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 111 Confidential Assistant to the Secretary of Agriculture
AGR 114 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 131 Private Secretary to the Assistant Secretary for Natural Resources and Environment
AGR 139 Staff Assistant to the Secretary of Agriculture
AGR 143 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 151 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 157 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 159 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 160 Confidential Assistant to the Associate Administrator, Foreign Agricultural Service
AGR 161 Special Assistant to the Director, Office of Public Affairs
AGR 164 Confidential Assistant to the Under Secretary for Research, Education and Economics
AGR 182 Confidential Assistant to the Administrator, Rural Electrification Administration
AGR 186 Special Assistant to the Secretary of Agriculture
AGR 188 Northeast Area Director to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service
AGR 190 Area Director, Midwest Region to the Administrator, Agricultural Stabilization and Conservation Service
AGR 203 Special Assistant to the Secretary of Agriculture
AGR 205 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 218 Confidential Assistant to the Assistant Secretary for Administration
AGR 225 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 236 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 238 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 257 Executive Assistant to the Assistant Secretary for Food and Consumer Services to the Assistant Secretary for Food and Consumer Services
AGR 258 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 268 Special Assistant to the Administrator, Rural Electrification Administration
AGR 276 Director, Legislative Affairs to the Under Secretary, Cooperative State Research, Education and Extension Service
AGR 281 Confidential Assistant to the Administrator, Farm Service Agency
AGR 285 Confidential Assistant to the Executive Assistant to the Secretary
AGR 287 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 290 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 293 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 294 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 295 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 298 Confidential Assistant to the Administrator, Food, Nutrition and Consumer Service
AGR 308 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 311 Confidential Assistant to the Administrator, Agricultural Research Service
AGR 312 Executive Assistant to the Administrator, Farmers Home Administration
AGR 316 Staff Assistant to the Chief, Soil Conservation Service
AGR 327 Staff Assistant to the Director of Public Affairs
AGR 328 Special Assistant to the Director of Intergovernmental Affairs, Office of Public Affairs
AGR 330 Confidential Assistant to the Director, Office of Public Affairs
AGR 332 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 341 Confidential Assistant to the Manager, Farm and Foreign Agriculture Service
AGR 343 Executive Assistant to the Director, Office of Public Affairs
AGR 346 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 347 Confidential Assistant to the Deputy Director, Office of Public Affairs
AGR 349 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 352 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 359 Executive Speech Writer to the Director, Office of Public Affairs
AGR 366 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 368 Confidential Assistant to the Manager, Federal Crop Insurance Corporation
AGR 369 Confidential Assistant to the Administrator, Rural Development Administration
AGR 370 Senior Policy Director to the Administrator, Rural Business-Cooperative Service
AGR 374 Deputy Administrator for Policy and Planning to the Administrator, Policy and Planning
AGR 377 Confidential Assistant to the Administrator, Rural Development Administration
AGR 381 Confidential Assistant to the Under Secretary for Small Community and Rural Development
AGR 384 Confidential Assistant to the Secretary of Agriculture
AGR 385 Confidential Assistant to the Deputy Director, Office of the Executive Secretariat

AGR 388 Staff Assistant to the Chief, Soil Conservation Service
AGR 393 Confidential Assistant to the Administrator, Rural Development Administration
AGR 395 Confidential Assistant to the Director, Office of Advocacy and Enterprise
AGR 396 Staff Assistant to the Assistant Secretary for Congressional Relations
AGR 397 Confidential Assistant to the Chief, Soil Conservation Service
AGR 399 Secretary (Typing) to the Assistant Secretary for Administration
AGR 400 Special Assistant to the Assistant Secretary for Administration
AGR 401 Staff Assistant to the Chief Economist
AGR 404 Confidential Assistant to the Director of Personnel
AGR 406 Confidential Assistant to the Executive Assistant to the Secretary
AGR 411 Confidential Assistant to the Assistant Secretary for Administration
AGR 412 Confidential Assistant to the Administrator, Food Safety and Inspection Service
AGR 413 Special Assistant to the Chief of the Soil Conservation Service
AGR 414 Special Assistant to the Secretary of Agriculture
AGR 415 Confidential Assistant to the Administrator, Rural Electrification Administration
AGR 417 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 418 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 421 Director, Public Liaison to the Director, Office of Public Liaison
AGR 422 Special Assistant (Jackson, MS) to the Administrator, Farmers Home Administration
AGR 425 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 426 Deputy Director, Special Projects to the Director, Office of Communications
AGR 427 Special Assistant to the Deputy Assistant Secretary
AGR 428 Confidential Assistant to the Administrator, Rural Business and Cooperative Development Service
AGR 429 Confidential Assistant to the Director, Office of Civil Rights Enforcement
AGR 430 Deputy Press Secretary to the Director, Office of Public Affairs
AGR 431 Confidential Assistant to the Administrator, Rural Electrification Administration
AGR 432 Confidential Assistant to the Secretary of Agriculture
AGR 434 Area Director to the Deputy Administrator, State and County Operations
AGR 435 Confidential Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
AGR 436 Staff Assistant to the Administrator, Rural Electrification Administration
AGR 437 Confidential Assistant to the Chief, Forest Service
AGR 438 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 439 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 440 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 441 Deputy Under Secretary for Rural Economic and Community Development to the Under Secretary, Rural Economic and Community Development
AGR 442 Special Assistant to the Administrator, Cooperative State Research Education, and Extension Service
AGR 443 Confidential Assistant to the Under Secretary for Natural Resources and Environment
AGR 444 Confidential Assistant to the Administrator, Food and Safety Inspection Service
AGR 445 Special Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 446 Confidential Assistant to the Administrator, Rural Business and Cooperative Development Service

Section 213.3314 Department of Commerce

COM 1 Special Assistant to the Senior Policy Advisor
COM 16 Special Assistant to the General Counsel, Office of the General Counsel
COM 19 Private Chauffeur to the Secretary
COM 48 Confidential Assistant to the Under Secretary for Travel and Tourism
COM 70 Director of Congressional Affairs to the Assistant Secretary for Economic Development, Economic Development Administration
COM 74 Director, Office of Public Affairs to the Assistant Secretary for Economic Development
COM 100 Special Assistant to the Director, Minority Business Development Agency
COM 152 Special Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 162 Special Assistant to the Assistant Secretary for International Economic Policy, International Trade Administration
COM 181 Special Assistant to the Assistant Secretary for Communications and Information
COM 189 Special Assistant to the Assistant Secretary for National Communications and Information Administration
COM 190 Director, Office of Congressional Affairs to the Assistant Secretary for Communication and Information
COM 194 Special Assistant to the Under Secretary, National Oceanic and Atmospheric Administration
COM 204 Special Assistant to the Chief Scientist, National Oceanic and Atmospheric Administration
COM 237 Special Assistant to the Under Secretary for International Trade
COM 258 Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration
COM 259 Director of Congressional Affairs to the Under Secretary for International Trade, International Trade Administration
COM 260 Confidential Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs
COM 262 Special Assistant to the Assistant Secretary for Trade Development, International Trade Administration
COM 266 Special Assistant to the Assistant Secretary for Import Administration, International Trade Administration
COM 268 Executive Assistant to the Counsellor and Chief of Staff
COM 274 Confidential Assistant to the Director, Office of Business Liaison
COM 275 Confidential Assistant to the Director, Office of Business Liaison
COM 284 Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs
COM 288 Confidential Assistant to the Director, Office of Business Liaison
COM 291 Special Assistant to the Press Secretary and Acting Director, Office of Public Affairs
COM 294 Executive Assistant to the Secretary of Commerce
COM 298 Special Assistant to the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration
COM 303 Special Assistant to the Chief Financial Officer and Assistant Secretary for Administration
COM 306 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 308 Special Assistant to the Assistant Secretary for Trade Development

COM 312 Special Assistant to the Director General of the U.S. and Foreign Commercial Service
COM 314 Special Assistant to the Director, Office of the White House Liaison
COM 320 Confidential Assistant to the Director, Office of External Affairs
COM 321 Director, Office of Public Affairs to the Under Secretary for International Trade, the International Trade Administration
COM 326 Confidential Assistant to the Assistant Secretary and Director General, U.S. and Foreign Commercial Service
COM 342 Confidential Assistant to the Director of White House Liaison
COM 350 Deputy Director, Office of Business Liaison to the Director, Office of Business Liaison
COM 352 Confidential Assistant to the Deputy Chief of Staff
COM 365 Special Assistant to the Director, Minority Business Development Agency
COM 370 Chief, Legislative and Intergovernmental Affairs to the Assistant Director for External Affairs
COM 374 Congressional Liaison Specialist to the Congressional Affairs Officer
COM 385 Special Assistant to the Director, Bureau of Census
COM 390 Confidential Assistant to the Under Secretary for Economic Affairs/ Administrator, Economics and Statistics Administration
COM 397 Congressional Affairs Officer to the Assistant Director for Communications, Census Bureau
COM 398 Special Assistant to the Deputy Assistant Secretary for Domestic Operations
COM 415 Congressional Affairs Specialist to the Director, Office of Legislative Affairs, National Oceanic and Atmospheric Administration
COM 416 Director, Office of Consumer Affairs to the Secretary of Commerce
COM 418 Confidential Assistant to the Under Secretary for Economic Affairs
COM 420 Special Assistant to the Director General of the United States and Foreign Commercial Service, International Trade Administration
COM 423 Director of Congressional Affairs to the Assistant Secretary and Commissioner, Patent and Trademark Office
COM 427 Special Assistant to the Deputy Under Secretary for Export Administration
COM 428 Deputy Director to the Director, White House Liaison
COM 432 Confidential Assistant to the Assistant to the Deputy Secretary
COM 439 Special Assistant to the General Counsel
COM 448 Confidential Assistant to the Assistant Secretary for International Economic Policy, International Trade Administration
COM 452 Confidential Assistant to the Chief of Staff
COM 466 Director of Public Affairs to the Under Secretary, Technology Administration
COM 468 Confidential Assistant to the Under Secretary for Export Administration, Bureau of Export Administration
COM 469 Deputy Director, Office of White House Liaison to the Director, Office of White House Liaison
COM 477 Director of Legislative and Intergovernmental Affairs to the Deputy Under Secretary for Travel and Tourism
COM 480 Director of Congressional Affairs to the Under Secretary for Technology
COM 481 Special Assistant to the Under Secretary for Technology
COM 482 Director, Executive Secretariat to the Chief of Staff
COM 485 Special Assistant to the Chief of Staff
COM 490 Deputy Director of External Affairs and Director of Scheduling to the Director, Office of External Affairs
COM 500 Special Assistant to the Under Secretary for Travel and Tourism, U.S. Travel and Tourism
COM 511 Confidential Assistant to the Assistant Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration
COM 519 Special Assistant to the General Council, National Oceanic and Atmospheric Administration
COM 527 Executive Assistant to the Secretary
COM 528 Deputy Director of Scheduling to the Director of Scheduling, Office of the Secretary
COM 530 Special Assistant to the Under Secretary for Technology, Technology Administration
COM 535 Congressional Liaison Specialist to the Director, Office of Congressional Affairs
COM 536 Special Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 538 Special Assistant and Chief of Protocol to the Chief of Staff
COM 539 Special Assistant to the Chief of Staff
COM 544 Special Assistant to the Under Secretary for International Trade, International Trade Administration
COM 548 Confidential Assistant to the Assistant Secretary Legislative and Interagency Affairs
COM 549 Special Assistant to the Deputy Under Secretary Economic Affairs
COM 550 Special Assistant to the Assistant Secretary, Legislative and Intergovernmental Affairs
COM 556 Confidential Assistant to the Assistant to the Deputy Secretary
COM 560 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 561 Confidential Assistant to the Assistant Secretary and Commissioner, Patent and Trademark Office
COM 563 Deputy Director of Scheduling to the Deputy Director of External Affairs and Director of Scheduling
COM 571 Special Assistant to the Deputy Assistant Secretary for Service Industries and Finance
COM 574 Confidential Assistant to the Director, Office of Business Liaison
COM 579 Director of Legislative, Intergovernmental and Public Affairs to the Under Secretary, Bureau of Export Administration
COM 585 Chief, Intergovernmental Affairs to the Director, Office of Sustainable Development and Intergovernmental Affairs
COM 586 Confidential Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 587 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 588 Congressional Affairs Specialist to the Director, Office of Legislative Affairs, National Oceanic and Atmospheric Administration
COM 588 Congressional Affairs Specialist to the Director, Office of Legislative Affairs, National Oceanic and Atmospheric Administration
COM 589 Special Assistant to the Director, Office of Public and Constituent Affairs, National Oceanic and Atmospheric Administration
COM 592 Special Assistant to the Deputy Assistant Secretary for Technology and Aerospace Industries, International Trade Administration
COM 594 Deputy Director of Advance to the Deputy Director of External Affairs
COM 595 Confidential Assistant to the Director, Office Space Commerce
COM 595 Confidential Assistant to the Director, Office Space Commerce
COM 597 News Analyst to the Director, Office of Public Affairs
COM 598 Special Assistant to the Deputy General Counsel
COM 599 Confidential Assistant to the Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration
COM 601 Director, Office of Public Affairs to the Under Secretary for

Oceans and Atmosphere, National Oceanic and Atmospheric Administration
COM 604 Assistant Director for Communications to the Director, Bureau of the Census
COM 607 Intergovernmental Affairs Specialist to the Chief Intergovernmental Affairs, Office of Sustainable Development and Intergovernmental Affairs (NOAA)
COM 608 Confidential Assistant to the Director of Public Affairs
COM 610 Special Assistant to the Deputy Assistant Secretary for International Economic Development
COM 611 Special Assistant to the Deputy Under Secretary for Policy Development, International Trade Administration
COM 612 Special Assistant to the Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration
COM 616 Confidential Assistant to the Assistant Secretary for Export Administration, Bureau of Export Administration
COM 617 Director, Office of Energy, Infrastructure and Machinery to the Deputy Assistant Secretary for Basic Industries
COM 618 Confidential Assistant to the Director, Secretariat Staff, Office of the Executive Secretariat
COM 620 Confidential Assistant to the Director, Office of Public Affairs, International Trade Administration
COM 622 Confidential Assistant to the Assistant Secretary for Economic Development Administration
COM 623 Confidential Assistant to the Deputy Under Secretary for International Trade
COM 625 Special Assistant to the Deputy Assistant Secretary for Technology Policy
COM 627 Special Assistant for Public Affairs to the Under Secretary for Travel and Tourism
COM 629 Deputy Director to Director, the Office of Public, Congressional and Intergovernmental Affairs
COM 630 Assistant Director for Operations to the Director for Strategic Planning
COM 631 Special Advisor to the Director, Oceanic and Atmospheric Administrator
COM 632 Deputy Assistant Secretary for Intergovernmental Affairs to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 634 Confidential Assistant to the Deputy Assistant Secretary for Administration
COM 635 Special Assistant to the Assistant Secretary and Director General of the U.S. and Foreign Commercial Service
COM 636 Director, Office of Export Promotion Coordination to the Deputy Assistant Secretary for Trade Development
COM 640 Confidential Assistant to the Director, Office of Public, Congressional and Intergovernmental Affairs, International Trade Administration
COM 641 Special Assistant to the Director, Office of External Affairs
COM 642 Confidential Assistant to the Director, Office of External Affairs
COM 643 Confidential Assistant to the Assistant Secretary and Commissioner of Patents and Trademarks
COM 644 Special Assistant to the Director, Office of Sustainable Development and Intergovernmental Affairs
COM 645 Special Assistant to the Director, Legislative, Intergovernmental and Public Affairs
COM 646 Confidential Assistant to the Press Secretary
COM 647 Deputy Press Secretary to the Press Secretary
COM 648 Press Secretary to the Secretary of Commerce
COM 649 Confidential Assistant to the Press Secretary
COM 650 Confidential Assistant to the Press Secretary
COM 652 Confidential Assistant to the Deputy Director, Office of Public Affairs
COM 654 Confidential Assistant to the Counselor to the Department of Commerce
COM 655 Confidential Assistant to the Assistant Secretary and Director General of the U.S. and Foreign Commercial Service, International Trade Administration
COM 657 Confidential Assistant to the Director of Legislative, Intergovernmental and Public Affairs
COM 659 Director, Office of White House Liaison to the Deputy Chief of Staff
COM 660 Congressional Liaison Specialist to the Director of Congressional Affairs
COM 662 Confidential Assistant to the Deputy Assistant Secretary for International Economic Development
COM 663 Confidential Assistant to the Assistant Director for External Affairs
COM 664 Special Assistant to the Deputy Assistant Secretary for U.S. and Foreign Commercial Service
COM 665 Director, National Information Infrastructure Initiatives to the Assistant Secretary for Communications and Information
COM 666 Confidential Assistant to the Director, Office of Legislative Affairs
COM 667 Senior Advisor for Policy and Planning to the Deputy Assistant Secretary for International Economic Development
COM 668 Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods to the Assistant Secretary for Trade Development
COM 669 Confidential Assistant to the Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods
COM 670 Director, Office of Legislative Affairs to the Assistant Secretary for Oceans and Atmosphere
COM 671 Special Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 672 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 673 Special Assistant to the Deputy Assistant Secretary for International Economic Development
COM 674 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 675 Special Assistant to the Deputy Assistant Secretary for International Economic Development
COM 676 Confidential Assistant to the Deputy Assistant Secretary for Environmental Technologies Exports
COM 677 Special Assistant to the Director of External Affairs
COM 678 Special Assistant to the Deputy Assistant Secretary for Basic Industries
COM 679 Confidential Assistant to the Deputy Press Secretary
COM 680 Deputy Press Secretary-Agency Coordination to the Director for Communications and Press Secretary
COM 681 Special Assistant to the Assistant Secretary for International Economic Policy
COM 682 Associate Under Secretary for Economic Affairs to the Under Secretary for Economic Affairs

Section 213.3315 Department of Labor

LAB 3 Special Assistant to the Secretary of Labor
LAB 17 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 25 Associate Director to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 35 Special Assistant to the Director of the Women's Bureau
LAB 41 Chief of Staff to the Assistant Secretary for Office of Congressional and Intergovernmental Affairs
LAB 66 Executive Assistant to the Deputy Assistant Secretary, Office of Federal Contracts Compliance Programs, Employment Standards Administration

LAB 76 Special Assistant to the Director of the Women's Bureau
LAB 79 Counselor to the Assistant Secretary for Policy
LAB 87 Staff Assistant to the Assistant Secretary for Employment Standards, Employment Standards Administration
LAB 92 Special Assistant to the Counselor to the Secretary
LAB 93 Staff Assistant to the Secretary of Labor
LAB 94 Deputy Chief of Staff to the Chief of Staff
LAB 96 Chief of Staff to the Assistant Secretary for Employment and Training
LAB 99 Special Assistant to the Assistant Secretary of Labor
LAB 101 Special Assistant to the Administrator, Wage and Hour Division, Employment Standards Administration
LAB 103 Secretary's Representative, Boston, MA, to the Associate Director, Intergovernmental Affairs
LAB 104 Secretary's Representative New York, NY, to the Associate Director, Intergovernmental Affairs
LAB 105 Secretary's Representative, Philadelphia, PA, to the Associate Director, Office of Congressional and Intergovernmental Affairs
LAB 106 Secretary's Representative, Atlanta, GA, to the Director, Office of Intergovernmental Affairs
LAB 107 Secretary's Representative, Chicago, IL, to the Associate Director, Intergovernmental Affairs
LAB 109 Secretary's Representative, Kansas City, MO, to the Associate Director, Intergovernmental Affairs
LAB 112 Secretary's Representative, Seattle, WA, to the Director, Office of Intergovernmental Affairs
LAB 123 Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration
LAB 129 Press Secretary to the Assistant Secretary, Occupational Safety and Health Administration
LAB 130 Special Assistant to the Executive Secretary
LAB 132 Associate Director for Congressional Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 137 Special Assistant to the Assistant Secretary for Public Affairs
LAB 137 Press Secretary to the Assistant Secretary for Public Affairs
LAB 145 Intergovernmental Officer to the Associate Director Intergovernmental Affairs
LAB 151 Special Assistant to the Director, Women's Bureau
LAB 152 Special Assistant to the Director, Women's Bureau
LAB 159 Special Assistant to the Deputy Under Secretary for International Affairs, Bureau of International Labor Affairs
LAB 160 Director of Scheduling and Advance to the Chief of Staff
LAB 161 Special Assistant to the Chief Economist
LAB 163 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration
LAB 168 Special Assistant to the Deputy Secretary
LAB 169 Chief of Staff to the Assistant Secretary for Policy
LAB 171 Special Assistant to the Secretary of Labor
LAB 172 Special Assistant to the Deputy Secretary of Labor
LAB 174 Special Assistant to the Executive Secretary
LAB 177 Staff Assistant to the Chief of Staff
LAB 179 Special Assistant to the Assistant Secretary, Employment Standards Administration
LAB 180 Associate Director to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 189 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration
LAB 190 Special Assistant to the Assistant Secretary for Policy
LAB 191 Special Assistant to the Assistant Secretary for Policy
LAB 196 Executive Assistant to the Assistant Secretary for Veterans' Employment and Training
LAB 197 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 199 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 204 Special Assistant to the Assistant Secretary for Veterans' Employment and Training
LAB 208 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 210 Speech Writer to the Assistant Secretary for Policy
LAB 211 Special Assistant to the Executive Secretary
LAB 212 Special Assistant to the Assistant Secretary for Policy
LAB 215 Special Assistant to the Director of the Women's Bureau
LAB 217 Associate Director to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 219 Special Assistant to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs
LAB 220 Chief of Staff to the Assistant Secretary for Public Affairs
LAB 225 Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration
LAB 231 Staff Assistant to the Chief of Staff
LAB 234 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 237 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 239 Special Assistant to the Chief of Staff
LAB 241 Special Assistant to the Assistant Secretary for Public Affairs
LAB 252 Director of Special Projects to the Assistant Secretary for Public Affairs
LAB 253 Staff Assistant to the Chief of Staff
LAB 255 Special Assistant to the Assistant Secretary for Public Affairs
LAB 259 Special Assistant to the Assistant Secretary for Policy
LAB 260 Special Assistant to the Chief of Staff
LAB 263 Special Assistant to the Administrator, Wage and Hour Division
LAB 266 Staff Assistant to the Deputy Under Secretary for International Labor Affairs
LAB 269 Intergovernmental Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 272 Special Assistant to the Assistant Secretary for Mine Safety and Health
LAB 273 Chief of Staff to the Assistant Secretary for Administration and Management
LAB 276 Advisor to the Assistant Secretary, Mine Safety and Health
LAB 277 Special Assistant to the Assistant Secretary for Administration Managment
LAB 278 Special Assistant to the Assistant Secretary for Administration and Management

Section 213.3316 Department of Health and Human Services

HHS 14 Special Assistant to the Executive Secretary
HHS 17 Director, Office of Scheduling to the Chief of Staff, Office of the Secretary
HHS 31 Special Assistant to the Secretary of Health and Human Services
HHS 127 Special Assistant to the Director, Office for Civil Rights
HHS 187 Special Assistant to the Deputy Assistant Secretary for Legislation (Health)
HHS 230 Attorney Advisor (Special Assistant) to the General Counsel
HHS 276 Special Assistant for Liaison to the Associate Commissioner for Legislative Affairs
HHS 315 Special Assistant to the Director of Intergovernmental Affairs

HHS 331 Special Assistant to the Administrator, Health Care Financing Administration
HHS 336 Special Assistant to the Deputy Assistant Secretary for Legislation (Human Services)
HHS 340 Executive Assistant to the Assistant Secretary for Legislation
HHS 344 Congressional Liaison Specialist to the Deputy Assistant for Legislation (Congressional Liaison)
HHS 346 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
HHS 359 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
HHS 361 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
HHS 368 Director, Office of Media Relations to the Associate Administrator for External Affairs
HHS 370 Confidential Assistant to the Associate Administrator for External Affairs
HHS 373 Confidential Assistant to the Executive Secretary
HHS 374 Confidential Assistant to the Executive Secretary
HHS 395 Special Assistant to the Director, Office of Community Services, Administration for Children and Families.
HHS 415 Special Assistant to the Secretary, Department of Health and Human Services
HHS 427 Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for the Administration for Children and Families
HHS 457 Special Assistant to the Deputy Secretary
HHS 487 Confidential Assistant to the Administrator, Health Care Financing Administration
HHS 500 Director, Office of Professional Relations to the Associate Administrator for External Affairs, Health Care Financing Administration
HHS 510 Deputy Director, Office of Professional Relations to the Director, Office of Professional Relations, Health Care Financing Administration
HHS 512 Special Assistant to the Assistant Secretary for Children and Families
HHS 529 Confidential Assistant (Scheduling) to the Director of Scheduling
HHS 539 Special Assistant to the General Counsel
HHS 549 Speechwriter to the Director of Speechwriting, Office of the Deputy Assistant Secretary for Public Affairs (Media)
HHS 553 Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
HHS 556 Director of Speechwriting to the Deputy Assistant Secretary for Public Affairs (Media)
HHS 558 Confidential Assistant to the Assistant Secretary for Public Affairs
HHS 585 Special Assistant (Speechwriter) to the Director of Speechwriting
HHS 588 Director, Division of Intergovernmental Affairs to the Director, Office of Public Affairs
HHS 589 Speechwriter to the Director of Speechwriting
HHS 590 Confidential Assistant (Advance) to the Director of Scheduling and Advance
HHS 594 Confidential Assistant (Advance) to the Director of Scheduling
HHS 609 Special Initiatives Coordinator to the Assistant Secretary for Public Affairs
HHS 610 Executive Assistant to the Deputy Assistant Secretary for Aging (Operations)
HHS 613 Executive Assistant to the Assistant Secretary for Planning and Evaluation
HHS 614 Confidential Assistant to the Assistant Secretary for Aging
HHS 615 Special Assistant to the Director of Communications, Communications Services Division
HHS 617 Confidential Assistant to the Special Assistant to the Secretary of Health and Human Services
HHS 622 Special Assistant to the Director, Office of Professional Relations
HHS 624 Special Assistant to the Commissioner, Administration for Children and Families
HHS 628 Special Assistant to the Administrator, Substance Abuse and Mental Health Services Administration
HHS 633 Special Assistant to the Director, Office of Community Services, Administration for Children and Families
HHS 634 Special Assistant to the Deputy Director, Office of Child Support Enforcement
HHS 636 Senior Advisor to the Director, Indian Health Service
HHS 637 Special Assistant for Legislative Affairs to the Director, U.S. Office of Consumer Affairs
HHS 639 Special Assistant to the Deputy Assistant Secretary for Policy and External Affairs
HHS 642 Special Assistant to the Director, Office of Community Services
HHS 643 Executive Assistant for Legislative Projects to the Assistant Secretary for Health
HHS 644 White House Liaison to the Chief of Staff
HHS 645 Strategic Planning and Policy Coordinator to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
HHS 646 Deputy Chief of Staff to the Chief of Staff
HHS 647 Deputy Assistant Secretary for Legislative (Congressional Liaison) to the Assistant Secretary for Legislation
HHS 648 Director, Secretarial Briefing and Policy Coordinator to the Executive Secretary
HHS 650 Confidential Advisor to the Associate Commissioner, Child Care Bureau

Section 213.3317 Department of Education

EDU 1 Special Assistant to the Secretary's Regional Representative, Region IX
EDU 2 Confidential Assistant to the Director, Scheduling and Briefing
EDU 3 Confidential Assistant to the Assistant Secretary, Office of Human Resources and Administration
EDU 4 Deputy Secretary's Regional Representative, to the Secretary's Regional Representative, Region IV (Atlanta, GA)
EDU 5 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 6 Confidential Assistant to the Special Advisor to the Secretary
EDU 7 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 8 Special Assistant to the Director, Office of Public Affairs
EDU 9 Special Assistant to the Director, Office of Public Affairs
EDU 12 Confidential Assistant to the Chief of Staff
EDU 12 Special Assistant to the Director, Office of Educational Technology
EDU 14 Special Assistant to the Assistant Secretary (Office of Elementary and Secondary Education)
EDU 16 Special Assistant to the Assistant Secretary, Intergovernmental and Interagency Affairs
EDU 18 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 19 Special Assistant to the Secretary of Education
EDU 20 Steward to the Chief of Staff
EDU 24 Confidential Assistant to the Director, Regional Services Team
EDU 25 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 27 Confidential Assistant to the Assistant Secretary, Office of Civil Rights

EDU 29 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 30 Director, Scheduling and Briefing Staff to the Chief of Staff, Office of the Secretary
EDU 31 Special Assistant to the Secretary of Education
EDU 33 Special Assistant to the Chief of Staff
EDU 34 Special Assistant to the Commissioner, Rehabilitation Service Administration
EDU 35 Special Assistant to the Secretary's Regional Representative, Region I
EDU 36 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 39 Special Assistant to the Deputy Secretary
EDU 43 Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
EDU 44 Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement
EDU 46 Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 48 Special Assistant/Chief of Staff to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 49 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 50 Special Assistant to the Director, Office of Public Affairs
EDU 53 Special Assistant to the Under Secretary
EDU 55 Special Assistant (Special Advisor, HBCU) to the Director, Historically Black Colleges and Universities Staff
EDU 57 Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
EDU 58 Confidential Assistant to the Director, Executive Secretariat
EDU 62 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 66 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
EDU 67 Special Assistant to the Secretary of Education
EDU 70 Confidential Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 71 Executive Assistant to the Deputy Secretary of Education
EDU 73 Confidential Assistant to the Senior Advisor on Education Reform
EDU 74 Chief of Staff to the Deputy Secretary
EDU 75 Confidential Assistant to the Secretary's Regional Representative, Region IX
EDU 76 Special Assistant to the Chief of Staff
EDU 78 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 79 Special Assistant to the Director, Office of Public Affairs
EDU 81 Special Assistant to the Secretary of Education
EDU 84 Special Assistant to the Chief of Staff
EDU 85 Special Assistant to the Deputy Assistant Secretary, Office of Student Financial Assistance Programs
EDU 87 Special Assistant to the Director, Office of Special Education Programs
EDU 94 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 95 Special Assistant to the Assistant Secretary, Office for Civil Rights
EDU 98 Special Assistant to the Assistant Secretary for Special Education and Rehabilitation Services
EDU 99 Executive Assistant for Policy and Operations to the Assistant Secretary, Office of Civil Rights
EDU 101 Deputy Secretary's Regional Representative to the Secretary's Regional Representative, Region I, Boston, MA
EDU 103 Secretary's Regional Representative, Region VIII-Denver, CO, to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 104 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
EDU 106 Special Assistant to the Assistant Secretary, Office of Human Resources Division
EDU 107 Secretary's Regional Representative, Region V, Chicago, IL, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 108 Special Assistant to the Director, Office of Public Affairs
EDU 109 Secretary's Regional Representative, Region VII, Kansas City, MO, to the Director, of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 110 Secretary's Regional Representative-Region II-New York, NY, to the Director of State, Local and Regional Services Staff
EDU 111 Director, White House Initiatives on Hispanic Education to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 113 Special Assistant to the Chief of Staff, Office of the Deputy Secretary
EDU 114 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 115 Special Assistant to the Senior Advisor on Education
EDU 117 Director, Historically Black Colleges to the Assistant Secretary, Postsecondary Education
EDU 119 Secretary's Regional Representative to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 120 Director, Congressional Affairs Staff to the Assistant Secretary for Legislation and Congressional Affairs
EDU 122 Deputy Secretary's Regional Representative Region VI, Dallas, Texas to the Secretary's Regional Representative
EDU 123 Secretary's Regional Representatives Region VI-Dallas, TX, to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 124 Executive Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 125 Deputy Director to the Director, Office of Bilingual Education and Minority Languages Affairs
EDU 127 Secretary's Regional Representative Region I-Boston, MA, to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 129 Special Assistant to the Assistant Secretary for Vocational and Adult Education
EDU 131 Secretary's Regional Representative, Region IX, San Francisco, CA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 132 Confidential Assistant to the Director, Educational Technology
EDU 134 Confidential Assistant to the Assistant Secretary, Office of Legislative and Congressional Affairs
EDU 136 Confidential Assistant to the Assistant Secretary, Intergovernmental and Interagency Affairs
EDU 138 Special Assistant to the Under Secretary
EDU 139 Confidential Assistant to the General Counsel
EDU 140 Liaison for Community and Junior Colleges to the Assistant Secretary for Vocational and Adult Education
EDU 141 Special Assistant to the Assistant Secretary, Office of Civil Rights
EDU 142 Special Assistant to the Director, Office of Public Affairs

EDU 144 Director, Intradepartmental Services to the Director, Federal Interagency and Internal Services
EDU 145 Special Assistant to the Under Secretary
EDU 156 Special Assistant to the Director, Historically Black Colleges and Universities
EDU 157 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 159 Confidential Assistant to the Deputy Assistant Secretary, Student Financial Assistance Programs, Office of Postsecondary Education.
EDU 161 Confidential Assistant to the Counselor to the Secretary
EDU 164 Special Assistant to the Chief of Staff
EDU 169 Special Assistant to the Director, Community Development Field Services Staff, Community Reform Initiatives Services
EDU 174 Confidential Assistant to the Chief of Staff, Office of the Deputy Secretary
EDU 175 Confidential Assistant to the Special Assistant, Office of the Secretary
EDU 175 Confidential Assistant to the Special Assistant, Office of the Secretary
EDU 177 Special Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 180 Special Assistant to the Director of Scheduling and Briefing Staff
EDU 184 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
EDU 186 Confidential Assistant to the Director Scheduling and Briefing
EDU 191 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 202 Confidential Assistant to the Director, Community Reform Initiatives Services
EDU 227 Confidential Assistant to the Chief of Staff, Office of the Secretary
EDU 227 Confidential Assistant to the Special Advisor to the Secretary
EDU 273 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 282 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 299 Confidential Assistant to the Special Assistant
EDU 340 Deputy Secretary's Regional Representative, Region II, New York, NY, to the Secretary's Regional Representative
EDU 347 Secretary's Regional Representative, Region X, Seattle, WA, to the Director of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 356 Deputy Director, Office of Public Affairs to the Director Office of Public Affairs
EDU 404 Secretary's Regional Representative, Region IV, Atlanta, GA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 427 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
EDU 428 Confidential Assistant to the Director of Scheduling and Briefing Staff
EDU 432 Special Assistant to the Director, Community Development Field Services Staff, Community Reform Initiatives Services
EDU 433 Confidential Assistant to the Director, Constituent Relations Staff
EDU 437 Special Assistant to the Deputy Secretary
EDU 438 Confidential Assistant to the Assistant Secretary, Office for Civil Rights
EDU 439 Special Assistant to the Deputy Chief of Staff

Section 213.3318 Environmental Protection Agency

EPA 155 Congressional Liaison Specialist to the Associate Administrator
EPA 160 Director, Congressional Liaison Division to the Associate Administrator for Congressional and Legislative Affairs
EPA 163 Communications Specialist to the Associate Administrator for Communications, Education and Public Affairs
EPA 167 Director, Public Liaison Division to the Associate Administrator for Communications, Education and Public Affairs
EPA 168 Program Advisor to the Assistant Administrator, Office of Air and Radiation
EPA 170 Staff Assistant (Management) to the Assistant Administrator for Office of Policy, Planning and Evaluation
EPA 171 Congressional Liaison Specialist to the Director, Congressional Liaison Division
EPA 172 Special Assistant to the Assistant Administrator, Office of Solid Waste and Emergency Response
EPA 175 Director, Office of the Executive Secretariat to the Chief of Staff, Office of the Administrator
EPA 176 Staff Assistant to the Deputy Associate Administrator, Office of Communications
EPA 177 Senior Policy Advisor to the Assistant Administrator, Office of Air and Radiation
EPA 179 Advanced Program Advisor to the Assistant Administrator for Enforcement
EPA 180 Special Assistant to the Associate Administrator for Regional Operations and State/Local Relations
EPA 182 Legal Advisor to the Assistant Administrator for Prevention, Pesticides and Toxic Substances
EPA 183 Confidential Assistant to the Chief of Staff
EPA 184 Chief, Policy Counsel to the Assistant Administrator, Office of Water
EPA 187 Counsel to the Assistant Administrator for Air and Radiation
EPA 188 Legislative Coordinator to the Assistant Administrator, Office of Solid Waste and Emergency Response
EPA 190 Special Assistant to the General Counsel
EPA 192 Director, State/Local Relations Division to the Associate Administrator, for Regional Operations and State/Local Relations
EPA 193 Executive Assistant to the Assistant Administrator for Prevention, Pesticides and Toxic Substances
EPA 194 Special Assistant to the Associate Administrator for Communications, Education, and Public Affairs
EPA 197 Confidential Assistant to the Chief of Staff
EPA 198 Assistant to the Deputy Administrator for External Affairs
EPA 199 Policy Advisor to the Assistant Administrator for Air and Radiation
EPA 200 Senior Policy Advisor to the Director, Common Sense Initiative Program Staff

Section 213.3322 Surface Transportation Board (DOT)

STB 1 Confidential Assistant to the Chairman
STB 2 Congressional Affairs Advisor to the Chairman
STB 3 Staff Advisor (Management) to a Commissioner

Section 213.3323 Federal Communications Commission

FCC 11 Chief, Office of Public Affairs to the Chairman,
FCC 23 Special Assistant to the Director, Office of Legislative Affairs
FCC 24 Special Assistant to the Chief, International Bureau
FCC 25 Special Assistant to the Deputy Chief, Cable Service Bureau
FCC 26 Special Assistant (Public Affairs) to the Chief, Cable Services Bureau

Section 213.3323 Overseas Private Investment Corporation

OPIC 14 Special Assistant to the Senior Vice President for Policy and Investment Development

Section 213.3325 United States Tax Court

TCOUS 40 Secretary and Confidential Assistant to a Judge
TCOUS 41 Secretary and Confidential Assistant to a Judge
TCOUS 42 Secretary and Confidential Assistant to a Judge
TCOUS 44 Secretary and Confidential Assistant to a Judge
TCOUS 45 Secretary and Confidential Assistant to a Judge
TCOUS 46 Secretary and Confidential Assistant to a Judge
TCOUS 47 Secretary and Confidential Assistant to a Judge
TCOUS 48 Secretary and Confidential Assistant to a Judge
TCOUS 49 Secretary and Confidential Assistant to a Judge
TCOUS 50 Secretary and Confidential Assistant to a Judge
TCOUS 51 Secretary and Confidential Assistant to a Judge
TCOUS 52 Secretary and Confidential Assistant to a Judge
TCOUS 53 Secretary and Confidential Assistant to a Judge
TCOUS 54 Secretary and Confidential Assistant to a Judge
TCOUS 55 Secretary and Confidential Assistant to a Judge
TCOUS 56 Secretary and Confidential Assistant to a Judge
TCOUS 57 Secretary and Confidential Assistant to a Judge
TCOUS 58 Secretary and Confidential Assistant to a Judge
TCOUS 59 Secretary and Confidential Assistant to a Judge
TCOUS 60 Secretary and Confidential Assistant to a Judge
TCOUS 61 Secretary and Confidential Assistant to a Judge
TCOUS 62 Secretary and Confidential Assistant to a Judge
TCOUS 63 Secretary and Confidential Assistant to a Judge
TCOUS 64 Secretary and Confidential Assistant to a Judge
TCOUS 65 Secretary and Confidential Assistant to a Judge
TCOUS 66 Trial Clerk to a Judge
TCOUS 67 Trial Clerk to a Judge
TCOUS 68 Trial Clerk to a Judge
TCOUS 69 Trial Clerk to a Judge
TCOUS 70 Trial Clerk to a Judge
TCOUS 71 Trial Clerk to a Judge
TCOUS 72 Trial Clerk to a Judge
TCOUS 74 Trial Clerk to a Judge
TCOUS 75 Trial Clerk to a Judge
TCOUS 77 Trial Clerk to a Judge
TCOUS 78 Trial Clerk to a Judge
TCOUS 79 Trial Clerk to a Judge
TCOUS 80 Secretary and Confidential Assistant to a Judge
TCOUS 81 Secretary and Confidential Assistant to a Judge
TCOUS 82 Secretary and Confidential Assistant to a Judge

Section 213.3327 Department of Veterans Affairs

VA 72 Special Assistant to the Assistant Secretary for Congressional Affairs
VA 73 Special Assistant to the Secretary
VA 74 Special Assistant to the Secretary
VA 77 Special Assistant to the Director, National Cemetery System
VA 78 Special Assistant to the Assistant Secretary for Finance and Information Resources Management
VA 79 Special Assistant to the Assistant Secretary for Human Resources and Administration
VA 80 Special Assistant to the Deputy Secretary
VA 81 Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs
VA 82 Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs
VA 83 Special Assistant to the Assistant Secretary for Policy and Planning
VA 84 Special Assistant to the Assistant Secretary for Congressional Affairs
VA 86 Executive Assistant to the Secretary
VA 87 Special Assistant to the Secretary

Section 213.3328 United States Information Agency

USIA 12 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
USIA 14 Program Officer to the Associate Director, Bureau of Information
USIA 22 Supervisory Public Affairs Specialist (New York, N.Y.) to the Associate Director Bureau of Information, Foreign Press Center
USIA 37 Special Assistant to the Director, Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs
USIA 54 Special Assistant to the Director, Office of Citizen Exchanges
USIA 67 Chief, Voluntary Visitors Division to the Director, Office of International Visitors, Bureau of Educational and Cultural Affairs
USIA 89 Staff Director, Advisory Board for Cuba Broadcasting to the Chairman of the Advisory Board
USIA 93 Program Officer to the Deputy Director, Office of European and New Independent States Affairs
USIA 99 White House Liaison to the Chief of Staff, Office of the Director
USIA 101 Public Affairs Specialist to the Director, New York Foreign Press Center, New York, NY
USIA 112 Special Assistant to the Associate Director, Office of Program Coordination and Development, Bureau of Policy and Programs
USIA 116 Special Projects Officer to the Director, Office of Citizen Exchanges
USIA 118 Senior Assistant to the Director,
USIA 124 Special Assistant to the Associate Director for Programs, Bureau of Information
USIA 125 Special Assistant to the Director, Office of Academic Affairs, Bureau of Educational and Cultural Affairs
USIA 126 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
USIA 127 Writer to the Director, Office of Policy
USIA 132 Director, Office of International Visitors, to the Associate Director of the Bureau of Educational and Cultural Affairs
USIA 135 Senior Advisor to the Associate Director, Bureau of Information
USIA 136 Senior Advisor to the Director, Office of Public Liaison
USIA 137 Deputy Director to the Director, Office of Arts America
USIA 138 Multi-Media Development Coordinator to the Director, Office of Information Resources
USIA 139 Special Assistant to the Director, Worldnet
USIA 140 Confidential Assistant to the Director, Voice of America, International Broadcasting Bureau
USIA 141 Director, Office of Support Services to the Associate Director of the Bureau of Information

Section 213.3330 Securities and Exchange Commission

SEC 3 Confidential Assistant to a Commissioner
SEC 4 Confidential Assistant to the Chief of Staff
SEC 5 Confidential Assistant to a Commissioner
SEC 6 Confidential Assistant to a Commissioner
SEC 8 Secretary (OA) to the Chief Accountant
SEC 9 Secretary to the General Counsel
SEC 11 Confidential Assistant to the Chairman
SEC 12 Supervisory Public Affairs Specialist to the Chairman
SEC 15 Secretary to the Director, Division of Market Regulations
SEC 16 Secretary to the Director, Division of Enforcement
SEC 18 Secretary to the Director, Division of Investment Management

SEC 19 Secretary to the Director, Division of Corporate Finance
SEC 24 Secretary to the Chief Economist
SEC 27 Secretary (Typing) to the Director, Office of International Affairs
SEC 28 Confidential Assistant to the Chairman
SEC 29 Secretary to the Deputy Director of Market Regulation
SEC 31 Public Affairs Specialist to the Director of Public Affairs, Office of Public Affairs, Policy Evaluation and Research
SEC 32 Confidential Assistant to the Director of Public Affairs
SEC 34 Secretary to the Executive Director
SEC 37 Writer-Editor to the Chairman
SEC 39 Director of Legislative Affairs to the Chairman

Section 213.3331 Department of Energy

DOE 439 Public Affairs Specialist to the Director of Public and Consumer Affairs
DOE 580 Staff Assistant to the Director, Office of Nonproliferation and National Security
DOE 587 Staff Assistant to the Assistant Secretary for Environmental Safety and Health
DOE 591 Staff Assistant to the Deputy Assistant Secretary for Building Technologies
DOE 592 Staff Assistant to the Deputy Assistant Secretary for Gas and Technology
DOE 599 Staff Assistant to the Director, Office of Civilian Radioactive Waste Management
DOE 600 Special Assistant to the Principal Deputy Assistant Secretary for Policy
DOE 601 Program Information Coordinator to the Director, Office of Strategic Planning
DOE 602 Senior Staff Advisor to the Director, Office of Energy Research
DOE 603 Special Assistant to the Director, Office of Strategic Planning and Analysis
DOE 604 Special Assistant to the Principal Deputy Assistant Secretary for Policy
DOE 605 Special Assistant to the Principal Deputy Assistant Secretary for Policy, Planning and Program Evaluation
DOE 606 Staff Assistant to the Senior Staff Assistant, Office of the Deputy Assistant Secretary for Gas and Petroleum Technology
DOE 607 Special Assistant to the General Counsel
DOE 610 Staff Assistant to the Director, Office of Energy Research
DOE 613 Special Assistant to the Assistant Secretary for Environmental Restoration and Waste Management
DOE 615 Staff Assistant to the Director, Office of Intelligence and National Security
DOE 616 Policy Analyst to the Chief Financial Officer
DOE 620 Executive Assistant to the Chief of Staff
DOE 622 Legislative Affairs Specialist to the Deputy Assistant Secretary for Senate Liaison, Office of Congressional and Intergovernmental Affairs
DOE 624 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 625 Staff Assistant to the Associate Deputy Secretary for Field Management
DOE 626 Staff Assistant to the Assistant Secretary for Environmental Management
DOE 628 Staff Assistant to the Assistant Secretary, Office of Policy
DOE 631 Special Assistant to the Press Secretary, Press Services Division, Office of Public and Consumer Affairs
DOE 636 Deputy Director, Scheduling and Logistics to the Director, Scheduling and Logistics
DOE 639 Staff Assistant to the Press Secretary, Office of Public and Consumer Affairs
DOE 641 Staff Assistant (Legal) to the Assistant General Counsel for General Law
DOE 642 Staff Assistant to the Assistant Secretary for Policy
DOE 644 Staff Assistant to the Assistant Secretary for Efficiency and Renewable Energy
DOE 645 Special Assistant to the Deputy Secretary
DOE 646 Staff Assistant to the Deputy Assistant Secretary for Transportation Technologies
DOE 646 Staff Assistant to the Deputy Assistant Secretary for Transportation Technologies
DOE 649 Special Assistant to the Director, Office of Public Accountability
DOE 653 Special Assistant to the Assistant Secretary for Policy
DOE 654 Confidential Staff Assistant to the Director, Office of Economic Impact and Diversity
DOE 655 Special Assistant for Regulatory Compliance to the Deputy Assistant Secretary for Compliance and Program Coordination
DOE 657 Special Assistant to the Director, Office of Economic Impact and Diversity
DOE 658 Director, Office of Natural Gas Policy to the Principal Deputy Assistant Secretary for Policy
DOE 659 Staff Assistant to the Principal Deputy Assistant Secretary for Policy
DOE 660 Special Assistant to the Deputy Secretary of Energy
DOE 661 Staff Assistant to the Principal Deputy Assistant Secretary for Human Resources and Administration
DOE 662 Staff Assistant to the Assistant Secretary for Human Resources and Administration
DOE 663 Assistant Director for Energy Research (Communications and Development) to the Director, Office of Energy Research
DOE 664 Staff Assistant to the Assistant Secretary for Environmental Management
DOE 665 Special Liaison (Federal Power Marketing Administration) to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 666 Special Assistant to the Director, Press Services Division
DOE 667 Special Assistant to the Assistant Secretary for Energy and Renewable Energy
DOE 668 Staff Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 670 Staff Assistant to the Director, Office of Nuclear Energy
DOE 671 Staff Assistant to the Principal Deputy Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 672 Staff Assistant to the Assistant Secretary for Policy
DOE 673 Special Assistant to the Assistant Secretary for Environmental Management
DOE 674 Staff Assistant to the Deputy Assistant Secretary for Technical and Financial Assistance
DOE 676 Confidential Assistant to the Assistant Secretary for Environmental Management
DOE 677 Confidential Assistant to the General Counsel,
DOE 678 Staff Assistant to the Assistant Secretary for Fossil Energy
DOE 679 Special Assistant to the Assistant Secretary for Policy
DOE 680 Staff Assistant to the Chief Financial Officer
DOE 681 Special Assistant to the Director, Office of Worker and Community Transition
DOE 682 Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 684 Program Specialist to the Director, International Policy and Analysis Division
DOE 685 Associate Director to the Director, Office of Nuclear Energy, Science and Technology
DOE 686 Associate Director to the Director, Office of Nuclear Energy, Science and Technology

DOE 687 Staff Assistant to the Director, Scheduling and Logistics
DOE 688 Staff Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 689 Special Assistant to the Director, Office of Civilian Radioactive Waste Management
DOE 690 Staff Assistant to the Deputy Secretary
DOE 691 Special Assistant to the Deputy Secretary
DOE 692 Staff Assistant to the Assistant Secretary for Environment, Safety and Health
DOE 693 Special Assistant to the Assistant Secretary for Environment, Safety and Health
DOE 694 Staff Assistant to the Director, Office of Budget Planning and Customer Service
DOE 695 Legislative Affairs Liaison Officer to the Deputy Assistant Secretary for House Liaison
DOE 696 Special Assistant to the Principal Deputy Assistant Secretary for Congressional Public and Intergovernmental Affairs

Federal Energy Regulatory Commission

FERC 1 Executive Assistant to the Chairman, Federal Energy Regulatory Commission
FERC 2 Attorney Advisor (Public Utilities) to the Chairman
FERC 3 Confidential Assistant to a Member

Section 213.3332 Small Business Administration

SBA 11 Deputy Assistant Administrator to the Assistant Administrator for Congressional and Legislative Affairs
SBA 18 Special Assistant to the Administrator, Office of Human Resources
SBA 19 Special Assistant to the Deputy Administrator for Economic Development
SBA 45 Special Assistant to the Associate Deputy Administrator for Economic Development
SBA 90 Executive Assistant to the Administrator
SBA 92 Assistant to the Administrator
SBA 97 Confidential Assistant to the General Counsel
SBA 100 Special Assistant to the Regional Administrator, Dallas Regional Office
SBA 114 Special Assistant to the Assistant Administrator for Women's Business Ownership
SBA 128 Assistant Administrator for Women's Business Ownership to the Associate Deputy Administrator for Economic Development
SBA 151 Director of External Affairs to the Associate Administrator for Communications and Public Liaison
SBA 157 Special Assistant to the Associate Deputy Administrator for Economic Development
SBA 168 Director of Intergovernmental Affairs to the Associate Administrator for Communications and Public Liaison
SBA 169 Regional Administrator, Region I, Boston, MA, to the Administrator
SBA 170 Regional Administrator, Region VIII, Denver CO, to the Administrator
SBA 172 Regional Administrator, Region VII, Kansas City, MO, to the Administrator
SBA 173 Regional Administrator, Region VI, Dallas, TX, to the Administrator
SBA 174 Regional Administrator, Region V, Chicago, IL to the Administrator
SBA 175 Regional Administrator, Region IV, Atlanta, GA, to the Administrator
SBA 176 Regional Administrator, Region II, New York, NY, to the Administrator
SBA 178 Regional Administrator, Region III, Philadelphia, PA, to the Administrator
SBA 179 Press Secretary and Special Assistant to the Assistant Administrator for Communications
SBA 181 Associate Administrator for Field Operations to the Administrator
SBA 182 Assistant Administrator for Marketing and Outreach to the Associate Administrator for Communications and Public Liaison
SBA 188 Regional Administrator, Region IX, San Francisco, to the Administrator
SBA 189 Regional Administrator, Region X, Seattle, WA, to the Administrator
SBA 190 Chief of Staff to the Administrator
SBA 193 Director of International Trade to the Assistant Administrator for International Trade

Section 213.3333 Federal Deposit Insurance Corporation

FDIC 15 Secretary to the Chairman

Section 213.3334 Federal Trade Commission

FTC 2 Director of Public Affairs (Supervisory Public Affairs Specialist) to the Chairman
FTC 14 Congressional Liaison Specialist to the Director of Congressional Relations
FTC 20 Special Assistant to a Commissioner
FTC 21 Special Assistant to a Commissioner
FTC 22 Secretary (Office Automation) to the Director, Bureau of Competition

Section 213.3337 General Services Administration

GSA 24 Special Assistant to the Commissioner, Public Buildings Service
GSA 26 Special Assistant to the Commissioner, Public Buildings Service
GSA 44 Special Assistant to the Chief of Staff
GSA 51 Special Assistant to the Administrator
GSA 52 Special Assistant to the Commissioner, Public Buildings Service
GSA 82 Special Assistant to the Regional Administrator, Region 4, Atlanta, GA
GSA 88 Special Assistant to the Regional Administrator, Region 10, Auburn, WA
GSA 89 Congressional Liaison Officer to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 90 Deputy Associate Administrator to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 94 Congressional Relations Officer to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 95 Deputy Chief of Staff to the Chief of Staff
GSA 105 Special Assistant to the Associate Administrator for Public Affairs
GSA 113 Senior Advisor (Region 1 - Boston, MA) to the Regional Director
GSA 114 Special Assistant to the Regional Administrator, Northeast and Caribbean Region
GSA 118 Senior Advisor to the Regional Administrator, Great Lakes Region
GSA 119 Special Assistant to the Regional Administrator, Great Lakes Region
GSA 126 Director, Office of Media Relations to the Associate Administrator for Public Affairs
GSA 128 Director of Industry and Public Outreach to the Commissioner, Information Resources Management Services

Section 213.3339 U.S. International Trade Commission

ITC 1 Confidential Secretary (Office Automation) to the Chairman
ITC 3 Staff Assistant (Legal) to a Commissioner
ITC 6 Staff Assistant (Legal) to a Commissioner
ITC 7 Special Assistant (Economics) to a Commissioner
ITC 12 Staff Assistant to the Chairman
ITC 13 Staff Assistant (Economics) to a Commissioner

ITC 14 Staff Assistant (Legal) to a Commissioner
ITC 15 Confidential Assistant to a Commissioner
ITC 17 Staff Assistant (Legal) to a Commissioner
ITC 18 Staff Assistant (Legal) to a Commissioner
ITC 19 Staff Assistant (Economics) to a Commissioner
ITC 20 Staff Assistant (Economics) to a Commissioner
ITC 24 Staff Assistant (LEGAL) to the Chairman
ITC 25 Staff Assistant to a Commissioner
ITC 30 Confidential Assistant to a Commissioner
ITC 31 Executive Assistant to a Commissioner
ITC 32 Special Assistant to a Commissioner
ITC 33 Staff Assistant to the Chairman
ITC 34 Staff Assistant (Legal) to the Chairman
ITC 36 Confidential Assistant to the Chairman

Section 213.3340 National Archives and Records Administration

NARA 3 Presidential Diarist to the Archivist of the United States

Section 213.3341 National Labor Relations Board

NLRB 1 Confidential Assistant to the Chairman

Section 213.3342 Export-Import Bank of the United States

EXIM 3 Administrative Assistant to the Director
EXIM 30 Administrative Assistant to the Director
EXIM 44 Personal and Confidential Assistant to the Vice Chairman
EXIM 45 Administrative Assistant to the Bank Director
EXIM 46 Administrative Assistant to the Chief of Staff
EXIM 48 Administrative Assistant to the Director, Member of the Board
EXIM 49 Deputy Chief of Staff to the Chief of Staff and Vice President, Congressional and External Affairs

Section 213.3343 Farm Credit Administration

FCA 1 Special Assistant to the Chairman
FCA 8 Secretary to the Chairman
FCA 11 Special Assistant to a Member
FCA 12 Public & Congressional Affairs Specialist to the Director, Congressional and Public Affairs
FCA 15 Congressional and Public Affairs Specialist to the Director of Congressional and Public Affairs

Section 213.3344 Occupational Safety and Health Review Commission

OSHRC 2 Special Assistant to the Chairman
OSHRC 3 Confidential Assistant to a Member (Commissioner)
OSHRC 6 Confidential Assistant to a Member (Commissioner)
OSHRC 11 Counselor to a Member (Commissioner)

Section 213.3346 Selective Service System

SSS 15 Confidential Assistant to the Director of Selective Service

Section 213.3347 Federal Mediation and Conciliation Service

FMCS 8 Public Affairs Director to the Director
FMCS 9 Staff Assistant to the Director

Section 213.3348 National Aeronautics and Space Administration

NASA 25 Public Affairs Specialist to the Senior Public Affairs Specialist
NASA 28 Public Affairs Specialist to the Associate Administrator for Public Affairs
NASA 29 Public Affairs Specialist to the Associate Administrator for Public Affairs
NASA 30 White House Liaison Officer to the Administrator
NASA 31 Executive Assistant to the Administrator

Section 213.3351 Federal Mine Safety and Health Review Commission

FM 7 Attorney Advisor (General) to a Commissioner
FM 17 Confidential Assistant to a Commissioner
FM 24 Confidential Assistant to the Chairman
FM 25 Attorney-Advisor to a Commissioner
FM 26 Attorney-Advisor (General) to the Chairman

Section 213.3352 Government Printing Office

GPO 3 Congressional and Public Affairs Officer to the Public Printer

Section 213.3356 Commission on Civil Rights

CCR 1 Special Assistant to the Staff Director
CCR 12 Special Assistant to a Commissioner
CCR 13 Special Assistant to a Commissioner
CCR 15 Special Assistant to a Commissioner
CCR 23 Special Assistant to a Commissioner
CCR 28 Special Assistant to a Commissioner
CCR 29 Special Assistant to a Commissioner
CCR 30 Special Assistant to a Commissioner
CCR 32 Special Assistant to a Commissioner

Section 213.3357 National Credit Union Administration

NCUA 9 Staff Assistant to the Chairman
NCUA 12 Executive Assistant to the Vice Chairman
NCUA 20 Executive Assistant to a Board Member
NCUA 23 Special Assistant to the Executive Director
NCUA 24 Writer-Editor to the Chairman

Section 213.3358 United States Court of Appeals for the Armed Forces

CAAF 1 Personal and Confidential Assistant to a Judge
CAAF 2 Personal and Confidential Assistant to the Chief Judge
CAAF 3 Private Secretary to a Judge
CAAF 4 Private Secretary to a Judge
CAAF 5 Personal and Confidential Assistant to a Judge
CAAF 6 Private Secretary to a Judge
CAAF 7 Private Secretary to a Judge
CAAF 8 Personal and Confidential Assistant to a Judge
CAAF 9 Personal and Confidential Assistant to a Judge
CAAF 10 Private Secretary to a Judge
CAAF 12 Paralegal Specialist to the Chief Judge

Section 213.3360 Consumer Product Safety Commission

CPSC 49 Special Assistant to a Commissioner
CPSC 50 Staff Assistant to a Commissioner
CPSC 52 Director, Office of Information and Public Affairs to the Chairman
CPSC 53 Special Assistant to the Chairman
CPSC 55 Executive Assistant to the Chairman
CPSC 56 Director, Office of Congressional Relations to the Chairman
CPSC 60 Special Assistant to the Chairman
CPSC 61 Staff Assistant to a Commissioner
CPSC 62 Special Assistant to a Commissioner
CPSC 63 Special Assistant to a Commissioner
CPSC 64 Special Assistant (Legal) to a Commissioner

Section 213.3361 Social Security Administration

SSA 2 Special Assistant to the Principal Executive Officer
SSA 3 Speech Writer to the Deputy Commissioner for Communications

Section 213.3364 U.S. Arms Control and Disarmament Agency

ACDA 2 Secretary (Steno O/A) to the Deputy Director
ACDA 17 Secretary (OA) to the Director
ACDA 20 Special Assistant to the Director of Public Affairs
ACDA 23 Confidential Assistant to the Assistant Director, Multilateral Affairs Bureau
ACDA 27 Special Assistant to the Director
ACDA 28 Special Assistant to the Director
ACDA 31 Speechwriter to the Director
ACDA 32 Secretary (Office Automation) to the Assistant Director, Strategic and Eurasian Affairs Bureau
ACDA 35 Policy Analyst to the Director
ACDA 36 Director of Public Information to the Director

Section 213.3367 Federal Maritime Commission

FMC 5 Counselor to a Commissioner
FMC 10 Special Assistant to a Commissioner
FMC 26 Administrative Assistant to the Counsel to the Chairman
FMC 30 Special Assistant to a Commissioner
FMC 33 Counsel to the Chairman
FMC 34 Special Assistant to a Commissioner
FMC 35 Counsel to a Commissioner
FMC 37 Counsel to a Commissioner
FMC 40 Confidential Assistant to the Chairman

Section 213.3368 Agency for International Development

AID 125 Executive Assistant to the Chief of Staff
AID 127 Supervisory Public Affairs Specialist to the Director, Office of External Affairs
AID 131 Public Affairs Specialist to the Chief of Public Liaison Division, Office of External Affairs
AID 133 Public Affairs Specialist to the Chief of Public Relations Division, Office of External Affairs
AID 134 Special Assistant to the Chief of Public Relations, Office of External Affairs
AID 135 Junior Press Officer to the Chief of Press Relations Division, Office of External Affairs
AID 136 Congressional Liaison Officer to the Deputy Assistant Administrator, Bureau of Legislative Affairs
AID 138 Public Affairs Specialist to the Assistant Administrator, Bureau of Legislative and Public Affairs
AID 141 Special Assistant and Legal Counsel to the General Counsel
AID 145 Public Affairs Specialist to the Chief, Public Liaison Office, Bureau for Legislation and Public Affairs
AID 146 Special Assistant to the Assistant Administrator, Bureau for Europe and New Independent States
AID 147 Congressional Liaison Officer to the Deputy Assistant Administrator
AID 148 Special Assistant to the Assistant Administrator

Section 213.3371 Office of Government Ethics

OGE 2 Executive Secretary to the Director

Section 213.3373 United States Trade and Development Agency

TDA 2 Congressional Liaison Officer to the Director,
TDA 3 Special Assistant for Policy and Public Affairs to the Director

Section 213.3376 Appalachian Regional Commission

ARC 12 Senior Policy Advisor to the Federal Co-Chairman
ARC 13 Special Assistant to the Federal Co-Chairman

Section 213.3377 Equal Employment Opportunity Commission

EEOC 2 Special Assistant to the Chairman
EEOC 9 Special Assistant to the Chairman
EEOC 10 Special Assistant to the Director, Office of the Communications and Legislative Affairs
EEOC 13 Confidential Assistant to the Director, Legal Counsel
EEOC 15 Media Contact Specialist to the Director, Office of Communications and Legislative Affairs
EEOC 22 Director, Legislative Affairs Staff to the Director, Office of Communications and Legislative Affairs

Section 213.3379 Commodity Futures Trading Commission

CFTC 3 Administrative Assistant to a Commissioner
CFTC 5 Administrative Assistant to a Commissioner
CFTC 6 Administrative Assistant to a Commissioner
CFTC 14 Special Assistant to a Commissioner
CFTC 26 Special Assistant to a Commissioner

Section 213.3382 National Endowment for the Arts

NEA 9 Congressional Liaison Officer to the Chairman
NEA 68 Attorney Adviser to the Chairman
NEA 70 Special Assistant to the Chairman
NEA 72 Director of Policy, Planning and Research to the Chairman
NEA 73 Chief of Staff and White House Liaison to the Chairman
NEA 76 Executive Secretary to the Chairman
NEA 77 Director of Public Affairs to the Chairman,
NEA 78 Special Assistant to the Chairman

Section 213.3382 National Endowment for the Humanities

NEH 48 Congressional Liaison Officer to the Chairman

Section 213.3384 Department of Housing and Urban Development

HUD 39 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 41 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 64 Staff Assistant to the Assistant Secretary, Community Planning and Development
HUD 65 Special Assistant to the Assistant Secretary for Community Planning and Development
HUD 68 Special Assistant to the Assistant Secretary for Community Planning and Development
HUD 126 Special Assistant (Litigation Liaison) to the Assistant Secretary for Fair Housing and Equal Opportunity
HUD 153 Executive Assistant to the President, Government National Mortgage Association
HUD 175 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 176 Staff Assistant to the Special Assistant to Secretary
HUD 182 Special Assistant to the Assistant Secretary for Housing
HUD 187 Special Assistant to the Deputy Assistant Secretary for Single Family Housing, Federal Housing Commission
HUD 187 Special Assistant to the Deputy Assistant Secretary for Single Family Housing, Federal Housing Commission
HUD 188 Special Assistant to the Assistant Secretary for Administration
HUD 238 Special Assistant to the Secretary
HUD 247 Special Assistant to the Assistant Secretary for Housing, Federal Housing Commissioner
HUD 249 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 259 Special Assistant to the Secretary
HUD 260 Executive Assistant to the Assistant Secretary for Public and Indian Housing
HUD 272 Deputy Assistant Secretary for Grant Programs to the Assistant

Secretary for Community Planning and Development
HUD 281 Special Administrator to Regional Administrator
HUD 288 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 289 Deputy Assistant Secretary for Operations to the Assistant Secretary for Community Planning and Development
HUD 292 Special Assistant to the Deputy Assistant Secretary for Economic Development
HUD 317 Special Assistant to the Regional Administrator-Regional Housing Commissioner, Region V
HUD 323 Executive Assistant to the Assistant Secretary for Housing, Federal Housing Commission
HUD 335 Deputy Assistant Secretary for Economic Development to the Assistant Secretary for Community Planning and Development
HUD 337 Special Assistant to the Assistant Secretary for Public Affairs
HUD 339 Special Assistant to the Secretary's Representative
HUD 340 Special Assistant to the Secretary
HUD 354 Special Assistant to the Assistant Secretary for Public and Indian Housing
HUD 372 Staff Assistant (Advance) to the Assistant Secretary for Administration, Office of Executive Scheduling
HUD 381 Special Assistant to the Secretary
HUD 384 Special Assistant to the Assistant Secretary for Public and Indian Housing
HUD 385 Special Assistant to the Assistant Secretary for Public Affairs, Office of Press Relations
HUD 387 Staff Assistant to the Assistant Secretary for Public Affairs
HUD 390 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 404 Special Assistant to the Regional Administrator-Regional Housing Commissioner, Region V
HUD 410 Special Assistant to the General Counsel
HUD 412 Special Assistant to the Secretary
HUD 421 Assistant Director to the Director, Executive Secretariat, Office of Administration
HUD 437 Special Assistant to the Assistant Secretary for Public Affairs
HUD 438 Director, Hospital Mortgage Insurance Staff to the Assistant Secretary for Housing-Federal Housing
HUD 441 Deputy Assistant Secretary for Policy Development to the Assistant Secretary for Policy Development and Research
HUD 445 Special Assistant to the Deputy Assistant Secretary for Operations
HUD 446 Senior Intergovernmental Relations Officer to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 448 Special Assistant to the Director of Executive Scheduling
HUD 458 Special Assistant to the Assistant Secretary for Administration
HUD 460 Staff Assistant to the Assistant Secretary for Administration
HUD 462 Staff Assistant to the Director, Office of Executive Scheduling
HUD 468 Special Assistant to the Deputy Assistant Secretary for Economic Development, Office of Community Planning and Development
HUD 472 Deputy Assistant Secretary for Congressional Relations to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 478 Special Projects Officer to the Senior Advisor to the Secretary
HUD 480 Special Assistant to the Deputy Assistant Secretary for Distressed and Troubled Housing
HUD 482 Special Projects Officer to the Director, Special Actions Office
HUD 483 Special Assistant (Advance/Security) to the Director, Executive Scheduling
HUD 485 Special Assistant (Advance) to the Assistant Secretary for Administration, Office of Executive Scheduling
HUD 492 Special Assistant to the Deputy Assistant Assistant Secretary for Economic Development
HUD 494 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 498 Special Projects Officer to the Senior Advisor to the Secretary
HUD 500 Deputy Assistant Secretary for Plans and Policy to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 501 Executive Assistant to the Assistant Secretary for Community Planning and Development
HUD 503 Special Projects Officer to the Deputy Secretary, Field Management
HUD 504 Special Assistant to the Deputy Assistant Secretary for Distressed and Troubled Housing
HUD 505 Legislative Officer to the Deputy Assistant Secretary for Legislation
HUD 507 Field Operations Officer to the Secretary's Representative
HUD 508 Assistant Chief of Staff for Executive Scheduling to the Secretary of Housing and Urban Development
HUD 509 Special Assistant to the Assistant Secretary for Public and Indian Housing
HUD 510 Assistant Chief of Staff for Legislation and Policy to the Secretary
HUD 511 Special Projects Officer to the Secretary's Representative, Mid-Atlantic Office
HUD 512 Deputy Assistant for Legislation to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 514 Special Assistant to the Secretary's Representative
HUD 516 General Deputy Assistant Secretary to the Assistant Secretary for Housing
HUD 517 Secretary's Representative to the Deputy Secretary for Field Management
HUD 518 Special Assistant to the Chief of Staff
HUD 519 Staff Assistant to the Senior Advisor to the Secretary
HUD 520 Special Assistant to the Chief Financial Officer
HUD 521 Deputy Assistant Secretary for Public Housing Investments to the Assistant Secretary, Public and Indian Housing

Section 213.3389 National Mediation Board

NMB 52 Confidential Assistant to a Board Member
NMB 53 Confidential Assistant to a Board Member
NMB 54 Confidential Assistant to the Chairman

Section 213.3391 Office of Personnel Management

OPM 62 Confidential Assistant to the Director
OPM 63 Confidential Assistant to the Director, Office of Congressional Relations
OPM 64 Deputy Chief of Staff to the Chief of Staff
OPM 65 Special Assistant to the Director, Office of Congressional Relations
OPM 67 Executive Assistant to the Deputy Director
OPM 74 Public Affairs Specialist to the Deputy Director, Office of Communications
OPM 76 Speech Writer to the Director, Office of Communications
OPM 78 Director, Interagency Affairs/White House Liaison to the Chief of Staff
OPM 79 Special Assistant to the Director, Office of Congressional Relations
OPM 80 Deputy Director of Communications to the Director of Communications

Section 213.3392 Federal Labor Relations Authority

FLRA 13 Staff Assistant to the General Counsel

FLRA 14 Executive Assistant to the General Counsel
FLRA 19 Staff Assistant to the Chair
FLRA 20 Director of External Affairs/ Special Projects to the Chair

Section 213.3393 Pension Benefit Guaranty Corporation

PBGC 7 Assistant Executive Director for Legislative Affairs to the Executive Director
PBGC 11 Special Assistant to the Deputy Executive Director and Chief Financial Officer
PBGC 14 Special Assistant to the Deputy Executive Director and Chief Financial Officer

Section 213.3394 Department of Transportation

DOT 38 Special Assistant to the Deputy Administrator, National Highway Traffic Safety Administration
DOT 54 Congressional Liaison Officer to the Director, Office of Congressional Affairs
DOT 61 Special Assistant to the Deputy Secretary of Transportation
DOT 69 Public Affairs Officer to the Administrator, Federal Railroad Administration
DOT 69 Director, Office of Public Affairs to the Federal Railroad Administrator
DOT 70 Special Assistant to the Assistant Secretary for Governmental Affairs
DOT 100 Chief, Consumer Information Division to the Director, Office of Public and Consumer Affairs
DOT 105 Staff Assistant to the Administrator, Federal Highway Administration
DOT 121 Deputy Director of Congressional Affairs to the Director, Office of Congressional Affairs
DOT 127 Special Assistant and Chief, Administrative Operations Staff to the Assistant Secretary for Budget and Programs
DOT 129 Special Assistant to the General Counsel
DOT 141 Special Assistant to the Secretary
DOT 147 Special Assistant to the Assistant to Secretary and Director of Public Affairs
DOT 148 Associate Director of Media Relations and Special Projects to the Assistant to the Secretary and Director of Public Affairs
DOT 150 Special Assistant to the Administrator, National Highway Traffic Safety Administration
DOT 159 Special Assistant to the Administrator, Federal Highway Administration
DOT 173 Special Assistant to the Administrator, Federal Railroad Administration
DOT 235 Special Assistant for Scheduling and Advance to the Secretary
DOT 254 White House Liaison to the Chief of Staff
DOT 257 Deputy Director of Public Affairs to the Assistant to the Secretary and Director of Public Affairs
DOT 265 Special Assistant to the Director of External Communications
DOT 271 Special Assistant to the Administrator, Federal Aviation Administration
DOT 274 Special Assistant to the Associate Director for Media Relations and Special Projects
DOT 279 Associate Director for Speechwriting and Research to the Assistant to the Secretary and Director of Public Affairs
DOT 287 Scheduling Assistant to the Special Assistant for Scheduling and Advance, Office of the Secretary
DOT 292 Intergovernmental Liaison Officer to the Director of Intergovernmental Affairs
DOT 294 Special Assistant to the Associate Deputy Secretary
DOT 301 Director, Office of Intergovernmental Affairs and Consumer Affairs to the Assistant Secretary for Governmental Affairs
DOT 315 Director of Intergovernmental Affairs to the Administrator, National Highway Traffic Safety Administration
DOT 316 Special Assistant to the Assistant Secretary for Transportation Policy
DOT 319 Congressional Liaison Officer to the Assistant Administrator for Government and Indian Affairs
DOT 320 Special Assistant to the Chief of Staff
DOT 324 Scheduling Assistant to the Special Assistant for Scheduling and Advance
DOT 338 Special Assistant to the Deputy Administrator, Federal Highway Administration
DOT 342 Special Assistant to the Special Assistant for Scheduling and Advance
DOT 347 Deputy Scheduler to the Special Assistant for Scheduling and Advance
DOT 351 Special Assistant to the Deputy Secretary
DOT 352 Regional Administrator, Region II, New York, N.Y. to the Deputy Administrator, Federal Transit Administration
DOT 355 Director for Drug Enforcement and Program Compliance to the Chief of Staff
DOT 356 Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs

Section 213.3395 Federal Emergency Management Agency

FEMA 53 Policy Advisor to the Director

Section 213.3396 National Transportation Safety Board

NTSB 1 Special Assistant to a Member
NTSB 25 Special Assistant to a Member
NTSB 30 Confidential Assistant to the Chairman
NTSB 31 Confidential Assistant to the Chairman
NTSB 31 Confidential Assistant to the Chairman
NTSB 92 Director, Office of Government Affairs to the Chairman
NTSB 102 Special Assistant to a Member
NTSB 105 Special Assistant to a Member
NTSB 106 Director, Office of Public Affairs to the Chairman

Section 213.3397 Federal Housing Finance Board

FHFB 3 Special Assistant to the Chairman

Senior Level Schedule C Positions

(Above GS–15)

Section 213.3342 Export-Import Bank

Vice President for Public Affairs and Publications to the President and Chairman
Chief of Staff and Vice President for Congressional and External Affairs to the President and Chairman
Assistant to the President and Chairman
Assistant to the President and Chairman
Vice President for Communications to the President and Chairman
General Counsel to the President and Chairman
Special Counselor to the President and Chairman

Section 213.3382 National Endowment for the Arts

Executive Director, President's Commission on the Arts and Humanities to the President of the United States

Section 213.3357 National Credit Union Administration

Executive Director to the Chairman
Director of Community Development Credit Unions to the Chairman

Section 213.3390 African Development Foundation

Vice President to the President

Section 213.3343 Farm Credit Administration

Secretary of the Board to the Chairman

Section 213.3393 Pension Benefit Guaranty Corporation

Executive Director to the Secretary of Labor
Deputy Executive Director and Chief Negotiator to the Executive Director
Deputy Executive Director and Chief Financial Officer to the Executive Director

Section 213.3333 Federal Deposit Insurance Corporation

General Counsel to the Chairman
Director, Office of Corporate Communication to Deputy to the Chairman for Policy
Deputy to the Chairman for Policy to the Chairman

Section 213.3305 Department of the Treasury

Advisor to the Assistant Secretary for Tax Policy
Senior Deputy Comptroller for Economic Analysis and Public Affairs to the Comptroller of the Currency

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–22501 Filed 9–4–96; 8:45 am]

BILLING CODE 6325–01–U

The National Partnership Council Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

TIME AND DATE: 3:00 p.m., September 11, 1996.

PLACE: Old Executive Office Building, Room 450, 17th and Pennsylvania Avenue, NW., Washington, DC 20503.

STATUS: This meeting will be open to the public. Although the number of seats will be limited because of the capacity of the meeting room, seating will be available on a first-come, first-served basis. Also, because the Old Executive Office Building is a secure building, members of the public will require a security clearance and identification. Consequently, anyone who would like to attend this meeting should telephone OPM's Center for Partnership and Labor-Management Relations at (202) 606–2930 or 606–2707 on or before September 6, 1996, with his/her date of birth and social security number. Individuals with special access needs wishing to attend should also contact OPM to obtain appropriate accommodations.

MATTERS TO BE CONSIDERED: This meeting will consist of an awards ceremony. The winners of the 1996 National Partnership Award will be announced; and the winners will receive their awards. The National Partnership Award is given in recognition of outstanding labor-management partnership activities. A reception will be held immediately after the awards ceremony.

CONTACT PERSON FOR MORE INFORMATION: Michael Cushing, Director, Center for Partnership and Labor-Management Relations, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 7H28, Washington, DC 20415–0001, (202) 606–0010.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 96–22755 Filed 9–4–96; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determine that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1996, shall be at the rate of 34 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1996, 33.8 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 66.2 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 27, 1996.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–22550 Filed 9–4–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22185; File No. 812–10060]

Connecticut General Life Insurance Company, et al.

August 28, 1996.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Connecticut General Life Insurance Company ("CG Life"), CG Corporate Insurance Variable Life Separate Account 02 ("Account 02"), and CIGNA Financial Advisors, Inc. ("CFA").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants request an order permitting Account 02 and any other separate account established in the future by CG Life (the "Future Accounts," collectively, with Account 02, the "Accounts") to support certain flexible premium variable life insurance contracts ("Current Contracts") or contracts which are substantially similar in all material respects to the Current Contracts ("Future Contracts") issued by CG Life to deduct a charge ("federal tax burden charge") that is reasonable in relation to CG Life's increased federal income tax burden resulting from the application of Section 848 of the Internal Revenue Code of 1986, as amended.

FILING DATE: The application was filed on March 26, 1996 and amended and restated on August 26, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 23, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, Robert A. Picarello, Esq.,

Connecticut General Life Insurance Company, 900 Cottage Grove Road, Hartford, CT 06152, copy to George N. Gingold, Esq., 197 King Philip Drive, West Hartford, CT 06117–1409.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Patrice M. Pitts, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. CG Life, a stock life insurance company domiciled in Connecticut, is a wholly owned subsidiary of CIGNA Holdings, Inc., which is, in turn, wholly owned by CIGNA Corporation.

2. Account 02, established by CG Life on February 23, 1996, pursuant to Connecticut law, is registered with the Commission as a unit investment trust. The assets of Account 02 are divided among subaccounts, each of which invests in shares of a portfolio of a registered open-end management investment company. Each of the Future Accounts will be organized as unit investment trusts and will file registration statements under the 1940 Act and the Securities Act of 1933.

3. CFA will serve as the distributor and the principal underwriter of the Current Contracts. Applicants expect CFA also to serve as the distributor and principal underwriter of the Future Contracts. CFA is a wholly owned subsidiary of Connecticut General Corporation, which, in turn, is a wholly owned subsidiary of CIGNA Corporation. CFA is a member of the National Association of Securities Dealers, Inc., and is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and as an investment adviser the Investment Advisers Act of 1940.

4. The Current Contracts are flexible premium variable individual life insurance policies. The Future Contracts will be substantially similar in all material respects to the Current Contracts (collectively, Future Contracts and Current Contracts, the "Contracts"). The Contracts will be issued in reliance on Rule 6e-3(T)(b)(13)(i)(A).

5. CG Life will deduct 1.25% of each premium payment made under the Current Contracts to cover CG Life's estimated cost for the federal income tax treatment of deferred acquisition costs.

6. In the Omnibus Budget Reconciliation Act of 1990 ("OBRA 1990"), Congress amended the Internal Revenue Code of 1986 (the "Code") by, among other things, enacting Section 848 thereof. Section 848 changed how a life insurance company must compute its itemized deductions from gross income for federal income tax purposes. Section 848 requires a life insurance company to capitalize and amortize over a period of ten years part of the company's general expenses for the current year. Under prior law, these general expenses were deductible in full from the gross income of the current year.

7. The amount of expenses that must be capitalized and amortized over ten years rather than deducted in the year incurred is based upon "net premiums" received in connection with certain types of insurance contracts. Section 848 of the Code defines "net premium" for a type of contract as gross premiums received by the insurance company on the contracts minus return premiums and premiums paid by the insurance company for reinsurance of its obligations under such contracts. The effect of Section 848 is to accelerate the realization of income from insurance contracts covered by that Section and, accordingly, the payment of taxes on the income generated by those contracts.

8. The amount of general expenses that must be capitalized depends upon the type of contract to which the premiums received relate, and varies according to a schedule set forth in Section 848. The Contracts are "specified insurance contracts" that fall into the category of life insurance contracts, under Section 848, for which 7.7% of the year's net premiums received must be capitalized and amortized.

9. The increased tax burden on CG Life resulting from the application of Section 848 may be quantified as follows. For each $10,000 of net premiums received by CG Life under the Contracts in a given year, Section 848 requires CG Life to capitalize $770 (7.7% of $10,000). $38.50 of this $770 may be deducted in the current year, leaving $731.50 ($770 minus $38.50) subject to taxation at the corporate tax rate of 35 percent. This results in an increase in tax for the current year of $256.03 (.35 × $731.50). This current increase in federal income tax will be partially offset by deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $770 ($77 in each of the following nine years and $38.50 in year ten).

10. In the business judgment of CG Life, a discount rate of 10% is appropriate for use in calculating the present value of CG Life's future tax deductions resulting from the amortization described above. CG Life seeks an after tax rate of return on the investment of its capital in excess of 10%.[1] To the extent that capital must be used by CG Life to meet its increased federal tax burden under Section 848 resulting from the receipt of premiums, such capital is not available to CG Life for investment. Thus, the cost of capital used to satisfy CG Life's increased federal income tax burden under Section 848 is, in essence, CG Life's after tax rate of return on capital, and, accordingly, the rate of return on capital, is appropriate for use in this present value calculation. To the extent that the 10% discount rate is lower than CG Life's actual targeted rate of return, a margin of comfort is provided that the calculation of CG Life's increased tax burden attributable to the receipt of premiums will continue to be reasonable over time, even if the corporate tax rate or targeted rate of return is lowered. CG Life undertakes to monitor the tax burden imposed on it and to reduce the charge to the extent of any significant decrease in the tax burden.

11. Assuming a 35% corporate federal income tax rate, and applying the 10% discount rate, the present value of the federal income tax effect of the increased deductions allowable in the following 10 years is $160.40. Because this amount partially offsets the increased federal income tax burden, Section 848 imposes an increased federal income tax burden on CG Life with present value of $95.63 (*i.e.*, $256.03 minus $160.40, or 0.96%) for each $10,000 of net premiums.

12. State premium taxes are deductible when computing federal income taxes. Thus, CG Life does not incur incremental federal income tax when it passes on state premium taxes

[1] In determining the after-tax rate of return used in arriving at this discount rate, CG Life considered a number of factors, including: actual historical costs CG Life has incurred for capital; market interest rates; CG Life's anticipated long term growth rate; the risk level for this type of business; and inflation. CG Life represents that such factors are appropriate factors to consider in determining CG Life's cost of capital. CG Life first projects its future growth rate based on its sales projections, the current interest rates, the inflation rate, and the amount of capital that CG Life can provide to support such growth. CG Life then uses the anticipated growth rate and other factors enumerated above to set a rate of return on capital that equals or exceeds this rate of growth. CG Life seeks to maintain a ratio of capital to assets that is established based on its judgment of the risks represented by various components of its assets and liabilities. Maintaining the ratio of capital to assets is critical to offering competitively priced products and, as to CG Life, to maintaining a competitive rating from various rating agencies. Consequently, CG Life's capital should grow at least at the same rate as do its assets.

to owners of the Contracts. Federal income taxes, however, are not deductible when computing CG Life's federal income taxes. To compensate CG Life fully for the impact of Section 848, therefore, it would be necessary to allow CG Life to impose an additional charge that would make it whole not only for the $95.63 additional federal income tax burden attributable to Section 848, but also for the federal income tax on the additional $95.63 itself. This federal income tax can be determined by dividing $95.63 by the complement of the 35% federal corporate income tax rate, *i.e.*, 65%, resulting in an additional charge of $147.12 for each $10,000 of net premiums, or 1.47% of net premiums.

13. Based on prior experience, CG Life expects that all of its current and future deductions will be fully taken. A charge of 1.25% of net premium payments would reimburse CG Life for the impact of Section 848 on its federal income tax liabilities, taking into account the benefit of CG Life of the amortization permitted by Section 848 and the use by CG Life of a discount rate of 10% (the equivalent of CG Life's cost of capital) in computing the future deductions resulting from such amortization.

14. Although a charge of 1.25% of net premium payments would reimburse CG Life for the impact of Section 848 (as currently written) on its federal income tax liabilities, CG Life will have to increase this charge if any future change in, or interpretation of Section 848, or any successor provision, results in an increased federal income tax burden as a consequence of the receipt of premiums. Such an increase could result from a change in the corporate federal income tax rate, a change in the 7.7% figure, or a change in the amortization period.

Applicants' Legal Analysis

1. Applicants request an order of the Commission pursuant to Section 6(c) exempting them from the provisions of Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder, to the extent necessary to permit deductions to be made from premium payments received in connection with the Contracts. The deductions would be in an amount that is reasonable in relation to CG Life's increased federal income tax burden related to the receipt of such premiums. Applicants further request an exemption from Rule 6e–3(T)(c)(4)(v) under the 1940 Act to permit the proposed deductions to be treated as other than "sales load" for the purposes of Section 27 of the 1940 Act and the exemptions from various provisions of that Section found in Rule 6e–3(T)(b)(13).

2. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction from any provision of the 1940 Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the 1940 Act.

3. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are held under an indenture or agreement containing in substance the provisions required by Sections 26(a)(2) and 26(a)(3) of the 1940 Act. Applicants note that certain provisions of Rule 6e–3(T) provide a range of exemptive relief for the offering of flexible premium variable life insurance policies such as the Contracts. For example, subject to certain conditions, Rule 6e–3(T)(b)(13)(iii) provides exemptions from Section 27(c)(2) that include permitting the payment of certain administrative fees and expenses, the deduction of a charge for certain mortality and expense risks, and the "deduction of premium taxes imposed by any state or governmental entity."

4. Rule 6e–3(T)(c)(4)(v) defines "sales load" charged during a contract period as the excess of any payments made during the period over the sum of certain specified charges and adjustments, including "a deduction for and approximately equal to state premium taxes."

5. Applicants submit that the proposed federal tax burden charge to be deducted in connection with the Contracts is akin to a state premium tax charge in that it is an appropriate charge related to CG Life's tax burden attributable to premiums received. Thus, Applicants submit that the proposed federal tax burden charge should be treated as other than "sales load," as is a state premium tax charge, for purposes of the 1940 Act.

6. Applicants maintain that the requested exemptions from Rule 6e–3(T)(c)(4)(v) are necessary in connection with Applicants' reliance on certain provisions of Rule 6e–3(T)(b)(13), and particularly on subparagraph (b)(13)(i) which provides exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates may rely on Rule 6e–3(T)(b)(13)(i) only if they meet the Rule's alternative limitations on sales load, as defined in Rule 6e–3(T)(c)(4). Applicants state that, depending upon the load structure of a particular contract, these alternative limitations may not be met if the deduction for the increase in an issuer's federal tax burden is included in sales load. Applicants acknowledge that a deduction for an insurance company's increased federal tax burden related to deferred acquisition costs does not fall squarely within any of the specified charges or adjustments which are excluded from the definition of "sales load" in Rule 6e–3(T)(c)(4). Nevertheless, Applicants submit that there is no public policy reason for treating such federal tax burden charge as "sales load."

7. Applicants assert that the public policy underlying Rule 6e–3(T)(b)(13)(i), like that underlying Sections 27(a)(1) and 27(h)(1) of the 1940 Act, is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants submit that the treatment of a federal income tax charge attributable to premium payments as "sales load" would in no way further this legislative purpose because such a deduction has no relation to the payment of sales commissions or other distribution expenses. Applicants state that the Commission has concurred in this conclusion by excluding deductions for state premium taxes from the definition of "sales load" in Rule 6e–3(T)(c)(4).

8. Applicants assert that the source for the definition of "sales load" found in Rule 6e–3(T) supports this analysis. Applicants state that the Commission's intent in adopting Rule 6e–3(T)(c)(4) was to tailor the general terms of Section 2(a)(35) of the 1940 Act to variable life insurance contracts. In this regard, Applicants note that just as the percentage limits of Sections 27(a)(1) and 27(h)(1) depend on the definition of "sales load" in Section 2(a)(35) for their efficacy, the percentage limits in Rule 6e–(T)(b)(13)(i) depend on Rule 6e–3(T)(c)(4), which does not depart, in principle, from Section 2(a)(35).

9. Applicants assert that Section 2(a)(35) also excludes from "sales load" administrative expenses or fees that are "not properly chargeable to sales or promotional activities". Applicants submit that this suggests that the only deductions intended to fall within the definition of "sales load" are those that are properly chargeable to such activities. Because the proposed federal tax burden charge will be used to compensate CG Life for its increased federal income tax burden attributable to the receipt of premiums, and such cost is not properly chargeable to sales

or promotional activities, Applicants submit that this language of Section 2(a)(35) is another indication that not treating such federal tax burden charge as "sales load" is consistent with the policies of the 1940 Act.

10. Applicants further assert that Section 2(a)(35) excludes from the definition of "sales load" under the 1940 Act deductions from premiums for "issue taxes." Applicants submit that the exclusion from "sales load" of charges attributable to federal tax obligations is consistent with the policies of the 1940 Act.

11. Applicants assert that the terms of the relief requested with respect to Contracts to be issued through the Accounts are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, CG Life would have to request and obtain exemptive relief for each Contract to be issued through one of the Accounts. Applicants state that such additional requests for exemptive relief would present no issues under the 1940 Act not already addressed in this request for exemptive relief.

12. Applicants assert that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable life insurance market by eliminating the need for CG Life or Future Accounts to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. The delay and expense involved in having to seek exemptive relief repeatedly would impair the ability of CG Life and the Future Accounts to take advantage fully of business opportunities as those opportunities arise.

13. Applicants state that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If CG Life and the Future Accounts were required to seek exemptive relief repeatedly with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby and might be disadvantaged as a result of increased overhead expenses for CG Life and the Future Accounts.

Conditions for Relief

1. Applicants agree to comply with the following conditions for relief.

a. CG Life will monitor the reasonableness of the federal tax burden charge to be duducted pursuant to the requested exemptive relief.

b. The registration statement for each Contract under which the federal tax burden charge is deducted will: (i) disclose the charge; (ii) explain the purpose of the charge; and (iii) state that the charge is reasonable in relation to CG Life's increased federal income tax burden under Section 848 of the Code resulting from the receipt of premiums.

c. The registration statement for each Contract under which the federal tax burden charge is deducted will contain as an exhibit an actuarial opinion as to: (i) the reasonableness of the charge in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums; (ii) the reasonableness of the after tax rate of return that is used in calculating the federal tax burden charge and the relationship that such charge has to CG Life's cost of capital; and (iii) the appropriateness of the factors taken into account by CG Life in determining the after tax rate of return.

2. Applicants undertake to rely on the exemptive relief requested herein with respect to Future Contracts only if such contracts are substantially similar in all material respects to the Contracts described in the Application.

Conclusion

For the reasons summarized above, Applicants represent that the requested relief from Sections 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder is necessary or appropriate in the public interest and otherwise meets the standards of Section 6(c) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22579 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22181; 812–10216]

First American Investment Funds, Inc., et al.; Notice of Application

August 28, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: First American Investment Funds, Inc. ("FAIF"), First American Funds, Inc. ("FAF") (collectively, the "Funds"), First Trust National Association ("First Trust"), and First Bank National Association ("First Bank").

RELEVANT ACT SECTIONS: Order requested under rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: The requested order would permit the Funds to pay First Trust, and First Trust to accept, fees for acting as lending agent with respect to securities lending transactions by the Funds.

FILING DATES: The application was filed on June 21, 1996, and amended on August 22, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 23, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants: the Funds, 680 East Swedesford Road, Wayne, PA 19087; First Trust, 180 East Fifth Street, St. Paul, MN 55101; and First Bank, 601 Second Avenue South, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. FAIF and FAF are registered under the Act as open-end management investment companies and are incorporated under the laws of the States of Maryland and Minnesota, respectively. FAIF has twenty separate series and FAF has three. First Trust serves as custodian for each Fund and First Bank is the investment adviser for each Fund. First Trust and First Bank are wholly-owned subsidiaries of First Bank System, Inc. ("FBS").

2. Each Fund and its series, with one exception, is currently permitted under its investment objectives, policies, and restrictions to lend its portfolio securities. Since the Funds currently do not have the internal resources necessary to lend securities efficiently or effectively without the services of a third-party lending agent, First Bank has proposed that the Funds engage First Trust, or other third-party agents, to act

as lending agent for the Fund. The lending agent will be responsible for establishing contact with potential borrowers, monitoring daily the value of the loaned securities and collateral, requesting that borrowers add to the collateral when required, and performing other administrative functions. In addition, the lending agent would invest cash collateral in instruments pre-approved by First Bank.

3. The duties of the lending agent, as well as procedures governing the securities lending, will be included in the Fund's agreement with the lending agent or otherwise detailed in writing. The ultimate responsibility for determining which securities are available to be loaned and to whom the securities may be loaned will reside with First Bank, subject to parameters set forth in procedures approved by the Fund's board of directors. First Bank will monitor the lending agent to ensure that the securities loans are effected in accordance with procedures adopted by the Fund's board of directors. For its services, the lending agent will receive a pre-negotiated percentage of the lending fee or portion of the return on the investment of cash collateral received by a Fund. Applicants represent that the duties to be performed by the lending agent will be consistent with and not exceed the parameters set forth in *Norwest Bank*, a no-action letter issued by the staff of the Division of Investment Management (pub. Avail. May 25, 1995).

4. Each borrower of a Fund's securities will be required to tender collateral to be held by First Trust, or other custodian to the Fund, in the form of cash, securities issued or guaranteed by the United States Government, its agencies or instrumentalities, or irrevocable letters of credit issued by approved banks.

5. In transactions where the collateral consists of U.S. Government securities or bank letters of credit, the lending agent typically will negotiate on behalf of the Fund a lending fee to be paid by the borrower to the Fund. The borrower will deliver to the Fund's custodian U.S. Government securities or bank letters of credit equal to at least 100% of the securities loaned, which collateral will be supplemented to cover differences between the market value of the collateral and the market value of the loaned securities as necessary. At the termination of the loan, the borrower will pay to the Fund the lending fee, and the lending agent will receive its pre-negotiated percentage.

6. In transactions where the collateral consists of cash, the Fund typically will receive a portion of the return earned on the investment of the cash collateral by or under the direction of First Bank. Depending on the arrangements negotiated with the borrower by the lending agent, a percentage of the return on the investment of the cash collateral may be remitted by the Fund to the borrower. Cash collateral delivered by the borrower will equal at least 100% of the portfolio securities loaned and will be supplemented to cover increases in the market value of the loaned securities, as necessary. Out of the amounts earned on the investment of the cash collateral, the borrower would first be paid the amount agreed upon, if any, and then, out of any remaining earnings, the lending agent would receive its pre-negotiated percentage. The Fund will bear the risk of loss of the collateral.

7. Applicants request an order to permit the Funds to pay First Trust, and First Trust to accept, fees in connection with First Trust's acting as lending agent in the manner described in the application. Applicants request that the relief sought also apply to any other registered investment company or series thereof which in the future may be created for which First Bank, or any other entity controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with First Bank, serves as investment adviser.

Applicants' Legal Analysis

1. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any investment adviser of the investment company and any person directly or indirectly controlling, or under common control with, such investment adviser. Under section 2(a)(3), First Bank, as investment adviser of each of the Funds, is an "affiliated person" of each Fund. Further, because First Trust and First Bank are under the common control of FBS, First Trust is an "affiliated person" of First Bank and, therefore, First Trust is an "affiliated person of an affiliated person" of each Fund. In addition, First Trust may be deemed to be an affiliated person of certain Funds because it and its affiliates hold of record more than 5% of the outstanding shares of these Funds.

2. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. The proposed lending transactions may be deemed to involve a joint transaction because First Trust as lending agent would receive a percentage of the revenue generated by a Fund's securities lending program.

3. Rule 17d–1 authorizes the SEC to permit a proposed joint transaction. In determining whether to permit a transaction, the SEC is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. For the reasons discussed below, applicants believe that the requested relief satisfies the standards for relief set forth in rule 17d–1.

4. Applicants believe that First Trust can provide lending agent services to the Funds in an efficient and profitable manner, and in a manner comparable to that of other potential lending agents. Applicants state that First Trust is experienced in securities lending services and has in place the personnel and systems necessary to provide services in an efficient and cost-effective manner. In addition, First Bank, as investment adviser to the Funds, will direct and monitor the activities of First Trust as lending agent.

5. Individual employees of First Trust who are involved in its securities lending activities may be "dual employees" of First Trust and First Bank. As employees of First Bank, such individuals also may be involved in the portfolio lending activities of First Bank, as investment adviser to the Funds. However, the individuals within First Bank, as investment adviser to the Funds, who will direct and monitor the activities of First Trust, as securities lending agent for the Funds, will not have operating or supervisory responsibility with respect to First Trust's securities lending activities.

6. Applicants propose that each Fund will adopt the following procedures to ensure that the fee arrangement and other terms governing the relationship between the Fund and First Trust will be fair:

a. In connection with the initial approval of First Trust as lending agent to the Fund, the board of directors of a Fund, including a majority of the directors who are not "interested persons" of the Fund within the meaning of the Act, will determine that (i) the contract with First Trust is in the best interests of the Fund and its shareholders; (ii) the services to be performed by First Trust are required by the Fund; (iii) the nature and quality of the services provided by First Trust are at least equal to those provided by others offering the same or similar

services; and (iv) the fees for First Trust's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

b. Each Fund's contract with First Trust for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the board of directors of each Fund, including a majority of the directors who are not "interested persons" of the Fund within the meaning of the Act, makes the findings referred to in paragraph (a) above.

c. In connection with the initial approval of First Trust as lending agent to a Fund, the board of directors will obtain competing quotes with respect to lending agent fees from at least three independent lending agents to assist the board of directors in making the findings referred to in paragraph (a) above.

d. The board of directors of each Fund, including a majority of the directors who are not "interested persons" of the Fund within the meaning of the Act, (i) will determine at each quarterly meeting that the loan transactions during the prior quarter were effected in compliance with the conditions and procedures set forth in the application and (ii) will review no less frequently than annually the conditions and procedures for continuing appropriateness.

e. Each Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and modifications thereto) described in the application or otherwise followed in connection with lending securities and (ii) maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan transaction occurred, the first two years in an easily accessible place, a written record of each such loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, the terms of the loan transaction, and the information or materials upon which the determination was made that each loan was made in accordance with the procedures set forth above and the conditions to the application.

Applicants' Conditions

Applicants will adhere to the following conditions:

1. No Fund may lend its portfolio securities to a borrower that is an affiliated person of the Fund, any adviser of the Fund, or First Trust, or to an affiliated person of any such person.

2. Except as set forth herein, the securities lending program of each Fund will comply with all present and future applicable SEC staff positions regarding securities lending arrangements, *i.e.*, with respect to the type and amount of collateral, voting of loaned securities, limitations on the percentage of portfolio securities on loan, prospectus disclosure, termination of loans, receipt of dividends or other distributions, and compliance with fundamental policies.[1]

3. The approval of the board of directors of a Fund, including a majority of the directors who are not "interested persons" within the meaning of the Act, shall be required for the initial and subsequent approvals of First Trust's service as lending agent for the Funds, for the institution of all procedures relating to the securities lending programs of the Funds, and for any periodic review of loan transactions for which First Trust acted as lending agent.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22578 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22187; 812–9838]

GE Funds, et al.; Notice of Application

August 29, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Elfun Trusts, Elfun Global Fund, Elfun Diversified Fund, Elfun Tax-Exempt Income Fund, Elfun Income Fund (collectively, the "Elfun Funds"), Variable Investment Trust ("Variable Trust"), GE S&S Program Mutual Fund, GE S&S Long-Term Interest Fund (collectively, all of the foregoing are the "Registered Investing Entities"), General Electric Pension Trust, GE Savings and Security (collectively, the previous two are the "Retirement Trusts"), GE Insurance Plan Trust, Ge Medical Care Trust for Pensioners, GE General Relief and Loan Funds (collectively, the previous three are the "Welfare Trusts"), GE Investments International Fund, GE Investment International Fund—NYC, GE Investments Group Trust (collectively, the previous three are the "Group Trusts"), GE Investments Canada Fund (the "Canada Fund"), GE Investment Realty Partners I, GE Investment Realty Partners II, GE Investment Realty Partners III, GE Investment Hotel Partners I (collectively, the previous four arethe "Limited Partnerships") collectively, all of the foregoing are the "Investing Entities", GEI Short-Term Investment Fund (the "Investment Trust"), GE Investment Management Incorporated ("GEIM"), and General Electric Investment Corporation ("GEIC").

RELEVANT ACT SECTIONS: Order of exemption requested pursuant to section 6(c) of the Act from section 12(d)(1), under sections 6(c) and 17(b) that would grant an exemption from section 17(a), and under rule 17d–1 to permit certain transactions in accordance with section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants request an order to permit the Investing Entities to purchase shares of the Investment Trust for cash management purposes.

FILING DATES: The applicant was filed on October 31, 1995 and amended on July 24, 1996. Applicants have agreed to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 24, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 3003 Summer Street, Stamford, Connecticut 06905.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

[1] *See, e.g.*, SIFE Trust Fund (pub. avail. Feb. 17, 1982).

Applicants' Representations

1. The GE Funds, the Elfun Funds, the Variable Trust, and the S&S Funds are registered open-end management investment companies that are organized either under the laws of Connecticut, Massachusetts or New York. Certain of the foregoing funds are organized as series companies. In addition, the Elfun Funds and the S&S Funds are employee securities companies as defined in section 2(a)(13) of the Act. The Retirement Trusts hold assets for the benefit of current and previous employees of General Electric Company ("GE") and its affiliates. The Welfare Trusts hold the assets of various health and welfare benefit plans for the benefit of current or previous employees of GE and its affiliates. The Group Trusts are each a pooled trust established by GEIM for the pooled investment of pension and profit sharing plans and certain governmental plans which are exempt from federal income taxation. The Canada Fund is a fund governed by the laws of Canada and established for the pooled investment by pension funds sponsored by an employer for the benefit of its employees. The Limited Partnerships are investment limited partnerships established for the purposes of acquiring and developing real estate assets and are offered only to "accredited investors" with the meaning of Rule 501 of Regulation D under the Securities Act of 1933.

2. GEIM provides investment advisory and administrative services to the GE Funds, the Variable Trust, and the Canada Fund. GEIM also provides investment management services to the Limited Partnerships in its capacity as general partner. GEIC provides investment advisory and/or administrative services to the Elfun Funds, the S&S Funds, the Retirement Trusts, the Welfare Trusts, the Group Trusts, and the Canada Fund. Both GEIM and GEIC are wholly-owned subsidiaries of GE.

3. The Investment Trust will be organized as a New Hampshire investment trust and will be excluded from the definition of investment company under section 3(c)(1) of the Act. Shares will be non-voting and will be offered only to the Investing Entities. The Investment Trust will invest exclusively in certain short-term money market instruments, will maintain a dollar weighted average portfolio maturity of ninety days or less, and will not purchase any security with a remaining maturity of greater than 397 days. GEIM will serve as investment adviser to the investment trust.

4. Each Investing Entity has, or may be expected to have, uninvested cash held by its custodian bank. Such cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions and dividend payments, and new monies received from investors. Applicants propose that the Investing Entities be able to invest such uninvested cash in shares of the Investment Trust. In addition, to facilitate the establishment of the Investment Trust, relief is also being requested to allow a Registered Investing Entity to participate initially in the Investment Trust through a one-time contribution of portfolio securities.

5. Applicants request that relief be extended to any investment adviser controlled by or common control with GEIM or GEIC (collectively, the "Advisers"). In addition, applicants request that relief be extended to all future registered investment companies and series thereof, future pension plans, or future limited partnerships for which an Adviser may act as investment adviser. (Such entities are also the "Investing Entities" and/or "Registered Investing Entities.") In no case will an Investing Entity be a registered investment company that values its assets in accordance with rule 2a–7 under the Act.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits any registered investment company (the "acquiring company") or any company or companies controlled by such acquiring company to purchase any security issued by any other investment company (the "acquired company") if such purchase will result in the acquiring company or companies it controls owning in the aggregate (a) more than 3% of the outstanding voting stock of the acquired company, (b) securities issued by the acquired company with an aggregate value in excess of 5% of the acquiring company's total assets, or (c) securities issued by the acquired company and all other investment companies with an aggregate value in excess of 10% of the value of the acquiring company's total assets. Section 12(d)(1)(B) prohibits a registered investment company (the "acquired company") from selling any security to another investment company (the "acquiring company") if such sale will result in (a) more than 3% of the outstanding stock of the acquired company is owned by the acquiring company and more than 10% of the total outstanding voting stock of the acquired company is owned by the acquiring company or other investment companies.

2. Applicants state that, while the size of the Investment Trust may vary significantly from day to day, it is likely that one or more of the Investing Entities would have an investment in the Investment Trust that would exceed the section 12(d)(1) limits. In addition, applicants propose that each Registered Investing Entity be permitted to invest in, and holding shares of, the Investment Trust to the extent that a Registered Investing Entity's aggregate investment in the Investment Trust at the time the investment is made does not exceed 25% of the Registered Investing Entity's total assets. Accordingly, applicants seek an exemption from the provisions of section 12(d)(1) to the extent necessary to implement the proposed transactions.

3. Applicants state that the Investment Trust will be excluded from the definition of investment company under section 3(c)(1).[1] Applicants further state that the Investment Trust will issue any non-voting securities. Applicants request relief from section 12(d)(1), however, because they are concerned that the Investment Trust's non-voting securities could be deemed to be "voting securities" for purposes of section 3(c)(1). Applicants believe that if interests in the Investment Trust were deemed to be "voting securities," applicants then must rely on the second 10% test of section 3(c)(1) in order to avoid a look through to the shareholders of the Investing Entities for purposes of determining the number of persons owning shares of the Investment Trust. Reliance on the second 10% test would

[1] Section 3(c)(1) provides, in pertinent part, that the term "investment company" shall not include:

Any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities. For purposes of this paragraph:

(A) Beneficial ownership by a company shall be deemed to be beneficial ownership by one person, except that, if the company owns 10 per centum or more of the outstanding voting securities of the issuer, the beneficial holders of such company's outstanding securities (other than short-term paper) unless, as of the date of the most recent acquisition by such company of securities of that issuer, the value of all securities owned by such company of all issuers which are or would, but for the exception set forth in this subparagraph, be excluded from the definition of investment company solely by this paragraph, does not exceed 10 per centum of the value of the company's total assets. Such issuer nonetheless is deemed to be an investment company for purposes of section 12(d)(1).

cause the Investment Trust to be deemed an investment company for purposes of section 12(d) of the Act pursuant to the last sentence of section 3(c)(1)(A).

4. Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act. For the reasons provided below, applicants argue that the requested order meets the section 6(c) standards.

5. Applicants believe that relief is appropriate to permit the Registered Investing Entities to invest in the Investment Trust because a private investment company is less expensive to operate than a registered investment company. In addition, applicants state that the use of a private investment company would maximize participation in the Investment Trust, thereby facilitating the ability of the Trust to obtain the advantages of a larger size.

6. Applicants believe that at any given time it is possible that 25% or more of an Investing Entity's total assets may be comprised of uninvested cash. Cash balances of this size may result from volatility in the marketplace, from cash collateral that is derived from securities lending transactions and cash generated from mortgage dollar rolls, and for other reasons. In addition, applicants believe that the Investment Trust need not be limited to making investments in eligible money market instruments under rule 2a–7 because the Investing Entities do not hold themselves out as money market funds subject to the constraints of rule 2a–7.

7. Applicants state that section 12(d)(1) is intended, among other things, to protect an investment company's shareholders against (a) undue influence over portfolio management through the threat of large-scale redemptions, and the disruption of orderly management of the investment company through the maintenance of large cash balances to meet potential redemptions and (b) the layering of sales charges, advisory fees, and administrative costs. Applicants state that the Investment Trust will be managed specifically to maintain a highly liquid portfolio and that access to the Investment Trust will enhance each Investing Entity's ability to manage and invest cash. In addition, the Investment Trust will not charge any sales charges, underwriting or distribution fees, or advisory fees. Therefore, applicants believe none of the perceived abuses meant to be addressed by section 12(d)(1) is created by the proposed transactions.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of that company. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any person that owns more than 5% of the outstanding voting securities of that company and any investment adviser of the investment company and any person directly or indirectly controlling, or under common control with, such investment adviser. As the investment adviser to the Investment Trust, each Adviser may be deemed to be an "affiliated person" under section 2(a)(3), and as members of the same complex of funds and other investment entities, with the same investment adviser and similar members of the boards of directors or trustees, the Registered Investing Entities and the Investment Trust may be considered affiliated persons of each other.

2. The sale by the Investment Trust of its shares to the Registered Investing Entities could be deemed to be a principal transaction between affiliated persons that is prohibited under section 17(a). Therefore, applicants request an order to permit the Investment Trust to sell its shares to the Registered Investing Entities and to allow the redemption of such shares from the Registered Investing Entities. In addition, applicants request an order to allow the Registered Investing Entities to make a one-time contribution of portfolio securities to the Investment Trust.

3. Section 17(b) permits the SEC to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned. Section 17(b) could be interpreted to exempt only a single transaction. However, the Commission, under section 6(c) of the Act, may exempt a series of transactions that otherwise would be prohibited by section 17(a). For the reasons stated below, applicants believe that the terms of the transactions meet the standards of sections 6(c) and 17(b).

4. With respect to the relief requested from section 17(a) for the proposed transactions, applicants state that the terms of the proposed transactions are fair because the consideration paid and received for the sale and redemption of shares of the Investment Trust will be based on the net asset value per share of the Investment Trust. In addition, the purchase of shares of the Investment Trust by the Investing Entities will be effected in accordance with each Investing Entity's investment restrictions and policies as set forth in its registration statement.

5. With respect to the one-time contribution of shares by the Registered Investing Entities to the Investment Trust, applicants state that such relief is requested primarily in order to enable the Investment Trust quickly to achieve a size sufficient to benefit the Registered Investing Entities without requiring the Registered Investing Entities to have to sell portfolio securities in order to contribute cash. The one-time contribution will comply with the provisions of paragraphs (a) through (f) of the rule 17a–7 [2] under the Act except that the consideration for the securities contributed to the Investment Trust will be Investment Trust shares rather than cash.

C. Section 17(d)

1. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. The proposed transaction could be deemed to be a joint enterprise or other joint arrangement because the Advisers will be pooling uninvested cash from across a number of funds advised by the Advisers. In doing so, each Investing Entity will be acting collectively to avail themselves of the benefits afforded by pooling these cash balances.

2. Rule 17d–1 permits the SEC to approve a proposed joint transaction. In determining whether to approve a transaction, the SEC is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. For the reasons stated below, applicants believe that the requested relief meets these standards.

3. Applicants state that the proposed transactions would be beneficial to each of the participants. Applicants state that there is no basis on which to believe that if the uninvested cash of the Investing Entities were invested directly in money market instruments, any

[2] Rule 17a–7 provides for purchase or sale transactions between registered investment companies and certain affiliated persons provided that certain conditions are met.

participant would benefit to a greater extent than any other. Applicants also believe that a Registered Investing Entity's contribution of portfolio securities, in lieu of cash, in exchange for shares of the Investment Trust, creates no adverse effects on any other Investment Entity because all shares of the Investment Trust will be sold at net asset value.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. The shares of the Investment Trust sold to and redeemed from the Investing Entities will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1, or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers' Rules of the Association). There will be no investment advisory fee charged to the Investment Trust.

2. Investment in shares of the Investment Trust will be in accordance with each Registered Investing Entity's respective investment restrictions and will be consistent with each Registered Investing Entity's policies as set forth in its prospectuses and statements of additional information.

3. The Investment Trust shall not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

4. A majority of the directors of each Registered Investing Entity (except the Elfun Funds and the S&S Funds[3]) will not be "interested persons" as defined in section 2(a)(19) of the Act.

5. Each Investing Entity, the Investment Trust, and any future fund that may rely on the order shall be advised by one of the Advisers or a person controlling, controlled by, or under common control with one of the Advisers.

6. Each of the Registered Investing Entities will invest uninvested cash in, and hold shares of, the Investment Trust only to the extent that the Registered Investing Entity's aggregate investment in the Investment Trust does not exceed 25% of the Registered Investing Entity's total assets.

7. The Investment Trust will comply with the requirements of sections 17(a), (d), and (e), and 18 of the Act as if the Investment Trust were a registered open-end investment company. With respect to all redemption requests made by a Registered Investing Entity, the Investment Trust will comply with section 22(e) of the Act. The Investment Trust will value its shares, as of the close of business on each business day in accordance with section 2(a)(41) of the Act.

8. The Advisers shall adopt procedures designed to ensure that the Investment Trust complies with sections 2(a)(41), 17(a), (d), and (e), 18, and 22(e) to the same extent that procedures for compliance with these sections have been adopted for the Registered Investing Entities. The Advisers will also periodically review and update as appropriate such procedures and will maintain books and records describing such procedures, and maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be kept under this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the SEC and its staff.

9. Each Investing Entity will purchase and redeem shares of the Investment Trust as of the same time and at the same price, and will receive dividends and bear its proportionate shares of expenses on the same basis, as other shareholders of the Investment Trust. A separate account will be established in the shareholder records of the Investment Trust for the account of each Investing Entity.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22625 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[3] Each Elfun Fund and S&S Fund is an "employees' securities company" as defined in the Act. Each of these funds has obtained an SEC order exempting it from section 10(a) of the Act to permit more than 60% of its respective trustees to be "interested persons" as defined in the Act and from section 15(c) to exempt it from the requirement that a majority of its disinterested trustees approve any renewal of its advisory contract (Elfun Funds, Investment Company Act Release Nos. 17038 (June 30, 1989) (notice) and 17083 (July 25, 1989) (order) and S&S Funds, Investment Company Act Release Nos. 10929 (Nov. 6, 1979) (notice) and 10971 (Dec. 4, 1979) (order)).

[Investment Company Act Release No. 22182; 811–9056]

The Jefferson Funds Trust; Notice of Application

August 28, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Jefferson Funds Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on February 23, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 23, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 233 South Wacker Drive, Suite 4500, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a Delaware business trust. Applicant has one series, the Jefferson U.S. Treasury Money Market Fund. On June 19, 1995, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and filed a registration statement on Form N–1A under section 8(b) of the Act. Applicant's registration statement became effective on July 8, 1995; however, applicant made no public offering of its shares.

2. On December 31, 1995, applicant's board of trustees approved a resolution to dissolve applicant. Applicant sold no securities, and has no securityholders, assets, or liabilities. Applicant is not a

party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

3. Applicant filed a Certificate of Cancellation with the Delaware Secretary of State on February 15, 1996.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22577 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22189; File No. 812–10180]

The Lincoln National Life Insurance Company, et al.

August 29, 1996.

AGENCY: U.S. Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The Lincoln National Life Insurance Company ("Lincoln Life"), Lincoln Life & Annuity Company of New York ("Lincoln Life of NY"), Lincoln National Variable Annuity Account L ("Account L"), Lincoln Life & Annuity Company of New York Variable Annuity Account L ("Account L–NY), and LNC Equity Sales Corporation ("LNC").

RELEVANT ACT SECTIONS: Order requested pursuant to Section 17(b) of the 1940 Act from Section 17(a) thereof, and pursuant to Section 11 of the 1940 Act.

SUMMARY OF APPLICATION: Applicants request an order approving: (i) the transfer of assets from the VA–1 Separate Account of UNUM Life Insurance Company of America ("UNUM VA–1 Separate Account") to Account L and Account L–NY, and from the VA–1 Separate Account of First UNUM Life Insurance Company of America ("First UNUM VA–1 Separate Account") to Account L–NY; and (ii) the offer of exchange of interests in the UNUM VA–1 Separate Account for interests in Account L and Account L–NY, and the offer of exchange of interests in the First UNUM VA–1 Separate Account for interests in Account L–NY, through the assumption reinsurance by Lincoln Life and Lincoln Life of NY of group variable annuity contracts issued by UNUM Life Insurance Company of America ("UNUM") and First UNUM Life Insurance Company of America ("First UNUM").

FILING DATE: The application was filed on June 3, 1996, and amended and restated on August 28, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 23, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: SEC, Secretary, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, John L. Steinkamp, Esq., The Lincoln National Life Insurance Company, 1300 South Clinton Street, P.O. Box 1110, Fort Wayne, Indiana 46801.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Patrice M. Pitts, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. Lincoln Life, a stock life insurance company organized in Indiana in 1905, is principally engaged in the sale of life insurance and annuity policies. Lincoln Life is wholly-owned by Lincoln National Corporation, a publicly-held insurance and financial services company.

2. Lincoln Life of NY is a stock life insurance company incorporated under the laws of New York in 1996. Lincoln Life of NY is principally engaged in the sale of life insurance and annuity policies in the State of New York, and is a wholly-owned subsidiary of Lincoln Life.

3. LNC will serve as the principal underwriter and distributor of group variable annuity contracts issued through Account L (the "Lincoln Life Contracts") and group variable annuity contracts issued through Account L–NY (the "Lincoln Life of NY Contracts"). LNC is registered under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. LNC is a wholly-owned subsidiary of Lincoln National Corporation.

4. Account L, a separate account established in Indiana on April 29, 1996, pursuant to a resolution of the board of directors of Lincoln Life, will be the funding medium for Lincoln Life Contracts.

5. Account L–NY, a separate account established in New York on July 24, 1996, pursuant to a resolution of the board of directors of Lincoln Life of NY, will be the funding medium for Lincoln Life of New Contracts

6. Lincoln Life and UNUM have entered into an amended and restated asset transfer and acquisition agree, dated as of January 24, 1996 (the "UNUM Acquisition Agreement"), which provides for the sale of UNUM's tax-sheltered annuity business to Lincoln Life and the assumption of UNUM's obligations under its group variable annuity contracts by Lincoln Life. The UNUM Acquisition Agreement provides that UNUM's group variable annuity contracts issued in states other than New York (the "UNUM Non-NY Contracts") will be assumed directly by Lincoln Life, and that UNUM's group variable annuity contracts issued in New York (the "UNUM NY Contracts") will be assumed by Lincoln Life of NY.[1] The UNUM Acquisition Agreement also provides that, for a limited period of time after the acquisition is effected and at Lincoln Life's request, UNUM will issue in certain states group variable annuity contracts of the type being assumed by Lincoln Life. The acquisition is to be effected on September 30, 1996, subject to certain state insurance regulatory approvals (the "Closing Date").

7. Lincoln Life, on behalf of Lincoln Life of NY, has entered into a virtually identical acquisition agreement with First UNUM dated March 20, 1996 (the "First UNUM Acquisition Agreement"), which provides for the sale of First UNUM's tax-sheltered annuity business to Lincoln Life of NY and the assumption of First UNUM's obligations under its group variable annuity contracts (the "First UNUM Contracts") by Lincoln Life of NY. The First UNUM Acquisition Agreement also provides that for a limited period of time after the acquisition is effected (also on the Closing Date), and at the request of Lincoln Life of NY, First UNUM will issue in New York group variable annuity contracts of the type being assumed by Lincoln Life of NY.

[1] UNUM formerly issued contracts in New York but no longer does business in that state.

8. Assumption of the UNUM NY Contracts, the UNUM Non-NY Contracts, and the First UNUM Contracts by Lincoln Life and Lincoln Life of NY will occur sometime after the Closing Date, depending on when applicable state insurance department approval and other regulatory approvals are obtained, and subject to giving contractholders and participants the opportunity to opt-out of the transfer to Lincoln Life Contracts or Lincoln Life of NY Contracts. Any participants who opt-out will have either UNUM or First UNUM as the insurer; those participants who do not opt-out will have either Lincoln Life or Lincoln Life of NY as the insurer.

9. The UNUM Non-NY Contracts and the UNUM NY Contracts (together, the "UNUM Contracts") represent three types of group variable annuity contracts sold to retirement programs meeting the requirements of Section 403(b) of the Internal Revenue Code of 1986, as amended (the "Code"). The three types of First UNUM Contracts correspond with the three types of UNUM Contracts, except where differences are required by New York law.

10. Each type of UNUM Contract and each type of First UNUM Contract is registered separately under the Securities Act of 1933 (the "1933 Act"). The three types of UNUM Contracts are funded by the UNUM VA–1 Separate Account; the three types of First UNUM Contracts are funded by the First UNUM VA–1 Separate Account. Both the UNUM VA–1 Separate Account and the First UNUM VA–1 Separate Account are registered with the Commission under the 1940 Act as unit investment trusts. Each of these separate accounts consists of nine subaccounts; each subaccount invests exclusively in a matching underlying fund.

11. Lincoln Life will enter into administrative services agreements with both UNUM and First UNUM under which, as of the Closing Date, Lincoln Life will be solely responsible for administering the UNUM Contracts, the First UNUM Contracts, the UNUM VA–1 Separate Account, and the First UNUM VA–1 Separate Account.

12. Additionally, Lincoln Life will enter into an indemnity reinsurance agreement (the "Lincoln Life Indemnity Agreement") with UNUM which provides for the indemnity reinsurance by Lincoln Life of the general account liabilities of UNUM with respect to the UNUM Non-NY Contracts as of the Closing Date, pending assumption of those contracts by Lincoln Life. Lincoln Life of NY will enter into similar indemnity reinsurance agreements with both UNUM and First UNUM with respect to the UNUM NY Contracts and the First UNUM Contracts (the "Lincoln Life of NY Indemnity Agreements," together with the Lincoln Life Indemnity Agreement, the "Indemnity Reinsurance Agreements").

13. Furthermore, Lincoln Life will enter into an assumption reinsurance agreement with UNUM pursuant to which Lincoln Life will assumptively reinsure all of UNUM's obligations under the UNUM Non-NY Contracts. Lincoln Life of NY will enter into virtually identical assumption reinsurance agreements with UNUM and First UNUM pursuant to which Lincoln Life of NY will assumptively reinsure all of UNUM's and First UNUM's obligations under the UNUM NY Contracts and the First UNUM Contracts, respectively. Upon novation, the assets supporting the variable benefits of the reinsured UNUM Non-NY Contracts will be transferred from the UNUM VA–1 Separate Account to Account L, which thereafter will support the relevant UNUM Non-NY Contracts; Lincoln Life will assume all obligations and liabilities of UNUM under those contracts. Similarly, all assets supporting the variable benefits of the reinsured UNUM NY Contracts and First UNUM Contracts will be transferred from the UNUM VA–1 Separate Account and the First UNUM VA–1 Separate Account, respectively, to Account L–NY, which thereafter will support the reinsured UNUM NY Contracts and First UNUM Contracts; Lincoln Life of NY will assume all obligations and liabilities of UNUM and First UNUM under those contracts. (The transactions implementing the various assumption reinsurance agreements described above are referred to herein collectively as the "Reinsurance Transactions.")

14. The Reinsurance Transactions are subject to certain state insurance regulatory approvals and, in certain states, may require the affirmative consent of contractholders and individual participants. Each UNUM and First UNUM contractholder (collectively, "Contractholders") will be given the right to opt-in or opt-out of the Reinsurance Transaction; these options will be described in a notice that will be sent to Contractholders. The notice will be accompanied by a rejection or acceptance form, a certificate of assumption, and a definitive prospectus for the applicable Lincoln Life Contract or Lincoln Life of NY Contract. The notice will: (i) state that the underlying assumption reinsurance transaction has been approved by the insurance departments of the domiciliary states of the insurance companies that are parties to the assumption reinsurance agreement; (ii) describe the options available to the Contractholder to either accept the transfer of the Contract from UNUM or First UNUM to Lincoln Life or Lincoln Life of NY as appropriate, or reject the proposed transfer by completing and returning the rejection form; and (iii) state that Lincoln Life will administer the Contract whether or not the Contractholder accepts the assumption reinsurance. If the Contractholder accepts the assumption reinsurance, a certificate notice, a rejection or acceptance form, a certificate of assumption, and a definitive prospectus for the applicable Lincoln Life Contract or Lincoln Life of NY Contract will be sent to each participant under the respective contract, giving those participants a similar opportunity to accept or reject the assumption reinsurance (*i.e.*, an "opt-out right").

15. Upon the assumption reinsurance of each UNUM Contract and First UNUM Contract (each now a "Novated Contract"), Lincoln Life or Lincoln Life on NY will assume all of UNUM's or First UNUM's liabilities under the Novated Contract. Any premiums from participants who do not opt-out of the Reinsurance Transactions will be sent directly to either Lincoln Life or Lincoln Life of NY for allocation to Account L or Account L–NY, as appropriate. If Contractholders or participants reject the assumption reinsurance, premiums will be sent to the UNUM VA–1 Separate Account or First UNUM VA–1 Separate Account, as appropriate. Accordingly, whether Contractholders or participants opt-in or opt-out of the Reinsurance Transactions, Contractholders will deal directly with Lincoln Life as the administrator for the UNUM Contracts and the First UNUM Contracts, as well as for the Lincoln Life Contracts and the Lincoln Life of NY Contracts.

16. The Novated Contracts will be identical to the relevant UNUM Contracts and First UNUM Contracts, but for the separate account supporting variable contract benefits and the identity of the depositor for such separate account. The same underlying funds will be available under the Novated Contracts as are available under the UNUM Contracts and the First UNUM Contracts. Lincoln Life will establish accumulation units in its separate account for the Novated Contracts with the same values as those in the UNUM VA–1 Separate Account for the UNUM Non-NY Contracts. Likewise, Lincoln Life of NY will establish accumulation units in its

separate account for the Novated Contracts with the same values as those in the UNUM VA–1 Separate Account for the UNUM NY Contracts.[2] Since the accumulation unit values will be based on the net asset values of the same underlying funds, and will reflect identical deductions for asset-based charges, the accumulation unit values of the UNUM VA–1 Separate Account for the UNUM Non-NY Contracts and the First UNUM VA–1 Separate Account for the First UNUM Contracts that are not assumed by Lincoln Life or Lincoln Life of NY will be identical to the corresponding values in Account L and Account L–NY for the Novated Contracts for each valuation period after the Reinsurance Transactions have been effected.

17. The Reinsurance Transactions will be carried out by transferring supporting underlying fund shares from the UNUM VA–1 Separate Account or First UNUM VA–1 Separate Account L or Account L–NY, as appropriate, as of the close of business on the day the reinsurance is effected. Therefore, there will be no interruption of investment of contract value in the underlying funds. No charge or expense will be incurred by the UNUM VA–1 Separate Account, the First UNUM VA–1 Separate Account, Account L, Account L–NY, or the underlying funds in connection with the transfer of shares of the underlying funds. Accordingly, the contract values under the Novated Contracts will be the same as they would have been under the corresponding UNUM Contracts and First UNUM Contracts had the Reinsurance Transactions not been effected. Finally, Lincoln Life and Lincoln Life of NY will not assess any charge as a result of the Reinsurance Transactions.

18. If either the Contractholder or participant exercises opt-out rights, the participant's interest in the UNUM Contract or the First UNUM Contract will not be reinsured with Lincoln Life or Lincoln Life of NY, and the assets supporting the variable benefits of such participant's interest in such contract will remain in either the UNUM VA–1 Separate Account or First UNUM VA–1 Separate Account, as appropriate. In that event, UNUM and First UNUM will continue to accept purchase payments under the terms of their respective contracts.

19. There will be no adverse tax consequences to Contractholders and participants as a result of the assumption reinsurance of the UNUM Contracts and the First UNUM Contracts or the exercise of any opt-out rights in connection with the Reinsurance Transactions.

20. UNUM has agreed to continue to issue its contracts in each state except New York for up to 18 months after the Closing Date in the event Lincoln Life has not received policy form approval or other necessary regulatory approvals to issue the Lincoln Life Contracts to the residents of a particular state. LNC will be the principal underwriter for such sales.

21. Lincoln Life and UNUM will enter into a coinsurance and assumption agreement (the "UNUM Coinsurance Agreement") which will provide for the indemnity reinsurance, on a coinsurance basis, by Lincoln Life of the general account obligations of UNUM under the UNUM Contracts issued in states where Lincoln Life has not yet received the necessary regulatory approvals to issue its Contracts (the "UNUM Coinsured Contracts"). Lincoln Life will assume by novation the UNUM Coinsured Contracts on a state-by-state basis as Lincoln Life receives the necessary regulatory approvals. Lincoln Life of NY will enter into a similar arrangement and coinsurance and assumption agreement with First UNUM (the "First UNUM Coinsurance Agreement"). (First UNUM Contracts issued under such an arrangement are referred to herein as the "First UNUM Coinsured Contracts.") LNC will be the principal underwriter of the First UNUM Coinsured Contracts. The First UNUM Coinsured Contracts will be assumed by Lincoln Life of NY as the necessary state approvals are obtained. When the UNUM Coinsured Contracts and First UNUM Coinsured Contracts and certificates thereunder are issued, the Contractholder and participants will consent to the assumption of the contract and certificate by Lincoln Life or Lincoln Life of NY.

Applicants' Legal Analysis and Conditions

Section 17(b) of the 1940 Act

1. Section 2(a)(3) of the 1940 Act defines "affiliated person" of another person to include any person directly or indirectly controlling, controlled by, or under common control with such other person. Section 2(a)(9) of the 1940 Act defines control as the power to exercise controlling influence over management or policies of a company. Section 17(a)(1) of the 1940 Act, in pertinent part, prohibits any affiliated person of or principal underwriter for a registered investment company, or any affiliated person of such a person, acting as principal, to knowingly sell to or purchase from such registered company any security or other property. Section 17(b) of the 1940 Act provides that a person may apply for an order of exemption from the provisions of Section 17(a) and that the Commission shall grant such an application if the evidence establishes that:

(i) the terms of the proposed transaction, including the conditions to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(ii) the proposed transaction is consistent with the policy of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the 1940 Act.

2. After the Closing Date, LNC will serve as principal underwriter for the UNUM VA–1 Separate Account and the First UNUM VA–1 Separate Account. Applicants submit that LNC and Lincoln Life, as wholly-owned subsidiaries of Lincoln National Corporation, may be deemed to be under common control for purposes of Section 2(a)(3) of the 1940 Act and, therefore, affiliates of one another. Similarly, Lincoln Life of NY, as an indirect wholly-owned subsidiary of Lincoln National Corporation, may be deemed to be under common control with LNC and, therefore, an affiliate of LNC. As such, Lincoln Life and Lincoln Life of NY, as affiliates of LNC, would be deemed for purposes of Section 17(a) to be affiliated persons of the principal underwriter of the UNUM VA–1 Separate Account and the First UNUM VA–1 Separate Account.

3. Because of these relationships, Applicants submit, the Reinsurance Transactions may be deemed to involve purchase and/or sale transactions between a registered investment company and an affiliated person of its principal underwriter in that the Reinsurance Transactions will be effected by a transfer of separate account assets (*i.e.*, shares of the underlying funds) from: (i) the UNUM VA–1 Separate Account to Account L with regard to the UNUM Non-NY Contracts and the UNUM Coinsured Contracts; (ii) the UNUM VA–1 Separate Account to Account L–NY with regard to the UNUM NY Contracts; and (iii) the First UNUM VA–1 Separate Account to Account L–NY with regard to the First UNUM Contracts and the First UNUM

[2] Applicants state that because of differences in accumulation unit values between the UNUM NY Contracts and the First UNUM Contracts, the accumulation unit values in Account L–NY will not correspond to the accumulation unit values in the First UNUM VA–1 Separate Account for the First UNUM Contracts. The number of accumulation units will be adjusted so that for the First UNUM Contracts that are reinsured, participant interests under such contracts will not be diluted as a result of the reinsurance.

Coinsured Contracts. Accordingly, Applicants suggest that these transfers may be prohibited by Section 17(a) of the 1940 Act in the absence of an exemption pursuant to Section 17(b) thereof, and note that none of the rules granting self-executing exemptions under Section 17(a) appear to be relevant to the Reinsurance Transactions.

4. Applicants state that the 1940 Act does not provide any specific standards or guidelines for the Commission to apply in determining whether a transaction being considered under Section 17(b) is reasonable and fair and does not involve overreaching. Applicants submit that the Reinsurance Transactions are reasonable and fair because: (i) the contractual rights of Contractholders and participants vis-a-vis the separate account supporting the variable benefits of their contracts will not change as a result of the Reinsurance Transactions; (ii) the same underlying funds will be available after the Reinsurance Transactions; (iii) no charges will be imposed in connection with effecting the Reinsurance Transactions; (iv) the charges under the contracts will not change after the Reinsurance Transactions; and (v) the respective operations and objectives of the Lincoln Life and Lincoln Life of NY separate accounts will be identical to the operations and objectives of the UNUM and First UNUM separate accounts.

5. Applicants assert that the Reinsurance Transactions do not involve overreaching on the part of any person concerned. Applicants represent that neither Lincoln Life nor Lincoln Life of NY will impose any charge in connection with the Reinsurance Transactions, and that participants' interests will not be diluted as a result of the Reinsurance Transactions. Applicants also note that the Reinsurance Transactions will have been subjected to regulatory approval in most states before being implemented.

6. Section 17(b) requires that the proposed transaction be consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act. Applicants represent that the UNUM VA–1 Separate Account, the First UNUM VA–1 Separate Account, Account L and Account L–NY have the same policies insofar as the Novated Contracts are concerned. In particular, Applicants represent that because the assets underlying the Novated Contracts will continue to be invested in shares of the same underlying funds—in the same manner and subject to the same rules—before and after the Reinsurance Transactions have been effected, the assets underlying the Novated Contracts will continue to be invested according to the investment policies recited in the registration statements for the UNUM Contracts and the First UNUM Contracts.

7. Applicants assert that the Reinsurance Transactions are consistent with the general purposes of the 1940 Act, and do not present any of the issues or abuses that Section 17(a), in particular, and the 1940 Act, in general, were designed to prevent. The interests of participants will not be adversely effected by the reinsurance of their contracts: the terms and provisions of the Novated Contracts will remain unchanged and participants' interests will be unaffected by the Reinsurance Transactions. Further, Contractholders and participants will be provided with the definitive prospectus for the Novated Contracts, and will thereby be informed about Lincoln Life, Lincoln Life of NY, and their respective separate accounts.

Section 11 of the 1940 Act

8. Section 11(a) of the 1940 Act provides, in relevant part, that it shall be unlawful for any registered open-end management investment company (a "fund") or its principal underwriter to make an offer to a shareholder of that fund or of another fund to exchange his or her security for a security in the same or another fund on a basis other than the relative net asset values of the securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or the offer compiles with the Commission's rules. Section 11(c) makes this prohibition applicable, regardless of the basis of the exchange, to any type of offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company. In other words, prior Commission approval is required for exchange offers subject to Section 11(c) even if made on the basis of relative net asset values.

9. Rule 11a–2 under the 1940 Act permits registered insurance company separate accounts and their principal underwriters to make certain exchange offers to holders of variable contracts supported by separate accounts having the same or an affiliated insurance company depositor or sponsor without prior Commission approval, provided that certain conditions are met. With respect to variable annuity contracts, these conditions require that: (i) the exchange be made on the basis of the relative net asset values of the securities to be exchanged (less any administrative fee disclosed in the offering account's registration statement and certain front-end sales loads); and (ii) any deferred sales loads which may be imposed be calculated and deducted to give full credit for the sales load paid under the exchanged security.

10. Applicants note that Section 11 does not set forth specific standards for Commission approval of exchange offers. Applicants maintain that the public policy underlying Section 11 may be inferred from Section 1(b)(1) of the 1940 Act, which declares that the national public interest and the interests of investors are adversely affected when, among other things, investors exchange securities issued by investment companies without "adequate, accurate, and explicit information, fairly presented, concerning the character of such securities and the circumstances, policies, and financial responsibility of such [investment] companies and their management." Applicants also maintain that the legislative history of the 1940 Act indicates that Section 11(a) is designed to provide assurance that exchange offers are not being proposed "solely for the purpose of exacting additional selling charges and profits" from investors by inducing them to "switch" one security for another.

11. Applicants represent that, as soon as practicable following the receipt of necessary state insurance department approvals and other regulatory approvals: UNUM will transfer its liabilities under the UNUM Non-NY Contracts and the UNUM Coinsured Contracts to Lincoln Life pursuant to assumption reinsurance agreements and the UNUM Coinsurance Agreement; UNUM will transfer its liabilities under the UNUM NY Contracts to Lincoln Life of NY pursuant to an assumption reinsurance agreement; and First UNUM will transfer its liabilities under the First UNUM Contracts and the First UNUM Coinsured Contracts to Lincoln Life of NY pursuant to an assumption reinsurance agreement and the First UNUM Coinsurance Agreement.

12. Applicants state that for participants who opt-in or are deemed to have opted-in to the Reinsurance Transactions, assets held in the UNUM VA–1 Separate Account will be transferred to Account L or Account L–NY, as appropriate, and assets held in the First UNUM VA–1 Separate Account will be transferred to Account L–NY. Thus, Applicants submit, a participant under a UNUM Non-NY Contract or a UNUM Coinsured Contract who opts-in or is deemed to have opted-in to the Reinsurance Transactions, in effect, will be exchanging his or her interest in such

contracts for a Lincoln Life Contract, and a participant under a UNUM NY Contract who opts-in or is deemed to have opted-in to the Reinsurance Transactions, in effect, will be exchanging his or her interest in a UNUM NY Contract for a Lincoln Life of NY Contract. Likewise, Applicants submit, the participant under a First UNUM Contract or a First UNUM Coinsured Contract who opt-in or is deemed to have opted-in to the Reinsurance Transactions, in effect, will be exchanging his or her interest in a First UNUM Contract or a First UNUM Coinsured Contract for an interest in a Lincoln Life of NY Contract. Applicants state that the granting of a right to make an election to opt-in or opt-out of the Reinsurance Transactions may be considered an offer to exchange securities of one unit investment trust for another unit investment trust, for purposes of Section 11 of the 1940 Act.

13. Applicants represent that the terms of the exchange offers proposed herein do not involve any of the practices Section 11 of the 1940 Act was designed to prevent, and are fair to Contractholders and participants, because: (i) participants will be fully apprised of their rights in connection with the exchange offers and will receive definitive prospectuses for the relevant Lincoln Life Contract or Lincoln Life of NY Contract; (ii) no charges will be imposed in connection with effecting the exchanges and, therefore, the exchanges will be made on the basis of the relative net asset value; (iii) participants who opt-in to the Reinsurance Transactions will have their interests assumptively reinsured under a materially similar Lincoln Life Contract or Lincoln Life of NY Contract with an identical sales charge structure; (iv) when appropriate, participants under a UNUM Contract or First UNUM Contract will receive credit for the time invested in such contract for purposes of determining any applicable sales charge under the corresponding Lincoln Life Contract or Lincoln Life of NY Contract; (v) the same underlying funds will be available upon reinsurance and, thus, there will be no interruption in the underlying funds serving as an investment media for the contracts; and (vi) participants who do not wish to accept the assumption reinsurance by Lincoln Life or Lincoln Life of NY may elect to opt-out of the Reinsurance Transactions, and their existing contractual rights under the UNUM Contract or First UNUM Contract will remain unchanged. Applicants also assert that there will be no adverse tax consequences to Contractholders and participants as a result of the assumption reinsurance of their contracts or the exercise of any opt-out rights in connection with the proposed exchange offers.

14. Applicants submit that if, through common ownership, UNUM were affiliated with Lincoln Life and UNUM and First UNUM were affiliated with Lincoln Life of NY, Rule 11a–2 would permit the proposed exchange offers to be made without the prior approval of the Commission. Applicants submit that the proposed exchange offers between non-affiliates—which would be permitted under Rule 11a–2 if the companies were affiliated—should not be held to a more stringent standard than Rule 11a–2.

Conclusion

For the reasons set forth above, Applicants represent that the requested exemptions satisfy the standards of Section 17(b) of the 1940 Act, and that the terms of the proposed exchange offers satisfy the standards of Section 11 of the 1940 Act. Applicants, therefore, request that the Commission issue an order granting the requested exemptions and approving the proposed exchange offers.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22626 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meeting

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be Published].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: To be Published.

CHANGE IN THE MEETING: Cancellation.

The closed meeting scheduled for Thursday, September 5, 1996, at 10:00 a.m., has been cancelled.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: August 30, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22722 Filed 8–30–96; 4:25 pm]

BILLING CODE 8010–01–M

[Release No. 34–37621; File No. SR–CBOE–96–49]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Permitting Additional Submissions Following Respondent's Petition for Review

August 29, 1996.

On July 23, 1996, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder.[2] The proposed rule change amends Exchange Fule 17.10 which governs the review of Business Conduct Committee ("BCC") decisions by the Exchange's Board of Directors ("Board"). Notice of the proposed rule change, together with the substance of the proposal, was issued by Commission release (Securities Exchange Act Release No. 37473, July 23, 1996) and by publication in the **Federal Register** (61 FR 39685, July 30, 1996).[3] No comment letters were received. The Commission is approving the proposed rule change.

I. Background

The purpose of the proposed change to Exchange Rule 17.10 is to formalize the current practice whereby the Board has permitted one additional submission by both Exchange staff and Respondent following Respondent's petition for review. Presently, the Rule does not provide for any subsequent submissions following a Respondent's appeal of a BCC decision to the Board.

II. The Terms of Substance of the Proposed Rule Change

The proposed rule change provides that, after a Respondent appeals a BCC decision to the Board, Exchange staff may submit a written response to which the Respondent may submit a reply. The proposed rule change requires the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change was originally filed with the Commission on July 11, 1996. The CBOE subsequently submitted Amendment No. 1 to the filing. Letter from Michael L. Meyer, Schiff, Hardin & Waite, to Katherine England, Assistant Director, Division of Market Regulation, SEC, dated July 19, 1996.

Exchange staff's response to be filed within 15 days of the date the Respondent's request for review is filed with the Secretary of the Exchange and the Respondent's reply to be filed within 15 days of service of staff's response. In addition, the proposed rule change clarifies that the Respondent's petition for review and Respondent's reply should be filed with the Secretary of the Exchange and the Exchange's Office of Enforcement.

III. Discussion

The Commission believes the proposed rule change is consistent with Section 6 of the Act, in general, and Section 6(b)(7) in particular in that it provides a fair procedure for the disciplining of members and persons associated with members. The Commission believes the proposed rule change will make the review process more fair and efficient by formalizing the current appeal practice to ensure that both parties have the opportunity to make an additional submission to the Board and by clarifying with which office of the Exchange the petition for review should be filed. The proposed rule change will ensure a more fair and thorough process because each party will have an opportunity to clarify its position to the Board on the specific issues of contention addressed in the petition for review. As is the case under the current rules, the proposed rule change will ensure that the Respondent ordinarily will have the opportunity to make the final submission to the Board. In addition, the proposed rule change will reduce the amount of time the Board spends on administrative matters by eliminating the need for the staff to request approval before the submission of each response.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR–CBOE–96–49 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22629 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37617; File No. SR–DTC–96–14]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Permanent Approval of a Proposed Rule Change Relating to Procedures for Inter-Depository Deliveries

August 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 11, 1996, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–96–14) as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant permanent approval of the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks permanent approval of DTC's existing procedures for deliveries through the interface between DTC and the Philadelphia Depository Trust Company ("Philadep"). The Commission previously granted temporary approval to a proposed rule change establishing DTC's procedures for inter-depository deliveries as part of the conversion of DTC's money settlement system to an entirely same-day funds settlement system.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change seeks permanent approval of the procedures for deliveries through the interface between DTC and Philadep. The Commission previously granted temporary approval of the inter-depository delivery procedures to allow DTC to implement the procedure so it could monitor and report to the Commission the number of inter-depository reversals of deliveries that caused a DTC participant's net debit cap to be exceeded.

When processing a participant's delivery to Philadep, DTC employs an immediate update technique whereby the delivering participant's security position, collateral, and settlement account are immediately updated if the delivering participant has sufficient securities and collateral to allow the delivery to be completed. The delivering participant's position is reduced by the quantity of securities delivered, its settlement account is credited for the settlement value of the transaction, and its collateral monitor is increased by the settlement credit incurred and is reduced by the collateral value of the securities delivered (provided the securities being delivered are part of the participant's collateral position).

Once the delivery satisfies risk management controls and completes at DTC (*i.e.*, the participant has sufficient securities to make the delivery and the participant's collateral monitor will not become negative because of the delivery), DTC sends the delivery to Philadep where it is subject to Philadep's internal risk management controls. In certain instances, Philadep's internal risk management controls will prevent a delivery from completing (*e.g.*, the receiving participant does not have sufficient collateral or the receipt would cause the participant to exceed its net debit cap) and will cause the delivery to pend in Philadep's system. At the end of each processing day, Philadep returns to DTC delivery orders that fail to complete in Philadep's system, and DTC reverses the deliveries to the original delivering participants.

Reversals from Philadep are processed at DTC until approximately 3:37 P.M. DTC's reversals are not subject to its Receiver-Authorized Delivery ("RAD") processing[4] or other risk management

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 36861 (February 20, 1996), 61 FR 287 [File No. SR–DTC–95–21] (order granting temporary approval of a proposed rule change on a temporary basis through August 31, 1996).

[3] The Commission has modified the text of the summaries submitted by DTC.

[4] RAD allows a participant to review and either approve or cancel incoming deliveries before they are processed in DTC's system. For a further discussion of DTC's RAD procedures, refer to

Continued

controls (*i.e.*, net debit cap and collateral monitor).

As expected, the number of deliveries through the interface from DTC to Philadep have been low. Consequently, the number of reversals to such deliveries also have been low. During the five month period from March 1, 1996, through July 31, 1996, there were an average of 5,706 deliveries (both valued deliveries and free deliveries) each day from DTC to Philadep through the interface. During that five month period, DTC reversed a total of twenty-three deliveries back to its participants. Of those twenty-three reversals, the largest reversal had a settlement value of $5,640,372, and the remaining twenty-two reversals had an aggregate settlement value of $2,307,547. None of the twenty-three reversals caused a DTC participant to violate its net debit cap.

DTC believes the proposed rule change is consistent with Section 17A of the Act[5] and the rules and regulations thereunder because the proposed rule change will contribute to efficiencies in processing deliveries in the interface between DTC and Philadep. DTC also believes the proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because the proposed rule change has operated safely pursuant to the Commission's temporary approval on February 20, 1996.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

All participants were informed of the proposed rule change by a DTC Important Notice.[6] Written comments from DTC's participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[7] requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that DTC's proposed procedures relating to inter-depository deliveries are consistent with DTC's obligations under Section 17A(b)(3)(F) because the proposed rule change establishes procedures for the processing of inter-depository deliveries between DTC and Philadep.

Under the proposed procedures, DTC will immediately update a participant's account for deliver orders and payment orders sent to a Philadep participant through the interface. In the event that the delivery fails to complete at Philadep by the end of the day, the procedures provide a mechanism by which DTC will reverse the transaction to the original delivering participant without subjecting that reversal to RAD or risk management controls.

Because the Commission was concerned that the inter-depository delivery procedures could create the situation where an inter-depository reversal arising from an uncompleted delivery at Philadep would cause a DTC participant to violate its net debit cap at DTC near the end of the day, the Commission previously approved the proposed rule change on a temporary basis in order that the procedures and their effects could be carefully monitored and modified if needed before they were permanently approved. During the temporary approval period, there were only twenty-three inter-depository deliveries reversed back to DTC participants, and none of those twenty-three reversals caused a DTC participant to violate its net debit cap. Therefore, the Commission is permanently approving DTC's inter-depository delivery procedures. However, the Commission continues to encourage DTC to examine and to consider future enhancements to the interface to provide a mechanism through which DTC participants can receive notification of transactions pending at Philadep.[8] In this regard, DTC must report to the Commission on a quarterly basis the number and extent of inter-depository reversals that caused DTC participants to violate their net debit caps by $1 million or more.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because the Commission has previously noticed the procedures without receiving any comment letters and because accelerated approval will allow DTC to continue to utilize the procedures for deliveries between DTC and Philadep participants through the interface without any disruption when the current temporary approval expires on August 31, 1996.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR–DTC–96–14 and should be submitted by September 26, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–96–14) be, and hereby is, permanently approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22630 Filed 9–4–96; 8:45 am]

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Securities Exchange Act Release No. 25886 (July 6, 1988), [File No. SR–DTC–88–07] (notice of filing and immediate effectiveness of a proposed rule change implementing DTC's RAD procedures).

[5] 15 U.S.C. § 78q-1 (1988).

[6] DTC Important Notice (January 9, 1996).

[7] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[8] The Commission understands that such enhancements were considered but were not initiated because of the costs involved and because of the low number of inter-depository reversals that were expected. However, the Commission believes if the number of inter-depository reversals substantially increases, DTC should implement such enhancements or take other steps to control the risks created by inter-depository reversals.

[9] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37616; File Nos. SR–MBSCC–96–02; SR–GSCC–96–03, and SR–ISCC–96–04]

Self-Regulatory Organizations; MBS Clearing Corporation, Government Securities Clearing Corporation, and International Securities Clearing Corporation; Order Approving Proposed Rule Changes Seeking Authority to Enter Into Limited Cross-Guarantee Agreements

August 28, 1996.

On April 11, 1996, May 10, 1996, and May 16, 1996, the MBS Clearing Corporation ("MBSCC"), the Government Securities Clearing Corporation ("GSCC"), and the International Securities Clearing Corporation ("ISCC") (collectively referred to as the "clearing corporations"), respectively, filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (File Nos. SR–MBSCC–96–02, SR–GSCC–96–03, and SR–ISCC–96–04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On May 13, 1996, GSCC filed an amendment to the proposed rule change to a change the specific rule numbers used in the proposed rule change.[2] On July 2, 1996 and on July 8, 1996, ISCC and GSCC, respectively, filed amendments to their proposed rule changes to make certain technical corrections.[3] Notice of the proposed rule changes was published in the **Federal Register** on July 15, 1996.[4] The Commission received no comments. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposals

The purpose of the proposed rule change is to modify the clearing corporations' rules to enable them to enter into limited cross-guarantee agreements with other clearing agencies. Generally, limited cross-guarantee agreements contain a guarantee from one clearing agency to another clearing agency that can be invoked in the event of a default of a common member. The guarantee provides that resources of a defaulting common member remaining after the defaulting common member's obligations to the guaranteeing clearing agency have been satisfied will be used to satisfy the obligations of the defaulting common member that remain unsatisfied at the other clearing agency. The guarantee is limited to the amount of a defaulting common member's resources remaining at the guaranteeing clearing agency.

Generally, limited cross-guarantee agreements should be beneficial to the clearing corporations because amounts available under limited cross-guarantee agreements may be applied to unpaid obligations of the defaulting participant. With regard to GSCC, these amounts may reduce possible pro rata allocations against original counterparties of the defaulting participant. Similarly, these amounts available to ISCC may reduce the possibility of pro rata charges against its clearing fund. Furthermore, even though MBSCC does not mutualize risk, these amounts may reduce allocations against and losses of the original contrasides of a defaulting participant.

The benefits generally accruing to the clearing corporations from a limited cross-guarantee agreement are illustrated by the following example:

Dealer A, a common participant of Clearing Agency X and Clearing Agency Y, declares bankruptcy. Upon insolvency, Dealer A owes Clearing Agency Y $10 million and Clearing Agency X owes A $7 million. In the absence of an interclearing agency limited cross-guarantee agreement, Clearing Agency X would be obligated to pay $7 million to Dealer A's bankruptcy estate and Clearing Agency Y would have a claim for $10 million against Dealer A's bankruptcy estate as a general creditor with no assurance as to the extent of recovery. However, an effective cross-guarantee arrangement would obligate Clearing Agency X to pay Clearing Agency Y an amount equal to Dealer A's $7 million receivable from Clearing Agency X thereby reducing Clearing Agency Y's net exposure from to $10 million to $3 million. This approach would enable Clearing Agency Y to secure earlier payment and would allow Clearing Agency X to fulfill its obligations without making an actual payment to Dealer A's bankruptcy estate.

The benefits specifically accruing to MBSCC from a limited cross-guarantee agreement are illustrated by the following example:

A sells to B who sells to C. A also sells to X who sells to Y; and A also sells to Q. B and X net out, leaving obligations of A owing to C, Y, and Q. A becomes insolvent. Under MBSCC's rules, if A's participants fund contribution is not adequate to cover the aggregate of C's and Y's losses, then B, X, and Q as original contrasides would be responsible for covering such losses. However, before allocating C's and Y's aggregate loss to B, X, and Q, MBSCC may obtain resources under a limited cross-guarantee agreement to reduce, if not eliminate, the amount of such allocations. If those resources are sufficient to satisfy C's and Y's losses, any remaining funds would also be available for the satisfaction of Q's losses.

The limited cross-guarantee agreements are designed to preserve substantial flexibility to the counterparty clearing corporation. The agreements will provide a list of all the limited cross-guarantee agreements to which the clearing agencies are a party, including the counterparties to those agreements. The agreements will set forth the clearing agency's priority structure with respect to the order in which it will make guarantee payments to its counterparty clearing agencies (if more than one exist) in the event of a defaulting common participant. GSCC intends to prioritize its counterparty clearing agencies in the following manner: (1) pro rata to those counterparty clearing agencies with a transactional nexus to GSCC; (2) the National Securities Clearing Corporation; and (3) pro rata to all other counterparty clearing agencies.[5]

An additional source of flexibility in a limited cross-guarantee agreement is the length of time within which a demand for payment must be made. This period is negotiated and agreed to by the counterparty clearing agencies. GSCC believes that an appropriated time period for this purpose is six months.[6] During this six month period, the limited cross-guarantee agreement would permit recalculations of each clearing agency's available resources and losses.

Accordingly, GSCC's proposed rule change modifies GSCC's rules to establish GSCC to enter into one or more limited cross-guarantee agreements. Proposed GSCC Rule 41 governing limited cross-guarantee agreements provides that a participant is obligated to GSCC for any guarantee payment that GSCC is required to make to a clearing agency pursuant to the terms of any limited cross-guarantee agreement. GSCC's Rule 41 and the proposed modifications to Rule 4, Section 8 provide that amounts received by GSCC under any limited cross-guarantee agreement will be applied to the common participant's unpaid obligations to GSCC and will reduce assessments against original counterparties of the defaulting

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Karen Walraven, Vice President and Associate Counsel, GSCC, to Jerry Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (May 13, 1996).

[3] Letter from Julie Beyers, ISCC, to Peter Geraghty, Special Counsel, Division, Commission (July 1, 1996) and letter from Karen Walraven, Vice President and Associate Counsel, GSCC, to Peter Geraghty, Special Counsel, Division, Commission (July 2, 1996).

[4] Securities Exchange Act Release No. 37413 (July 9, 1996), 61 FR 1199.

[5] At this time, MBSCC and ISCC have not determined the priority structures of their limited cross-guarantee agreements.

[6] At this time, MBSCC and ISCC have not determined a specific recovery period for their limited cross-guarantee agreements.

participant. The proposed rule change also modifies GSCC's Rule 1 to add definitions of the terms "common member," "cross-guarantee obligation," "cross-guarantee party," "defaulting common member," "defaulting member," and "limited cross-guarantee agreement." GSCC also is proposing to amend Rule 4, Section 6 to clarify that liabilities of GSCC include limited cross-guarantee payments made to a counterparty clearing agency pursuant to a limited cross-guarantee agreement.[7]

MBSCC's proposed rule change will add new Rule 4 to Article III of MBSCC's rules. The new rule will enable MBSCC to enter into one or more limited cross-guarantee agreements. The new rule provides that a former participant[8] is obligated to MBSCC for any guarantee payment MBSCC is required to make to a clearing agency pursuant to the terms of any limited cross-guarantee agreement. The new rule also provides that amounts received by MBSCC under any limited cross-guarantee agreement will be applied to unpaid obligations of the former participant to MBSCC and to reduce assessments against and losses of original contraside participants. A technical modification will be made to renumber current Rule 4 of Article III as Rule 5. MBSCC's proposed rule change also modifies Rule 1 of Article I of MBSCC's rules to add definitions of the terms "limited cross-guarantee agreement," "cross-guarantee obligation," and "cross-guarantee party." MBSCC's proposed rule change also modifies Chapter VI of MBSCC's procedures relating to application of the participants fund to reflect that amounts received by MBSCC under any limited cross-guarantee agreement will be applied to unpaid obligations of a former participant of MBSCC and to reduce assessments against and losses of original contraside participants.[9]

ISCC's proposed rule change will add new Rule 13 to ISCC's rules. The new rule provides that an ISCC member is obligated to ISCC for any guarantee payment ISCC is required to make to a clearing agency pursuant to the terms of any limited cross-guarantee agreement. ISCC's proposed rule change also modifies ISCC's rules to indicate that amounts available to satisfy aggregate losses will include amounts available under limited cross-guarantee agreements. ISCC's proposal also modifies ISCC's Rule 1 to add definitions of the terms "limited cross-guaranty agreement," "cross-guaranty obligation," and "cross-guaranty party."[10]

II. Discussion

Section 17A(b)(3)(F) of the Act[11] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes the proposals are consistent with each clearing corporation's obligation to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible because cross-guarantee agreements among clearing agencies are a method of reducing clearing agencies' risk of loss due to a common member's default. Furthermore, the Commission has encouraged the use of cross-guarantee agreements and other similar arrangements among clearing agencies.[12] Consequently, cross-guarantee agreements should assist clearing agencies in assuring the safeguarding of securities and funds in their custody or control.

The Commission also believes the proposals are consistent with each clearing corporation's obligation to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that by entering into such cross-guarantee agreements, clearing corporations can mitigate the systemic risks posed to an individual clearing corporation and to the national clearance and settlement system as a result of a defaulting common member.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with the requirements of the Act, and in particular with Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–MBSCC–96–02, SR–GSCC–96–03, and SR–ISCC–96–04) be, and hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22580 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37622; File No. SR–OCC–96–10]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Laptop Version of the Enhanced Clearing Member Interface Platform

August 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 18, 1996, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC's rules and schedule of fees to provide a laptop version of the Enhanced Clearing Member Interface ("ECMI") platform.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these

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[7] The definitions of the terms described above as well as the specific changes to GSCC's rules and procedures are attached as Exhibit A to GSCC's proposed rule change which is available through GSCC or through the Commission's public reference room.

[8] Under Section 10 of Rule 3 of Article III of MBSCC's rules, the term "former participant" is defined as a participant for whom MBSCC has ceased to act pursuant to Sections 1 and 2 of Rule 3 of Article III.

[9] The definitions of the terms described above as well as the specific changes to MBSCC's rules and procedures are attached as Exhibit A to MBSCC's proposed rule change which is available through MBSCC or through the Commission's public reference room.

[10] The definitions of the terms described above as well as the specific changes to ISCC's rules and procedures are attached as Exhibit A to ISCC's proposed rule change which is available through ISCC or through the Commission's public reference room.

[11] 15 U.S.C. § 78q-1(b)(3)(F) (1988).

[12] *E.g.*, Securities Exchange Act Release Nos. 36431 (October 27, 1995), 60 FR 55749 [File No. SR–GSCC–95–03] and 36597 (December 15, 1995), 60 FR 66570 [File No. SR–MBSCC–95–05] (orders approving proposed rule changes authorizing the release of clearing data relating to participants).

[13] 17 CFR 200.30–3 (a)(12) (1995).

[1] 15 U.S.C. 78s(b)(1) (1988).

statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC currently leases ECMI equipment[3] to clearing members which is configured so that clearing members may interface with OCC via OCC's Clearing/Management and Control System ("C/MACS").[4] That equipment currently operates on a desktop platform, and OCC's rules require that the equipment used to enter information to OCC and to receive reports from OCC be located in a clearing member's office. Clearing members have now requested that they be permitted to interface with OCC via laptop computers, and OCC has determined to permit the use of laptop computers outside of a clearing member's office. Because expirations require clearing members' personnel to perform C/MACS entry and approval after normal business hours, the ability to sign on from home and to complete the entry and approval process would produce both cost savings and convenience for clearing members. OCC proposes to lease such equipment to clearing members for a monthly fee of $250 per laptop and $50 per month for an optional printer. These proposed fees are based on OCC's costs of obtaining the equipment. Accordingly, OCC would amend its schedule of fees to reflect these monthly fees.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[5] in that it creates the opportunity for more efficient means of communication between OCC and its clearing members, and it allocates reasonable fees in an equitable manner among OCC's clearing members in that the proposed fees reflect OCC's current costs of providing the ECMI configuration to its clearing members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(e)(2)[7] thereunder in that the proposed rule change establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–96–10 and should be submitted by September 26, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22627 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified such summaries.

[3] ECMI permits clearing members, among other things, to input post-trade transactions via OCC's Clearing Management and Control System, to retrieve clearing reports via OCC's on-line report inquiry service, and to review information memoranda and other notices via OCC's Option News Network service. Securities Exchange Act Release No. 32366 (May 25, 1993), 58 FR 31435 [File No. SR–OCC–93–11] (notice of filing and immediate effectiveness of proposed rule change).

[4] C/MACS is an on-line, menu-driven system that allows OCC member firms to access or input trade information directly from or to OCC's clearing systems.

[5] 15 U.S.C. 78q–1 (1988).

[6] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[7] 17 CFR 240.19.b–4(e)(2) (1995).

[Release No. 34–37618; File No. SR–OCC–96–07]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Other Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to Revisions to the Standards for Letters of Credit Deposited as Margin

August 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 21, 1996, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice and other to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through June 30, 1997.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends the Commission's previous temporary approval of the OCC's modifications that relate to OCC's standards for letters of credit deposited with OCC as margin. In general, OCC requires that letters of credit deposited by clearing members as margin with OCC be irrevocable and unless otherwise permitted by OCC expire on a quarterly basis. In addition, OCC may draw upon a letter of credit regardless of whether the clearing member has been suspended or has defaulted on any obligation to OCC if OCC determines that such action is advisable to protect OCC, other clearing members, or the general public.[2]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] For a complete description of these modifications to the standards for letters of credit, refer to Securities Exchange Act Release No. 29641, (August 30, 1991), 56 FR 46027 [File No. SR–OCC–91–13] (order temporarily approving proposed rule change through February 28, 1992).

II. Self-Regulatory Organization's State of the Purpose, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In previous filings OCC has proposed and the Commission has approved on a temporary basis the modification of the rules governing letters of credit deposited with OCC as a form of margin.[4] Like the previous filings, this filing proposes several modifications to OCC Rule 604, Forms of Margin. First, in order to conform to the Uniform Commercial Code and to avoid any ambiguity as to the latest time for honoring demands upon letters of credit, letters of credit must state expressly that payment must be made prior to the close of business on the third banking day following demand. Second, letters of credit must be irrevocable. Third, letters of credit must expire on a quarterly basis. Fourth, OCC included language in its rules to make explicit its authority to draw upon letters of credit at any time, whether or not the clearing member that deposited the letter of credit has been suspended or is in default, if OCC determines that such draws are advisable to protect OCC, other clearing members, or the general public.[5]

OCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act because the proposed rule change promotes the protection of investors by enhancing OCC's ability to safeguard the securities and funds in its custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[6] of the Act requires the rules of a clearing agency be designed to assure the safeguarding of securities and funds in its custody or control or for which it is responsible. The Commission believes the proposed rule change is consistent with OCC's obligations under Section 17A(b)(3)(F) because the modified standards for letters of credit will enable OCC to draw upon a letter of credit at any time that OCC determines that such a draw is advisable to protect OCC, the clearing members, or the general public. This ability increases the liquidity of its margin deposits by enabling OCC to substitute cash collateral for a clearing member's letter of credit and consequently will permit OCC to rely more safely upon such letters of credit. In addition, by eliminating the issuer's right to revoke the letter of credit, an issuer will no longer be able to revoke a letter of credit at a time when the clearing member is experiencing financial difficulty and most needs credit facilities. Finally, requiring that the letters of credit expire quarterly rather than annually will result in the issuers conducting more frequent credit reviews of the clearing members for whom the letters of credit are issued. More frequently credit reviews will facilitate the discovery of any adverse developments in a more timely manner.

Although OCC has asked for permanent approval of the proposed rule change, the Commission believes that by approving the proposed rule change on a temporary basis through June 30, 1997, OCC, the Commission and other interested parties will be able to assess further, prior to permanent Commission approval, any effects the revised standards have on letter of credit issuance and on margin deposited at OCC.[5]

OCC has requested that the Commission find good cause for approving the proposed rule change on an accelerated basis prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will allow the changes that have been implemented pursuant to the previous temporary approval order to remain in place during the further assessment of any effects the revised standards have on the issuance of letters of credit and on margin deposited at OCC pending permanent approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for

[3] The Commission has modified the text of the summaries prepared by OCC.

[4] Securities Exchange Act Release Nos. 29641 (August 30, 1991), 56 FR 46027 [File No. SR–OCC–91–13] (order temporarily approving proposed rule change through February 28, 1992); 30424 (February 28, 1992), 57 FR 8160 [File No. SR–OCC–92–06] (order temporarily approving proposed rule change through May 31, 1992); 30763 (June 1, 1992); 57 FR 242884 [File No. SR–OCC–92–11] (order temporarily approving proposed rule change through August 31, 1992); 31126 (September 1, 1992), 57 FR 40925 [File No. SR–OCC–92–19] (order temporarily approving proposed rule change through December 31, 1992); 31614 (December 17, 1992), 57 FR 61142 [File No. SR–OCC–92–37] (order temporarily approving proposed rule change through June 30, 1993); 32532 (June 28, 1993) [File No. SR–OCC–93–14] (order temporarily approving proposed rule change through June 30, 1994), 34206 (June 13, 1994) [File No. SR–OCC–94–06] (order temporarily approving proposed rule change through June 30, 1995); and 36138 (August 23, 1995), 60 FR 44926 [File No. SR–OCC–95–9] (order temporarily approving proposed rule change through June 28, 1996).

[5] *Supra* note 2.

[6] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[5] The Commission and OCC continue to discuss concentration limits on letters of credit deposited as margin. The Commission believes that clearing agencies that accept letters of credit as margin deposits or clearing fund contributions should limit their exposure by imposing concentration limits on the use of letters of credit. Generally, clearing agencies impose limitations on the percentage of an individual member's required deposit or contribution that may be satisfied with letters of credit, limitations on the percentage of the total required deposits or contributions that may be satisfied with letters of credit by any one issuer, or some combination of both. OCC has no concentration limits on the use of letters of credit issued by U.S. institutions.

inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR–OCC–96–07 and should be submitted by September 26, 1996.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with Section 17A(b)(3)(F) of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–96–07) be, and hereby is, approved on a temporary basis through June 30, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22628 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37604; File No. SR–PSE–96–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to the Closing Time for Trading of Equity Options and Index Options

August 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 11, 1996, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or "Exchange") is proposing to amend its rules to change its closing time for options trading from 1:10 p.m. Pacific Time[2] to 1:05 p.m. for equity options, and from 1:15 p.m. to 1:10 p.m. for index options. The Exchange is also proposing to change certain related rules on closing rotations and the submission of exercise notices for index options. The text of the proposed rule change is available at the Office of the Secretary, PSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PSE Rule 4.2, Commentary .01 currently provides that the Board of Governors has resolved that transactions may be effected on the Options Floor of the Exchange until 1:10 p.m. for equity options[3] and until 1:15 p.m. for index options[4] each business day at which time no further transactions may be made. The Exchange is proposing to change the 1:10 p.m. closing time for equity options to 1:05 p.m., and to change the 1:15 p.m. closing time for index options[5] to 1:10 p.m.

The Exchange is proposing this modification so that the closing time for options trading will be closer to the closing time in the securities underlying those options.[6] The extended trading session for options initially was intended to ensure that options traders would be able to respond to the tape "runoff" in the equity markets (i.e., prints of stock trades that occurred just before the closing bell, but that were not reported over the tape until several minutes after the close of trading.[7] If such a trade resulted in a closing price that was materially different from the price at which the stock had been trading previously, the extended trading session allowed options traders the opportunity to bring their options quotes into line with the closing price in the underlying security.[8] However, because of improvements to the processing of transactions at the equity markets, there is no longer any significant tape runoff.[9]

With regard to closing rotations,[10] PSE Rule 6.64, Commentary .01(b) currently provides that transactions may be effected in a class of options after 1:10 p.m. if they occur during a trading rotation. It states that such a trading rotation may be employed in connection with the opening or reopening of trading in the underlying security after 12:30 p.m. or due to the declaration of a "fast market" pursuant to Options Floor Procedure Advice G–9. It further provides that the decision to employ a trading rotation after 12:30 p.m. shall be publicly announced on the trading floor prior to the commencement of such rotation, and that no more than one trading rotation may be commenced after 1:10 p.m. Further, it states that if a trading rotation is in progress and Floor Officials determine that a final trading rotation is needed to assure a fair and orderly close, the rotation in progress shall be halted and a final rotation begun as promptly as possible after 1:10 p.m. Finally, it states that any

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[6] 17 CFR 200.30–3(a)(12) (1996).

[1] 15 U.S.C. § 78s(b)(1).

[2] All times referred to in this filing are Pacific Time unless otherwise indicated.

[3] The extension of the trading hours for equity options by ten minutes until 4:10 p.m. Eastern Standard Time ("E.S.T.") by the American Stock Exchange ("Amex"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the Midwest Stock Exchange, Incorporated ("MSE") (now known as the Chicago Stock Exchange, Inc. ("CHX")), Pacific Stock Exchange Incorporated ("PSE"), and the Philadelphia Stock Exchange, Inc. ("PHLX") (collectively referred to as the "options exchanges") was initially approved by the Commission on a trial basis for a four month period beginning in Oct. 23, 1978 and extending through Feb. 28, 1979. Securities Exchange Release No. 15241 (Oct. 18, 1978), 43 FR 49867 (Oct. 25, 1978) (order approving File Nos. SR–Amex–78–22, SR–CBOE–78–30, SR–MSE–78–26, SR–PSE–78–17, and SR–PHLX–78–18). The Commission approved the continued use by the options exchanges of the existing 4:10 p.m. (E.S.T.) closing time for standardized equity options trading through Apr. 28, 1979. Securities Exchange Act Release No. 15593 (Feb. 28, 1979), 44 FR 12525 (Mar. 7, 1979) (order approving File Nos. SR–Amex–79–3, SR–CBOE–79–1, SR–MSE–79–7, SR–PSE–79–1, and SR–PHLX–79–1). The Commission has since then approved on a permanent basis the closing of equity options trading on the options exchanges at 4:10 p.m. (E.S.T.). Securities Exchange Act Release No. 15765 (Apr. 27, 1979), 44 FR 26819 (May 7, 1979) (order approving File Nos. SR–Amex–79–6, SR–CBOE–79–4, SR–MSE–79–11, SRPSE–79–3, and SR–PHLX–79–4).

[4] Securities Exchange Act Release No. 23795 (Nov. 12, 1986), 51 FR 41884 (Nov. 19, 1986).

[5] The PSE currently trades options on two separate broad-based indexes, the PSE High Technology Index and the Wilshire Small Cap Index. *See* Securities Exchange Release Nos. 20423 (Nov. 29, 1996), 48 FR 54557 (Dec. 5, 1983) (order approving File No. SR–PSE–83–10) and 31043 (Aug. 14, 1992), 57 FR 38078 (Aug. 21, 1992) (order approving File No. SR–PSE–92–12).

[6] Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to George A. Villasana, Attorney, SEC dated August 20, 1996.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] A closing rotation is a trading procedure used to determine appropriate closing prices or quotes for each series of options on an underlying stock.

trading rotation conducted after 1:10 p.m. may not begin until ten minutes after news of such rotation is disseminated. The Exchange is proposing to change all references to 1:10 p.m. in this Commentary to 1:05 p.m.

With regard to the exercise of index option contracts, PSE Rule 7.15 currently specifies a cut-off time of 1:20 p.m. or a time designated to be five minutes after the close, for preparing or submitting either a memorandum to exercise or an "exercise advice." The Exchange is proposing to eliminate the references to 1:20 p.m. in this rule, so that, under the amended rule, such memoranda and advices will have to be submitted no later than five minutes after the close of trading.[11]

Finally, the Exchange is proposing to change two references to "San Francisco time" in Rule 6.64, Commentary .01(b), to "Pacific Time" in order to make that rule consistent with other Exchange rules.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[11] The Exchange is not proposing to change the related rule on equity options, Rule 6.24, which provides for an exercise cut-off time of 2:30 p.m.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PSE–96–24 and should be submitted by [insert date 21 days from date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22581 Filed 9–4–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2890]

Michigan; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on July 23, 1996, which was for Public Assistance only, and an amendment thereto on August 15 adding Individual Assistance, I find that Bay, Lapeer, Midland, Saginaw, Sanilac, St. Clair, and Tuscola Counties in the State of Michigan constitute a disaster area due to damages caused by severe storms and flooding which occurred June 21–July 1, 1996. Applications for loans for physical damages may be filed until the close of business on October 14, 1996, and for loans for economic injury until the close of business on May 15, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Arenac, Clare, Clinton, Genesee, Gladwin, Gratiot, Huron, Isabella, Macomb, Oakland, and Shiawassee Counties in the State of Michigan.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.625
Homeowners Without Credit Available Elsewhere	3.875
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 289006 and for economic injury the number is 915900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 26, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–22584 Filed 9–4–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 2444]

Office of Foreign Missions (M/OFM); Information Collection Under Review

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. The purpose of this notice is to allow 60 days for public comments from the date listed at the top of this page in the **Federal Register.** This process is conducted in accordance with 5 Code of Federal Regulation, Part 1320.10.

SUMMARY: The DS–1504 is necessary to determine whether members of foreign diplomatic missions, consular offices, government organizations, or foreign military personnel (hereafter referred to as respondents) assigned to missions are entitled to certain duty-free importation privileges based on reciprocity, international law, the U.S. customs regulations, treaties and other agreements. This form is also used by the White House when it requests duty-free entry of items.

This information is required in connection with 19 CFR 148.81–148.85–148.89; Pub. L. 79–291, Pub. L. 82–4867, and Pub. L. 80–357 Congress; the 1982 Foreign Missions Act; the Harmonized Tariff Schedule of the United States, and the Vienna Conventions on Diplomatic and Consular Relations.

The following summarizes the information collection proposal submitted to OMB:

Type of request—New collection.

Originating office—Office of Foreign Mission (M/OFM).

Title of information collection—Custom Clearance of Merchandise.

Frequency—Each import.

Form No.—DS–1504.

Respondents—Members of foreign diplomatic missions, consulates, and government organizations, international organizations, and foreign military personnel assigned to the mission.

Estimated number of respondents—13,852.

Average hours per response—15 minutes.

Total estimated burden hours—3,463. 44 U.S.C. 3405(h) does not apply.

Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Charles S. Cunningham (202) 647–0596. Comments and questions should be directed to (OMB) Victoria Wassmer (202) 395–5871.

Dated: August 28, 1996.

Patrick F. Kennedy,

Assistant Secretary for Administration.

[FR Doc. 96–22555 Filed 9–4–96; 8:45 am]

BILLING CODE 4710–44–M

[Delegation of Authority No. 217]

Delegation of Duties, Functions and Responsibilities Vested in the Under Secretary of State for Management

1. General Delegation

By virtue of the authority vested the Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. § 2651a), I hereby delegate the duties, functions and responsibilities now or hereafter vested in the Under Secretary of State for Management to the following officials of the Department of State in the order listed: (1) Assistant Secretary for Administration; (2) Chief Financial Officer; (3) Director General of the Foreign Service and Director of Personnel; (4) Assistant Secretary for Consular Affairs; and (5) Assistant Secretary for Diplomatic Security.

2. Technical Provisions

(a) This delegation shall become effective on August 23, 1996.

(b) Notwithstanding any provision of this delegation, the Secretary of State or the Deputy Secretary of State at any time may exercise any function delegated by this delegation.

(c) This delegation shall not include the duties, functions and responsibilities vested in the Under Secretary of State for Management by Public Notice 802 (April 14, 1982), as amended (relating to the designated order of succession of the Secretary of State), nor duties, functions, and responsibilities required by law to be exercised by higher authority than the delegate.

(d) This delegation does not repeal previous delegations to the Under Secretary of State for Management.

(e) This delegation shall terminate and cease to be effective upon the appointment of an Under Secretary of State for Management that takes place after the effective date of this delegation.

Dated: August 23, 1996.

Strobe Talbott,

Acting Secretary of State.

[FR Doc. 96–22557 Filed 9–4–96; 8:45 am]

BILLING CODE 4710–10–M

[Public Notice 2433]

Director General of the Foreign Service and Director of Personnel; State Department Performance Review Board Members (At Large Board)

In accordance with section 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Executive Resources Board of the Department of State has appointed the following individuals to the State Department Performance Review Board (At Large Board) register.

James T.L. Dandridge, II, Senior Advisor, Bureau of International Narcotics and Law Enforcement Affairs, Detailee to the Department of State from the United States Information Agency

Joan E. Donoghue, Assistant Legal Adviser, Office of the Legal Adviser, Department of State

Christopher Flaggs, Associate Comptroller Domestic Financial Operations, Bureau of Finance and Management Policy, Department of State

Kenneth Hunter, Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State

Robert T. Spencer, Executive Director, Bureau of Diplomatic Security, Department of State

Dated: August 12, 1996.

Anthony C.E. Quainton,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 96–22556 Filed 9–4–96; 8:45 am]

BILLING CODE 4710–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Continued Airworthiness Assessments

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of Advisory Circular (AC), no. 33.78–1, Turbine Engine Power-Loss And Instability In Extreme Conditions Of Rain And Hail.

DATES: Comments must be received on or before November 7, 1996.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA, 01803–5299.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (617) 238–7117, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.** Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify the subject to the AC, and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

In 1988, the Aerospace Industries Association (AIA) initiated a study of airplane turbine engine power-loss and instability phenomena that were attributed to operating in inclement weather. AIA, working with the Association European des Constructeurs de Materiel Aerospatial (AECMA), concluded that a potential flight safety threat exists for turbine engines installed on airplanes when operating in an extreme rain or hail environment. AIA and AECMA further concluded that the rain and hail ingestion requirements contained in section 33.77 do not adequately address these threats. Consequently the Federal Aviation Administration has issued a notice of proposed rulemaking (61 FR 41688, dated August 9, 1996), proposing changes to the water and hail ingestion standards.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 40113, 44701, 44702, 44704, provides guidance for these proposed requirements.

Issued in Burlington, Massachusetts, on August 27, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–22689 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

Centers of Excellence in Airworthiness Assurance; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of information meeting for FAA Aviation Research Center of Excellence (COE) in Airworthiness Assurance.

SUMMARY: Notice is hereby given of an information meeting regarding technical proposals for the establishment of an FAA Aviation Research Center of Excellence in Airworthiness Assurance.

DATES: The meeting will be held October 23, 1996, from 9 am to 4 pm.

ADDRESSES: The meeting will be held in the Director's Conference Room, Fourth Floor, Technical and Administrative Building, at the William J. Hughes Technical Center, Atlantic City International Airport, NJ 08405.

FOR FURTHER INFORMATION CONTACT: The Office of Research and Technology Applications, AAR–201, FAA Aviation Research Centers of Excellence Program Office, Building 270, Atlantic City International Airport, NJ 08405, telephone (609) 485–5043, facsimile (609) 485–6509.

Note: The FAA will hold an information meeting on October 23, 1996, to explain further the FAA research needs, procedures, and criteria for the selection of the FAA Aviation Research Center of Excellence in Airworthiness Assurance. Questions and suggestions from attendees will be addressed at this meeting. Interested parties are encouraged, but not required, to attend the information meeting.

SUPPLEMENTARY INFORMATION: The FAA intends to award a 50–50 cost share cooperative agreement to establish a COE in Airworthiness Assurance at a qualified college or university. The cooperative agreement will be awarded in 3 year increments up to a maximum of 10 years. It is the FAA's intent to fund a minimum of $1.5 million over the first three years. It is also the intent of the FAA to award a single-source indefinite delivery indefinite quantity (IDIQ) contract to the winner of the competition, under which orders may be placed for developmental products.

The Center shall conduct research which includes the entire spectrum (i.e. basic research through engineering development, prototyping and testing) within the scope of Airworthiness Assurance. This scope includes but is not limited to: crashworthiness, advanced materials, maintenance, inspection, and repair.

The FAA intends to provide long-term funding to establish and operate a prestigious partnership with academia, industry and government. To this end the FAA encourages offerors to team with organizations that complement their expertise from academia, industry, state/local government and other government agencies. The successful offeror is required to match FAA grant funds with non-federal funding over the term of the cooperative agreement. Matching funds are not required for any orders placed under the IDIQ contract. Separate cost-sharing contracts may be awarded when deemed appropriate.

Selection Criteria

The COE will be selected primarily on technical merit and the ability of the team to meet the following criteria mandated by the enabling legislation, Public Law 101–508:

—The extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

—The demonstrated research and extension resources available to the applicant for carrying out the intent of the legislation.

—The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

—The extent to which the applicant has an established air transportation program.

—The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or region-wide continuing education program.

—The projects that the applicant proposes to carry out under the grant.

Those persons wishing to attend this informational meeting are requested to register by no later than October 21, 1996. To register for the meeting or to obtain more information about the meeting, contact Ms. Patricia Watts by facsimile (609) 485–6509 at the Office of Research and Technology Applications, at the William J. Hughes Technical Center, Building 270, Atlantic City International Airport, NJ 08405.

Issued in Washington, DC on August 29, 1996.

Patricia Watts,

Acting Director, Office of Aviation Research.

[FR Doc. 96–22690 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 185, Aeronautical Spectrum Planning Issues; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 185 meeting to be held on October 2–4, 1996, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Washington, DC 20036.

The agenda will be as follows: (1) Administrative Remarks; (2) General Introductions; (3) Review and Approval of the Agenda; (4) Review and Approval of the Summary of the Previous Meeting; (5) Review Draft Version 11 of Special Committee 185 Report; (6) Approve Version 11 with Final Corrections for Distribution for Ballot; (7) Other Business; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue,

N.W., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 27, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–22541 Filed 9–4–96; 8:45 am]

BILLING CODE 4810–13–M

Federal Highway Administration

National Highway Traffic Safety Administration

[NHTSA Docket No. 93–55, Notice 4]

RIN 2127–AF94

Pilot State Highway Safety Program

AGENCY: Federal Highway Administration and National Highway Traffic Safety Administration, DOT.

ACTION: Notice of waiver.

SUMMARY: The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) are announcing the extension of a pilot highway safety program for fiscal year 1997 State highway safety programs under 23 U.S.C. 402, and the waiver of certain procedures for States that have elected to participate in the pilot program.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: In NHTSA, Marlene Markison, Office of State and Community Services, 202–366–2121; John Donaldson, Office of the Chief Counsel, 202–366–1834. In FHWA, Mila Plosky, Office of Highway Safety, 202–366–6902; Raymond Cuprill, Office of the Chief Counsel, 202–366–1377.

SUPPLEMENTARY INFORMATION:

Background

The Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*) established a formula grant program to improve highway safety in the States. As a condition of the grant, the States must meet certain requirements contained in 23 U.S.C. 402. Section 402(a) requires each State to have a highway safety program, approved by the Secretary of Transportation, which is designed to reduce traffic accidents and the deaths, injuries, and property damage resulting from those accidents. Section 402(b) sets forth the minimum requirements with which each State's highway safety program must comply. For example, the Secretary may not approve a program unless it provides that the Governor of the State is responsible for its administration through a State highway safety agency which has adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary. Additionally, the program must authorize political subdivisions of the State to carry out local highway safety programs and provide a certain minimum level of funding for these local programs each fiscal year.

The enforcement of these and other requirements is entrusted to the Secretary and, by delegation, to FHWA and NHTSA (the agencies).

The agencies administer the program in accordance with an implementing regulation, *Uniform Procedures for State Highway Safety Programs* (23 CFR Part 1200) (the Uniform Procedures Rule), which contains procedures for the submission, content, and approval of each State's Highway Safety Plan and requirements for implementation, management, and closeout of each year's Highway Safety Plan. A number of other requirements apply to the Section 402 program, including those generally appearing in Chapter II of Title 23 CFR and such government-wide provisions as the *Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments* (49 CFR Part 18) and the various Office of Management and Budget (OMB) Circulars containing cost principles and audit requirements (e.g., OMB Circulars A–21, A–87, A–122, A–128, and A–133).

In the years since enactment of Section 402, States have developed and deployed the resources necessary to conduct mature and highly effective highway safety programs. The agencies have become aware of interest on the part of some States in assuming more responsibility for the planning and direction of their programs, with a decreased emphasis on detailed Federal oversight. In response to that interest, and consistent with efforts to relieve burdens to the States under the President's regulatory reform initiative, the agencies established a pilot program for fiscal year 1996 highway safety programs. The details of the pilot program were discussed at length with the States during the planning stages, and published in the **Federal Register** on September 12, 1995 (60 F.R. 47418). In brief outline, the pilot program replaced the requirement for State submission and Federal approval of a Highway Safety Plan with a benchmarking process by which the State sets its own performance goals.

The success of the fiscal year 1996 pilot program has brought about increased State interest in participation. Consequently, the agencies have decided to extend the pilot program through fiscal year 1997. The pilot program procedures remain unchanged for fiscal year 1997, and appear in the appendix to this notice.

The agencies have queried each Section 402 grantee about its interest in participating in the pilot program for the fiscal year 1997 highway safety program. This notice lists those States and territories that have chosen to become participants and waives existing procedures for these participants, to the extent that they are inconsistent with the pilot program, for the duration of fiscal year 1997. This waiver does not affect any provisions specifically imposed by statute or by publications of Government-wide applicability (e.g., 49 CFR Part 18, OMB Circulars). Based on the success of the pilot program, the agencies plan to revise the regulations governing the State highway safety program to permanently accommodate the pilot procedures.

States Participating in the Fiscal Year 1997 Pilot Program

The following States and territories have elected to participate in the pilot program for fiscal year 1997:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
New Mexico
New Jersey
New York
North Carolina
North Dakota
Northern Marianas
Ohio
Pennsylvania
Puerto Rico

South Carolina
South Dakota
Tennessee
Texas
Utah
Virgin Islands
Virginia
Washington
West Virginia
Wisconsin

Waiver

Any provisions of 23 CFR Chapter II which conflict with the procedures of the pilot program are waived for the States listed above for fiscal year 1997. Pilot States will instead follow the procedures appearing in the Appendix. For example, pilot States will not have to seek approval for changes involving transfers of funds between program areas or for continuing projects beyond three years. Instead, these States may unilaterally move funds between program areas and extend projects in accordance with their program needs. However, pilot States will still have to submit an updated HS Form 217 reflecting the change, in the former case, and follow the increased cost-sharing requirements for projects exceeding three years, in the latter case.

States following the pilot program procedures must continue to comply with all statutory requirements contained in 23 U.S.C. 402, and the Governor's Representative for Highway Safety shall sign a certification statement to that effect. In addition, Federal regulations having government-wide applicability will continue to apply, and are also referenced in the certification statement to be signed by the Governor's Representative for Highway Safety.

Authority: 23 U.S.C. 315 and 402; 49 CFR 1.48 and 1.50.

Issued on: August 30, 1996.

Ricardo Martinez,

National Highway Traffic Safety Administrator.

Rodney E. Slater,

Federal Highway Administrator.

Appendix—Fiscal Year 1997 Pilot State Highway Safety Program

A State participating in the pilot program must continue in that program through the completion of the highway safety program cycle, including submission of the annual report and final voucher.

Prior to August 1, 1996, the States were advised to prepare a *planning document* describing how the Federal highway safety funds will be used consistent with the guidelines, priority areas, and other requirements established under Section 402. The planning document shall be formally approved and adopted by the Governor's Representative for Highway Safety (GR). It serves as the basis for the State's development of the financial elements identified in the HS Form 217 discussed below. Unlike the Highway Safety Plan, there is no requirement that this planning document be approved by NHTSA and FHWA. Instead, by August 1, the State planning document is to be sent to the NHTSA Regional Administrator (RA) and the FHWA Division Administrator (DA) for information. If the RA and/or DA observe elements of the plan that are not authorized by section 402 or otherwise not in accordance with law, they will notify the State, which shall take appropriate corrective action.

As soon as practicable after August 1, 1996, and in any event prior to fund disbursement, the State shall submit (1) a *certification statement* and (2) a *benchmark report* to NHTSA/FHWA. (Note: At the State's option, the *planning document, certification statement,* and *benchmark report* may be combined into one document.)

The *certification statement,* signed by the GR, shall provide formal assurances regarding the State's compliance with applicable laws and financial and programmatic requirements pertaining to the Federal grant. (To assure that States are well informed of their responsibilities, NHTSA and FHWA will provide every State with an up-to-date manual (the Highway Safety Grant Management Manual) containing pertinent Federal requirements and policies.)

The *benchmark report* shall have three components:

1. *Process Description*—This component shall contain a brief description of the *process(es)* used by the State to: (1) identify its highway safety problems, (2) establish its proposed performance goals and (3) develop the programs/projects in its plan.

The description shall specify the participants in the three processes (such as State, local, and grassroots organizations, Highway Safety Committees or Task Forces, SMS group, private entities), the data and information sources used (including how recent and why utilized), and the criteria and/or strategies for program and project selections (such as locations or groups targeted due to special needs or problems, ongoing activities, training needs). The description should focus on links between identified problems, performance goals, and activities selected. This Process Description need not be lengthy. An annotated flow chart may provide sufficient information.

2. *Performance goals*—The heart of the benchmark report is the State's description of its highway safety performance goals. Each State shall establish performance goals (including target dates) and identify the performance measures it will use to track progress toward each goal and its current (baseline) status with regard to these measures.

A State's selection of appropriate long and short-term goals should evolve from the problem identification process and be consistent with guidelines and priority areas established under Section 402. It will not be necessary to address *all* national priority areas in the new benchmarking system. While NHTSA is required by statute to identify those programs most effective in addressing national highway safety priority program areas for the use of Section 402 funds, States have latitude to determine their own highway safety problems, goals, and program emphasis.

A State might include goals as broad as "decreasing alcohol-related crashes in the State by x percent or x number by year 2010 from x percent or x number (baseline)." On the other hand, the State goal might be as specific as "reducing alcohol-related deaths/injuries of youth ages 16–20 in the State by X percent of all State youth." When long-term goals are identified, the State should consider setting interim targets.

Moving from a process to an outcome approach requires that a set of outcome measures be established that represent the status of key traffic safety programs at the State level, including those programs that are National Priority Program Areas which the State has chosen to address. There are many sources for these measures. The Fatal Accident Reporting System (FARS), restraint usage surveys, State emergency medical services and police enforcement systems, and Crash Outcome Data Evaluation System (CODES) are examples of databases from which States may select appropriate performance measures. The types of data available will vary from State to State. In all cases, the measures used must be ones that are reliable, readily available, and reasonable in measuring the outcome of an effective highway safety program.

Not all items in a State's planning document will directly correlate to one specific goal. Certain programs and countermeasures have an impact on several goals or on an overall program area. For example, Standardized Field Sobriety Testing (SFST) training may affect all of a State's alcohol goals. Examples of performance measures are included in the final section of this appendix.

3. *HS Form 217, the "Highway Safety Program Cost Summary"*

This form reflects the State's proposed allocation of funds, including carry-forward funds, by program area. The allocations shall be based on the State's identified performance goals and its planning document. The funding level used shall be an estimate of available funding in the upcoming fiscal year. After the exact amount of annual Federal funding has been determined, the State shall submit the revised or "initial obligating" HS Form 217. The amount of Federal funds reflected on the revised HS Form 217 shall not exceed the obligation limitation.

A subsequent revised HS Form 217 shall be submitted for any changes made by the State to those data elements appearing on the form (i.e., program area, P&A limitation, 40% local funding, matches).

Federal approval of each State's highway safety program will be in the form of a letter from NHTSA and FHWA to the Governor and GR *acknowledging the State's submission of a certification statement, benchmark report, and planning document that comply with all requirements described above.*

Annual Report

Within 90 days after the end of the fiscal year, each State shall submit an *Annual Report.* This report shall address:

1. State progress toward performance goals, using performance measures identified in the initial fiscal year benchmark report.

2. Steps taken toward meeting the State goals identified in the benchmark report, which may include administrative measures such as the number of training courses given and people trained, and the number of citations issued for not using child safety seats or safety belts; and

3. Descriptions of State and community projects funded during the year.

States are strongly encouraged to set ambitious goals and implement programs to achieve those goals. States will not be penalized or sanctioned for not meeting identified performance goals. However, where little or no progress toward goals is perceived, as described in the annual report or discussed in periodic meetings, NHTSA and FHWA staff will recommend changes in strategies, countermeasures, or goals.

As under the current procedures, there can be no extensions for the annual report due date even though a State can request an extension of up to 90 days for submission of the final voucher.

Moving from a Process-Dominated to an Outcome-Based Approach

Implementation of this new approach will establish new roles and relationships for both Federal and State participants. The involvement of the NHTSA and FHWA field staff in the operational aspects of a State highway safety program will entail a minimum of two formal strategic planning meetings per year to discuss implementation issues and needs that NHTSA/FHWA can meet. During these sessions, the regional, division and State representatives will review each State's progress toward identifying and meeting its goals and will discuss and negotiate strategies being used.

The degree and level of technical assistance in functional matters provided by NHTSA and FHWA will be determined at these meetings. National and regional NHTSA and FHWA staff have special expertise and can provide a national perspective on outcome approaches (best practices, newest countermeasures), marketing, training, data analysis, evaluation, financial management, and program development. (Of course, these same regional services will be available to States choosing to continue working under the existing HSP procedures.)

Examples of Performance Measures

This section contains examples of highway safety performance measures to assist States in formulating their goals. In addition to those identified below, other measures might include societal costs, CODES data, hospital head injury and similar injury data, etc. Measures must be reliable, readily available, and reasonable as representing the outcome of an effective highway safety program. (The national FARS average or norm for each measure, if available, appears in parentheses.)

Overall Highway Safety Indices

State fatality rate per 100M vehicle miles (1,7)
% motor vehicle collisions with non-motor vehicle (17%)
Number of pedestrians or bicyclists injured or killed

Alcohol

Number of drivers in fatal crashes with BACs > .00, .08, .10 (State limit)
Number of drivers in fatal crashes, ages 15–20, with BACs> .00, .08, .10 (State limit)
Number of alcohol-related fatal crashes
% alcohol-related fatal crashes (42%)
% alcohol-related fatalities
% alcohol-related injuries Conviction rates for DUI/DWI Occupant Protection
% motor vehicle occupants (MVO) restrained (National State Survey 67%)
% MVO fatalities restrained (35%)
% MVO injuries restrained
% MVO youth fatalities (ages 15–20) restrained (35%)

Child Safety

% MVO fatalities age 0–4 restrained (70%)
% MVO injuries age 0–4 restrained
% MVO fatalities age 0–4 unrestrained

Emergency Medical Services

Time of crash to hospital treatment (60 min or less)
Time of crash to response time (arrival at crash site)

Motorcycle Safety

% motorcyclists helmeted (restraint survey)
% motorcycle fatalities helmeted (60%)
% motorcycle injuries helmeted
% motorcycle fatalities with properly licensed drivers (41%)
% motorcycle fatalities alcohol-involved (51%)
% motorcycle injuries alcohol-involved
Number of fatal or serious head injuries

Pedestrian Safety

Number/% urban pedestrian fatalities at intersections or crossings (35%)
Number/% alcohol-impaired pedestrian fatalities 16 yrs and older (36%)
Number/% total fatalities or serious injuries that are pedestrian in given jurisdiction
Number/% urban pedestrian injuries
Number/% rural pedestrian injuries

Bicycle Safety

% pedacycle fatalities helmeted (no national norm)
% pedacycle fatalities ages 26–39 alcohol-impaired (26%)

Speed

% fatal crashes with speed as a contributing factor (31%)
Number of speed-related fatalities / fatal crashes
Monitoring changes in average speeds overall and on specific types of roadways (interstate, other 55–60 mph roads)

Youth

(National performance measures from above plus:)
% drivers ages 15–20 in fatal crashes with BACs >.01 (40%)
% drivers ages 15–20 injured in crashes with BACs >.01
Total fatalities per 100K involving registered drivers, ages 15–20
Total fatalities per 100 million VMT for youth, ages 15–20
Total injuries per 100K registered drivers, ages 15–20
Total injuries per 100 million VMT for youth, ages 15–20
% MVO fatalities, ages 15–20, restrained (35%)

Police Traffic Services

(See subject categories)

Roadway Safety

Work zone fatalities
Work zone injuries (included M.V. occupants, peds, & work personnel)
Number of Highway-railroad grade crossing crashes - number of injuries or fatalities
Number of flaggers injured or killed
Number of workers injured or killed

Traffic Records

Number of personnel trained in record collection, data input, and data analysis
Number of high accident locations identified and improved
Unknown % for occupant protection fatalities (10%)
Unknown/untested % for fatal driver BAC (30%)
Unknown % of time of crash to hospital arrival (50%)
Entering data within a specific time
Linking data systems

Injury Prevention Goals

(See subject categories)

[FR Doc. 96–22691 Filed 9–4–96; 8:45 am]
BILLING CODE 4910–59–P; 4910–22–P

National Highway Traffic Safety Administration

[Docket No. 96–091; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1984 Rolls Royce Silver Spur Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1984 Rolls Royce Silver Spur passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1984 Rolls Royce Silver Spur that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United

States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 7, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1984 Rolls Royce Silver Spur passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1984 Rolls Royce Silver Spur that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Rolls Royce Motors, Ltd., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non- U.S. certified 1984 Rolls Royce Silver Spur to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1984 Rolls Royce Silver Spur, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards. Specifically, the petitioner claims that the non-U.S. certified 1984 Rolls Royce Silver Spur is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver from the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and *302 Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) inscription of the word "Brake" on the brake failure indicator lamp lens; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.—model headlamp assemblies; (b) installation of U.S.—model front and rear sidemarker/reflector assemblies; (c) installation of U.S.—model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the convex passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a U.S.- model seat belt in the driver's seating position, or a belt webbing actuated microswitch inside the driver's seat belt retractor. The petitioner states that the vehicle is equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button in both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button in both rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing door beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line.

Additionally, the petitioner states that the bumpers on the non-U.S. certified 1984 Rolls Royce Silver Spur must be reinforced, or U.S.-model bumper components must be installed, to comply with the Bumper Standard found in 49 CFR Part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 29, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–22537 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–048; Notice 2]

Decision That Certain Nonconforming Mitsubishi Pajero Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming 1984 Mitsubishi Pajero multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1984 Mitsubishi Pajero MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards, are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1984 Mitsubishi Montero), and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective September 5, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer No. R–90–009) petitioned NHTSA to decide whether 1984 Mitsubishi Pajero MPVs are eligible for importation into the United States. NHTSA published notice of the petition on May 20, 1996 (61 FR 25269) to afford an opportunity for public comment. As stated in the notice of petition, the vehicle which Champagne believes is substantially similar is the 1984 Mitsubishi Montero that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner contended that it carefully compared the 1984 Mitsubishi Pajero to the 1984 Mitsubishi Montero, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the 1984 Mitsubishi Pajero, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1984 Mitsubishi Montero that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claimed that the 1984 Mitsubishi Pajero is identical to the certified 1984 Mitsubishi Montero with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchoroges*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 219 *Windshield Zone Intrusion, and* 302 *Flammability of Interior Materials.*

Petitioner also contended that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies which incorporate headlamps with DOT markings; (b) installation of front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 111 *Rearview Mirrors:* replacement of the convex passenger side rear view mirror.

Standard No. 114 *Theft Protection:* installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer. The petitioner stated that the vehicle is equipped at each front designated seating position with a

combination lap and shoulder restraint that adjusts by means of an automatic retractor and releases by means of a single push button. The petitioner further states that the vehicle is equipped with a combination lap and shoulder restraint that releases by means of a single push button at each rear outboard seating position, and with a lap belt at the rear center seating position.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line.

One comment was received in response to the notice of petition, from Mitsubishi Motors R&D of America, Inc. ("Mitsubishi"), the United States representative of Mitsubishi Motors Corporation, the vehicle's manufacturer. In its comment, Mitsubishi stated that based upon a review of the petition and a partial evaluation of the 1984 Mitsubishi Pajero, it believes that the vehicle may not be capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Mitsubishi noted that in addition to the nonconformities identified in the petition, the components on the 1984 Mitsubishi Pajero that are subject to Standard No. 203, *Impact Protection for the Driver from the Steering Control System,* are not identical to those found on the 1984 Mitsubishi Montero. As a result, Mitsubishi contended that the 1984 Mitsubishi Pajero would have to be modified to conform to the standard, and then tested in accordance with the standard to ensure that conformity. Mitsubishi also contended that the 1984 Mitsubishi Pajero does not conform to Standard No. 204, *Steering Control Rearward Displacement,* because it is not equipped with the same energy-absorbing steering shaft as that found on the 1984 Mitsubishi Montero. As a result, Mitsubishi contended that the steering shaft would have to be modified and tested in accordance with the standard.

NHTSA accorded Champagne an opportunity to respond to Mitsubishi's comments. In its response, Champagne observed that Mitsubishi did not furnish specifics to support its stated belief that the 1984 Mitsubishi Pajero may not be capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Champagne expressed complete confidence that the vehicle is capable of being so altered. To address the concern that Mitsubishi raised regarding the vehicle's compliance with Standard Nos. 203 and 204, Champagne stated that it will replace the steering wheel and steering shaft on the 1984 Mitsubishi Pajero with U.S.-model components.

NHTSA has reviewed each of the issues that Mitsubishi has raised regarding Champagne's petition. NHTSA believes that Champagne's responses adequately address each of those issues. NHTSA further notes that the modifications described by Champagne have been performed with relative ease on thousands of nonconforming vehicles imported over the years, and would not preclude the 1984 Mitsubishi Pajero from being found "capable of being readily altered to comply with applicable motor vehicle safety standards."

NHTSA has accordingly decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–170 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1984 Mitsubishi Pajero that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a 1984 Mitsubishi Montero that was originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 29, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–22538 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–094; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1995 Audi S6 Avant Quattro Wagons Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995 Audi S6 Avant Quattro Wagons are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1995 Audi S6 Avant Quattro Wagon that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is October 7, 1996.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then

publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1995 Audi S6 Avant Quattro Wagons are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1995 Audi S6 Avant Quattro Wagon that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) inscription of the word "Brake" on the brake failure indicator lamp lens; (b) installation of a seat belt warning lamp displaying the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.- model headlamp assemblies; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's seating position, or a belt webbing actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters if they are not U.S.-model components. The petitioner states that the vehicle is equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button at both rear outboard seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S. certified 1995 Audi S6 Avant Quattro must be reinforced or replaced with U.S.-model components to comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also states that it will replace the vehicle's ignition switch assembly, which has been determined to contain a safety-related defect and is the subject of a recall campaign (NHTSA Recall No. 96V017000) being conducted by the vehicle's manufacturer.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 30, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–22688 Filed 9–4–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board [1]

[STB Finance Docket No. 32955]

Fort Worth & Western Railroad Company, Inc.—Lease Exemption—St. Louis Southwestern Railway Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts from the prior approval requirements of 49 U.S.C. 10902 the lease [2] by Fort Worth & Western

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10902.

[2] FWWR seeks an exemption both to lease and to operate, and its petition is styled accordingly. While an exemption from the requirements of 49 U.S.C. 10902 for FWWR's lease is consistent with the standards of 49 U.S.C. 10502, we note that FWWR requires neither separate authority nor an exemption to operate the line under the lease. When a rail carrier petitioned for an exemption to purchase or lease a rail line from another rail carrier

Continued

Railroad Company, Inc. (FWWR), of St. Louis Southwestern Railway Company's (SSW) Hodge Yard, located between North Fort Worth and Carrollton, TX, at milepost 630.20.[3]

DATES: This exemption is effective on October 5, 1996. Petitions to stay must be filed by September 20, 1996. Petitions to reopen must be filed by September 30, 1996.

ADDRESSES: Send pleadings, referring to STB Finance Docket No. 32955, to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Kevin M. Sheys, 1020 Nineteenth Street, N.W., Suite 400, Washington, DC 20036–6105.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC Data & News, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: August 27, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–22638 Filed 9–4–96; 8:45 am]

BILLING CODE 4915–00–P

under former 49 U.S.C. 11343 of the Interstate Commerce Act, the ICC normally also exempted the operation of the line, if requested, but the exemption to operate was not necessary. The status of the purchaser or lessor, as a carrier, coupled with the purchase agreement or lease, constituted sufficient authority to conduct operations. Similarly, authority or an exemption for a carrier to purchase or lease a line under 49 U.S.C. 10902 of the ICCTA provides the necessary authority to conduct operations.

[3] FWWR plans to operate on track owned by Dallas Area Rapid Transit Property Acquisition Company (DARTPAC). In *Fort Worth and Western Railroad Company, Inc.—Trackage Rights Exemption—St. Louis Southwestern Railway Company*, STB Finance Docket No. 32956 (STB served June 6, 1996), SSW assigned its local and overhead trackage rights over DARTPAC's 28.77-mile rail line, between milepost 632.27 at North Fort Worth and milepost 603.5 at Carrollton, to FWWR.

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of Program Test: General Aviation Telephonic Entry (GATE)

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct a general test to evaluate the effectiveness of a new operations procedure regarding the telephonic entry of certain pre-registered, passenger-carrying, general aviation aircraft flights entering the United States directly from Canada. This notice invites public comments concerning any aspect of the test, informs interested members of the public of the eligibility requirements for voluntary participation in the test, and describes the basis on which Customs will select participants for the test.

EFFECTIVE DATES: Applications will be available and accepted at local Customs offices beginning September 5, 1996. The test will commence no earlier than November 4, 1996, and will be evaluated after 1 year. Comments must be received on or before September 30, 1996. Anyone interested in participating in the test should contact the nearest Customs office.

ADDRESSES: Written comments regarding this notice and information submitted to be considered for voluntary participation in the test should be addressed to the Process Owner, Passenger Operations Division, Room 4413, Washington, DC 20229–0001.

FOR FURTHER INFORMATION CONTACT: Robert Jacksta (202) 927–0530.

SUPPLEMENTARY INFORMATION:

Background

At the February 24, 1995, Summit in Ottawa, Canada, President Clinton and Canadian Prime Minister Chretien announced the signing of the United States/Canada Accord on our Shared Border for enhancing the management of the U.S.-Canada border. 31 Weekly Comp.Pres.Doc. 305. The Shared Border Accord sets out initiatives to promote trade, tourism, and travel between the two countries by reducing barriers for legitimate importers, exporters, and travelers, while strengthening enforcement capabilities to stop the flow of illegal or irregular movement of goods and people and reducing costs for both governments and users. One of the specific initiatives in the Shared Border Accord is a frequent traveler program known as General Aviation Telephonic Entry (GATE), which is intended to facilitate the entry of certain pre-registered, passenger-carrying, general aviation aircraft flights entering the United States directly from Canada, while still preserving security by maintaining random checks of incoming private aircraft.

Customs is ready to begin testing the GATE program. For programs designed to evaluate the effectiveness of new technology or operations procedures regarding the processing of passengers, vessels, or merchandise, § 101.9(a) of the Customs Regulations (19 CFR 101.9(a)), implements the general testing procedures. This test is established pursuant to that regulation.

I. Description of Proposed Test

The Concept of Telephonic Entry

Any aircraft arriving in the United States from a foreign airport or place is required to (1) give advance notification of its arrival, (2) immediately report its arrival to Customs, and (3) land at the airport designated by Customs for entry. *See*, 19 U.S.C. 1433(c) and implementing Customs Regulations at 19 CFR Part 122, subparts C and D. Individual passengers are also required to report their arrival to Customs. *See*, 19 U.S.C. 1459 and implementing Customs Regulations at 19 CFR 123.1. Because historical data on certain general aviation aircraft (aircraft comprising private and corporate aircraft, and air ambulances that have a seating capacity of fifteen or fewer passengers) indicates a high degree of compliance with Customs and other federal agency reporting laws, Customs has developed the GATE program to allow certain pre-registered, passenger-carrying, flights of such aircraft to report their entry telephonically when entering the United States directly from Canada. To provide a means for measuring the effectiveness of GATE, random inspections will be built into the program. Thus, the GATE program would combine the proven benefits of facilitation and selectivity, thereby freeing valuable Customs resources for use in other areas.

The test will be implemented at designated airports of entry located nation-wide. During the test period, pilots will give advance notice of their arrival—from a minimum of 3 hours up to a maximum of 72 hours in advance—to Customs by calling 1–800–98–CLEAR, and may receive advance clearance to land at airports that are not staffed by Customs, but which have been designated by a port director for program use, provided that they receive a telephonic entry number.

Regulatory Provisions Affected

During the GATE test, participants will be provided with a telephonic entry number in lieu of normal inspection requirements. Accordingly, the normal arrival reporting and landing requirements of Part 122 of the Customs Regulations (19 CFR Part 122) will not be followed. However, participants will still be subject to civil and criminal penalties and sanctions for any violations of U.S. Customs laws.

II. Eligibility Criteria

A. Aircraft and Airports of Entry

Only U.S.- and Canadian-registered general aviation aircraft that will arrive in the United States directly from Canada are eligible to participate in the GATE test. For purposes of this test, the term "general aviation aircraft" means aircraft comprising private and corporate aircraft, and air ambulances returning to the U.S. with crew members only, that have a seating capacity of fifteen or fewer passengers.

Aircraft transiting Canada are not eligible for this test. Further, aircraft that will carry cargo, merchandise requiring the payment of Customs duties, restricted or prohibited food products or other articles, or monetary instruments in excess of $10,000, will not qualify for this test.

Qualified flights selected to participate in the GATE test will be allowed to land at most airports of entry located within a reasonable commuting distance of a port serviced by Customs, provided that the approving port director has designated the airport for GATE test use. Most municipally-owned airports and other airports located outside a particular port's limits may be selected for landing under the GATE test. The port director approving the application for GATE participation will designate, on a case-by-case basis, which airports of entry may be used for landing. Factors that will be considered include:

—Willingness of an airport operator to participate in the GATE test;
—The distance to the airport from the nearest Customs port, commuting time required for Customs officers, and Customs officer safety;
—Whether a secure place to work is provided at the airport; and
—Whether communications equipment is accessible.

B. Persons

Participation in the GATE test is voluntary. Only U.S. citizens, permanent resident aliens of the United States, Canadian citizens, or landed immigrants in Canada from Commonwealth countries, and who are regular passengers or flight crews of pre-registered flights, will be considered for this test. Each applicant should have had (during the past year) a "face to face" inspection by either a U.S. Immigration or Customs officer, which clearly demonstrates the person's right to legally enter the United States, and must agree to carry all necessary personal identification and immigration documents. Persons who have not had a "face to face" inspection during the past year may, nonetheless, meet this requirement by reporting to the nearest Customs office with proof of citizenship.

Persons with evidence of a pending or past investigation which establishes illegal or dishonest conduct, persons involved in a violation of Customs laws (civil, narcotic violations, smuggling), and persons found to be inadmissible under the Immigration laws of the United States are not eligible for this test.

Participation in this test will not constitute confidential information, and lists of participants will be made available to the public upon written request.

III. Test Application Procedure

General aviation aircraft owners, operators, and pilots who wish to have their passenger-carrying flights considered for participation in the GATE test should contact the Customs office nearest the airport where they normally land for Customs inspection after the effective date for this notice specified above, to request an application for General Aviation Telephonic Entry Program form (Customs Form 442). Applications must be filed with Customs 45 days prior to the date of the scheduled flight in order to be considered for participation in the GATE test.

Selection Standards

Flights will be approved/denied for the GATE test based on whether the personnel/aircraft information provided on the CF 442 by an applicant meets all the above eligibility criteria. The local port office will determine the qualifications of all passengers/pilots/aircraft, and a letter approving or denying the test application will be sent to the applicant. Aircraft owners/operators must agree not to allow their general aviation aircraft to carry passengers who are not listed and approved on the application. (To allow for the proper accounting of last-minute personnel changes to an application already on file with Customs, an Application Addendum form must be completed and sent to the port where the original application was submitted). Further, aircraft owners/operators must agree not to allow persons to carry dutiable/commercial merchandise, restricted or prohibited food products or other articles, or monetary instruments of $10,000 or more on test flights.

If an application is denied for any reason other than by reason of a request by the applicant to land at a particular airport (for example, a denial based on information concerning passengers, pilots, or the aircraft), the applicant may appeal the decision to the port director within 10 working days from receipt of the denial letter. If the appeal to the port director results in another denial, then the applicant may appeal directly to the Passenger Process Owner at Customs' Headquarters within 10 working days from receipt of the second denial letter.

IV. Test Evaluation Criteria

Customs will review all public comments received concerning any aspect of the test program or procedures, finalize procedures in light of those comments, form problem-solving teams, and establish baseline measures and evaluation methods and criteria. Approximately 120 days after conclusion of the test, evaluations of the test will be conducted and final results will be made available to the public upon request.

Dated: August 29, 1996.

Samuel H. Banks,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 96–22576 Filed 9–4–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs; Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Department of Veterans Affairs' Advisory Committee on Prosthetics and Special-Disabilities Programs has been renewed for a 2-year period beginning August 16, 1996, through August 16, 1998.

Dated: August 22, 1996.

By direction of the Secretary.

Eugene A. Brickhouse,

Committee Management Officer.

[FR Doc. 96–22589 Filed 9–4–96; 8:45 am]

BILLING CODE 8320–01–M

Persian Gulf Expert Scientific Committee, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with P.L. 92–463, gives notice that a meeting of the VA Persian Gulf Expert Scientific Committee will be held on:

Monday, November 18, 1996, at 8:30 a.m.–5:00 p.m.

Tuesday, November 19, 1996, at 8:30 a.m.–3:30 p.m.

The location of the meeting will be 801 I Street, N.W., Washington, D.C., Room 1105.

The Committee's objectives are to advise the Under Secretary for Health about medical findings affecting Persian Gulf era veterans.

At this meeting the Committee will review all aspects of patient care and medical diagnoses and will provide professional consultation as needed. The Committee may advise on other areas involving research and development, veterans benefits and/or training aspects for patients and staff.

All portions of the meeting will be open to the public except from 4:00 p.m. until 5:00 p.m. on November 18 and from 2:30 p.m. to 3:30 p.m. on November 19, 1996. During these executive sessions, discussions and recommendations will deal with medical records of specific patients and individually identifiable patient medical histories. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. Closure of this portion of the meeting is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(6).

The agenda for November 18 will begin with an update on recent events, followed by responses from Committee members. The first day's agenda will also cover reports on activities of the Persian Gulf Spouses and Children Exam, Persian Gulf Programs/Surveys, and Veterans Benefits Applications from Persian Gulf Veterans, as well as a follow-up on VA Referral Centers.

On November 19 the Committee will hear reports on the Syntax of Immune-Neuroendocrine Communications/PTSD as well as an updates on Research Centers findings and DoD Investigative Team Operations.

Additional information concerning these meetings may be obtained from the Executive Secretary, Office of Public Health & Environmental Hazards, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: August 22, 1996.

By Direction of the Secretary.

Eugene A. Brickhouse,

Committee Management Officer.

[FR Doc. 96–22590 Filed 9–4–96; 8:45 am]

BILLING CODE 8320–01–M

federal register

Thursday
September 5, 1996

Part II

Environmental Protection Agency

40 CFR Part 63
National Emissions Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5543–1]

RIN 2060–AE37

National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) from existing and new plant sites that emit organic hazardous air pollutants (HAP) identified on the EPA's list of 189 HAP. The organic HAP are emitted during the manufacture of one or more elastomers.

In the production of elastomers, a variety of organic HAP are used as monomers or process solvents. Available emissions data gathered in conjunction with the development of the elastomer standards show that the following organic HAP are those which have the potential for reduction by implementation of the standard: Styrene, n-hexane, 1,3-butadiene, acrylonitrile, methyl chloride, hydrogen chloride, carbon tetrachloride, chloroprene, and toluene. Some of these pollutants are considered to be mutagens and carcinogens, and all can cause reversible or irreversible toxic effects following exposure. The potential toxic effects include eye, nose, throat, and skin irritation; liver and kidney toxicity, and neurotoxicity. These effects can range from mild to severe. The rule is estimated to reduce organic HAP emissions from existing affected sources by over 6,300 megagrams per year (Mg/yr). The majority of the organic HAP regulated by these standards are also volatile organic compounds (VOC). In reducing emissions of organic HAP, VOC are also reduced.

The rule implements section 112(d) of the Act, which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the Act. The intended effect of this rule is to protect the public by requiring the maximum degree of reduction in emissions of organic HAP from new and existing major sources that the Administrator determines is achievable, taking into consideration the cost of achieving such emission reduction, and any nonair quality, health and environmental impacts, and energy requirements.

EFFECTIVE DATE: September 5, 1996. See the Supplementary Information section concerning judicial review.

ADDRESSES: *Docket.* Docket No. A–92–44, containing information considered by the EPA in development of the promulgated standards, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the following address in room M–1500, Waterside Mall (ground floor): U. S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street SW., Washington, DC 20460; telephone: (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For questions concerning applicability and other rule determinations, inquiries should be directed to the appropriate regional office contact listed below:

Greg Roscoe, Air Programs Compliance, Branch Chief, U.S. EPA Region I, 5EA, JFK Federal Building, Boston, MA 02203, (617) 565–3221.

Kenneth Eng, Air Compliance Branch Chief, U.S. EPA Region II, 290 Broadway, New York, NY 10007–1866, (212) 637–4000.

Bernard Turlinski, Air Enforcement Branch Chief, U.S. EPA Region III (3AT10), 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–3989.

Jewell A. Harper, Air Enforcement Branch, U.S. EPA Region IV, 3345 Courtland Street, NE., Atlanta, GA 30365, (404) 347–2904.

George T. Czerniak, Jr., Air Enforcement Branch Chief, U.S. EPA Region V (5AE–26), 77 West Jackson Street, Chicago, IL 60604, (312) 353–2088.

John R. Hepola, Air Enforcement Branch Chief, U.S. EPA Region VI, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733, (214) 665–7220.

Donald Toensing, Chief, Air Permitting and Compliance Branch, U.S. EPA Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7446.

Douglas M. Skie, Air and Technical Operations, Branch Chief, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6432.

Colleen W. McKaughan, Air Compliance Branch Chief, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1198.

Christopher Hall, Air Toxics Program Manager, U.S. EPA Region X, 1200 Sixth Avenue, OAQ–107, Seattle, WA 98101–9797, (206) 553–1949.

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SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities potentially regulated by this action are elastomer product process units (EPPUs) manufacturing the same primary product and located at a plant site that is a major source of HAP. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Producers of butyl rubber, halobutyl rubber, epichlorohydrin elastomers, ethylene propylene rubber, Hypalon™, neoprene, nitrile butadiene rubber, nitrile butadiene latex, polysulfide rubber, polybutadiene rubber/styrene butadiene rubber by solution, styrene butadiene latex, and styrene butadiene rubber by emulsion.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.480 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Response to Comment Document. The response to comment document for the promulgated standards contains: (1) A summary of the public comments made on the proposed standards and the Administrator's response to the comments; and (2) A summary of the changes made to the standards since proposal. The document may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone (919) 541–2777; or from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia 22151, telephone (703) 487–4650. Please refer to "Hazardous Air Pollutant Emissions from Process Units in the Elastomers Manufacturing Industry—Basis and Purpose Document for Final Standards, Summary of Public Comments and

Responses" (EPA–453/R–96–006b; May 1996). This document is also located in the docket (Docket Item No. V–C–1) and is available for downloading from the Technology Transfer Network. The Technology Transfer Network is one of the EPA's electronic bulletin boards. The Technology Transfer Network provides information and technology exchange in various areas of air pollution control. The service is free except for the cost of a phone call. Dial (919) 541–5742 for up to a 14,400 bps modem. If more information on the Technology Transfer Network is needed, call the HELP line at (919) 541–5384.

Previous Background Documents. The following is a listing of background documents pertaining to this rulemaking. The complete title, EPA publication number, publication date, and docket number are included. Where appropriate, the abbreviated descriptive title is used to refer to the document throughout this notice.

(1) Hazardous Air Pollutant Emissions from Process Units in the Elastomer Manufacturing Industry—Supplementary Information Document for Proposed Standards. EPA–453/R–95–005a, May 1995; Docket number A–92–44, item number III–B–2.

(2) Hazardous Air Pollutant Emissions from Process Units in the Elastomer Manufacturing Industry—Basis and Purpose Document for Proposed Standards. EPA–453/R–95–006a, May 1995; Docket number A–92–44, item number III–B–1.

Judicial Review. Under section 307(b)(1) of the Act, judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

The information presented in this preamble is organized as follows:

I. Summary of Considerations Made in Developing This Standard

A. Background and Purpose of Regulation

The Clean Air Act was created in part "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population" (CAA, section 101(b)(1)). Section 112(b) lists 189 HAP believed to cause adverse health or environmental effects. Section 112(d) requires that emission standards be promulgated for all categories and subcategories of major sources of these HAP and for many smaller "area" sources listed for regulation, pursuant to section 112(c). Major sources are defined as those that emit or have the potential to emit at least 10 tons per year of any single HAP or 25 tons per year of any combination of HAP.

On July 16, 1992 (57 FR 31576), the EPA published a list of categories of sources slated for regulation. This list included all nine of the source categories regulated by the standards being promulgated today. The statute requires emissions standards for the listed source categories to be promulgated between November 1992 and November 2000. On December 3, 1993, the EPA published a schedule for promulgating these standards (58 FR 83841). Standards for the nine source categories covered by today's rule were proposed on June 12, 1995 (60 FR 30801).

For the purpose of this rule, the EPA has separated the 9 Group 1 polymers into 12 elastomer products (i.e., subcategories). These products are butyl rubber (BR), halobutyl rubber (HBR), epichlorohydrin elastomers (EPI), ethylene propylene rubber (EPR), Hypalon™ (HYP), neoprene (NEO), nitrile butadiene rubber (NBR), nitrile butadiene latex (NBL), polysulfide rubber (PSR), polybutadiene rubber/styrene butadiene rubber by solution (PBR/SBRS), styrene butadiene latex (SBL), and styrene butadiene rubber by emulsion (SBRE).

In the 1990 Amendments to the Clean Air Act, Congress specified that each standard for major sources must require the maximum reduction in emissions of HAP that the EPA determines is achievable, considering cost, non-air quality health and environmental impacts, and energy requirements. In essence, these Maximum Achievable Control Technology (MACT) standards would ensure that all major sources of air toxics achieve the level of control already being achieved by the better controlled and lower emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to employ good control measures to limit its emissions.

Available emission data, collected during the development of this rule, shows that pollutants that are listed in section 112(b)(1) and are emitted by Group I Polymer and Resins sources include n-hexane, styrene, 1,3-butadiene, acrylonitrile, methyl chloride, carbon tetrachloride, chloroprene, and toluene. Some of these pollutants are considered to be probable human carcinogens when inhaled, and all can cause reversible and irreversible toxic effects following exposure. These effects include respiratory and skin irritation, effects upon the eye, various systemic effects including effects upon the liver, kidney, heart and circulatory systems, neurotoxic effects, and in extreme cases, death.

The EPA does recognize that the degree of adverse effects to health can range from mild to severe. The extent and degree to which the health effects may be experienced is dependent upon (1) the ambient concentrations observed in the area (e.g., as influenced by emission rates, meteorological conditions, and terrain), (2) the frequency of and duration of exposures, (3) characteristics of the exposed individuals (e.g., genetics, age, pre-existing health conditions, and lifestyle) which vary significantly with the

population, and (4) pollutant specific characteristics (e.g., toxicity, half-life in the environment, bioaccumulation, and persistence).

Due to the volatility and relatively low potential for bioaccumulation of these pollutants, air emissions are not expected to deposit on land or water and cause subsequent adverse health or ecosystem effects.

The alternatives considered in the development of this regulation, including those alternatives selected as standards for new and existing elastomer sources, are based on process and emissions data received from every existing elastomer facility known to be in operation at the time of the initial data collection. During the development of today's rule, the EPA met with industry several times to discuss this data. In addition, facilities and State regulatory authorities had the opportunity to comment on draft versions of the proposed regulation and to provide additional information. The EPA published the proposed rule for comment on June 12, 1995 (60 FR 30801). The public comments that were received on the proposed rule are summarized in the Basis and Purpose Document for Final Standards, Summary of Public Comments and Responses (Docket Item No. V–C–1). These comments were considered, and in some cases, today's standards reflect these comments. Of major concern to commenters were the reporting and recordkeeping burden and the requirements for back-end process operations and wastewater control.

The final standards give existing sources 3 years from the date of promulgation to comply. Subject to certain limited exceptions, this is the maximum amount of time allowed under the Clean Air Act. New sources are required to comply with the standard upon startup. The EPA believes these standards to be achievable for affected sources within the timeframes provided. The number of existing sources affected by this rule is less than 50; therefore, the EPA does not believe that required retrofits or other actions cannot be achieved in the time frame allotted.

Included in the final rule are methods for determining initial compliance as well as monitoring, recordkeeping, and reporting requirements. All of these components are necessary to ensure that sources will comply with the standards both initially and over time. However, the EPA has made every effort to simplify the requirements in the rule. The Agency has also attempted to maintain consistency with existing regulations by either incorporating text from existing regulations or referencing the applicable sections, depending on which method would be least confusing for a given situation.

As described in the "Basis and Purpose Document for Proposed Standards" (EPA–453/R–95–006a), regulatory alternatives were considered that included a combination of requirements equal to, and above, the MACT floor. Cost-effectiveness was a factor considered in evaluating options above the floor; in cases where options more stringent than the floor were selected, they were judged to have a reasonable cost effectiveness. For epichlorohydrin rubber (EPR), polybutadiene rubber (PBR)/styrene butadiene rubber (SBR) (by solution), and SBR (by emulsion) the estimated cost effectiveness was found to be relatively high at the MACT floor level due to the requirements for process back-end operations. However, the back-end provisions of the regulation contain several options for compliance that will allow facilities to select the most cost-effective option based on facility-specific considerations.

Representatives from other interested EPA offices and programs are included in the regulatory development process as members of the Work Group. The Work Group is involved in the regulatory development process, and must review and concur with the regulation before proposal and promulgation. Therefore, the EPA believes that the implications to other EPA offices and programs have been adequately considered during the development of these standards.

B. Source of Authority

National emission standards for new and existing sources of HAP established under section 112(d) reflect MACT or

> * * * the maximum degree of reduction in emissions of the HAP * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies * * * (42 U.S.C. 7412(d)(2)).

For new sources, section 112(d)(3) provides that the standards for a source category or subcategory "shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator." Section 112(d)(3) provides further that for existing sources the standards shall be no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources for source categories and subcategories with 30 or more sources or the average emission limitation achieved by the best performing 5 sources for source categories or subcategories with fewer than 30 sources. These two minimum levels of control define the MACT floor for new and existing sources.

The regulatory alternatives considered in the development of this regulation, including those regulatory alternatives selected as standards for new and existing affected sources, are based on process and emissions data received from the existing plant sites known by the EPA to be in operation.

As stated above, the MACT floor represents the least stringent standard permitted by law for new and existing sources. The EPA may establish standards more stringent than the MACT floor when it determines that such standards are achievable, "taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts, and energy requirements" (42 U.S.C. 7412(d)(2)). In a few instances, the standards in today's rule are more stringent than the MACT floor. In each case, the EPA determined, based on available data, that such standards were achievable within the meaning of section 112(d). Table 1 shows the subcategory-specific instances where an option was selected that was more stringent than the MACT floor, along with the corresponding incremental cost-effectiveness from the MACT floor.

TABLE 1.—INCREMENTAL COST EFFECTIVENESS VALUES OF REGULATORY OPTIONS MORE STRINGENT THAN THE MACT FLOOR[a]

Subcategory	Incremental cost effectiveness[b] ($/Mg)				
	Storage	Front-end process vents	Back-end process	Wastewater	Equipment leaks
Butyl	floor	$3,100	floor	$1,600	$1,700

TABLE 1.—INCREMENTAL COST EFFECTIVENESS VALUES OF REGULATORY OPTIONS MORE STRINGENT THAN THE MACT FLOOR[a]—Continued

Subcategory	Incremental cost effectiveness[b] ($/Mg)				
	Storage	Front-end process vents	Back-end process	Wastewater	Equipment leaks
Epichlorohydrin	floor	floor	floor	floor	$2,000
Ethylene propylene	floor	floor	floor	floor	$2,000
Halobutyl	$300	$1,400	floor	floor	$1,100
Hypalon®	floor	floor	floor	floor	floor
Neoprene	floor	$2,900	floor	floor	[c]$1,600
Nitrile butadiene latex	floor	floor	floor	floor	[c]$2,600
Nitrile butadiene rubber	floor	floor	floor	floor	[c]$1,200
Polybutadiene/styrene butadiene rubber by solution.	floor	floor	floor	floor	[c]$2,600
Polysulfide	floor	floor	floor	floor	floor
Styrene butadiene latex	floor	floor	floor	floor	floor
Styrene butadiene rubber by emulsion	floor	floor	floor	floor	floor

[a] In the table, "floor" indicates that the level of the promulgated standard is equivalent to the MACT floor.
[b] The incremental cost effectiveness reflects the cost and emission reduction from the MACT floor to the level of the promulgated standard.
[c] Equipment leak control programs at elastomer production facilities consisted of a complex combination of controls for the numerous components that can leak and cause HAP emissions. This complexity made it impractical to define a MACT floor "program" for which impacts could be assessed for multiple-plant subcategories. Therefore, the cost effectiveness values shown in the table represent the incremental cost effectiveness values from baseline.

C. Technical Basis of Regulation

Potential regulatory alternatives were developed based on the Hazardous Organic NESHAP (HON) (subparts F, G, and H of 40 CFR part 63), and the Batch Processes Alternative Control Techniques (ACT) document (EPA 453/R–93–017; November 1993). The HON was selected as a basis for regulatory alternatives because: (1) The characteristics of the emissions from storage vessels, continuous front-end process vents, equipment leaks, and wastewater at Group I elastomer facilities are similar or identical to those addressed by the HON; and (2) the levels of control required under the HON were already determined through extensive analyses to be reasonable from a cost and impact perspective.

Finally, the Batch Processes ACT was selected to identify regulatory alternatives for batch process vents, which are not addressed by the HON. The Batch Processes ACT addresses the control of VOC emissions, and all of the organic HAP identified for the Group I elastomers facilities are also VOC. Unlike the HON, the Batch Processes ACT is not a regulation and, therefore, does not specify a level of control that must be met. Instead, the Batch Processes ACT provides information on potential levels of control, their costs, etc. Based on the review of the Batch Processes ACT, the EPA selected a level of control equivalent to 90 percent reduction for batch front-end process vents. This level of control was selected for regulatory analysis purposes because it represents a reasonable level of control considering costs and other impacts.

D. Stakeholder and Public Participation

In the development of this standard, numerous representatives of the elastomers industry were consulted. Industry representatives have included trade associations and elastomer producers responding to section 114 questionnaires and information collection requests (ICR's). The EPA also received input from representatives from State and Regional environmental agencies. Representatives from other interested EPA offices and programs participated in the regulatory development process as members of the Work Group. The Work Group is involved in the regulatory development process, and is given opportunities to review and comment on the standards before proposal and promulgation. Therefore, the EPA believes that the impact on other EPA offices and programs has been adequately considered during the development of these standards. In addition, the EPA has met with members of industry concerning these standards. Finally, industry representatives, regulatory authorities, and environmental groups had the opportunity to comment on the proposed standards and to provide additional information during the public comment period that followed proposal.

The standards were proposed in the **Federal Register** on June 12, 1995 (60 FR 30801). The preamble to the proposed standards described the rationale for the proposed standards. Public comments were solicited at the time of proposal. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was offered at proposal. However, the public did not request a hearing and, therefore, one was not held. The public comment period was from June 12, 1995 to August 11, 1995. A total of twenty-nine comment letters were received. Commenters included industry representatives and State agencies. The comments were carefully considered, and changes were made in the proposed standards when determined by the EPA to be appropriate. A detailed discussion of these comments and responses can be found in the Basis and Purpose Document for Final Standards, which is referenced in the **ADDRESSES** section of this preamble. The summary of comments and responses in the Basis and Purpose Document for the Final Standards serves as the basis for the revisions that have been made to the standards between proposal and promulgation. Section IV of this preamble discusses some of the major changes made to the standards.

II. Summary of Promulgated Standards

Emissions of specific organic HAP from the following types of emission points (i.e., emission source types) are being covered by the final standard: Storage vessels, continuous front-end process vents, batch front-end process vents, back-end processes operations, equipment leaks, and wastewater operations. The organic HAP emitted and required to be controlled by these standards vary by subcategory. Each of the twelve elastomer products constitutes a separate subcategory, each of which belongs to one of the nine

source categories regulated by these standards.

The existing affected source is defined as each group of one or more EPPUs that manufacture the same elastomer product as their primary product, and (1) are located at a major source plant site, (2) are not exempt, and (3) are not part of a new affected source. This means that each plant site will have only one existing affected source in any given subcategory.

If a plant site with an existing affected source producing elastomer A as its primary product constructs a new EPPU also producing elastomer A as its primary product, the new EPPU is a new affected source if the new EPPU has the potential to emit more than 10 tons per year of a single HAP, or 25 tons per year of all HAP. In this situation, the plant site would have an existing affected source producing elastomer A, and a new affected source producing elastomer A. Each subsequent new EPPU with potential HAP emissions above the levels cited above would be a separate new affected source.

New affected sources are also created when an EPPU is constructed at a major source plant site where the elastomer product was not previously produced, with no regard to the potential HAP emissions from the EPPU. Another instance where a new affected source is created is if a new EPPU is constructed at a new plant site (i.e., green field site) that will be a major source. The final manner in which a new affected source is created is when an existing affected source undergoes reconstruction, thus making the previously existing source subject to new source standards.

With relatively few exceptions, the final standards for storage vessels, continuous front-end process vents, equipment leaks, and wastewater streams are the same as those promulgated for the corresponding types of emission points at facilities subject to the HON. As shown in Tables 2 and 3, some subcategories have requirements that differ from the HON; these cases are designated by "MACT Floor." These different requirements are specified in the final standards.

As in the HON, if an emission point within an affected source meets the applicability criteria and is required to be controlled under the standard, it is referred to as a Group 1 emission point. If an emission point within the affected source is not required to apply controls, it is referred to as a Group 2 emission point.

A. Storage Vessel Provisions

For all subcategories, the storage vessel requirements are identical to the HON storage vessel requirements in subpart G. A storage vessel means a tank or other vessel that is associated with an elastomer product process unit and that stores a liquid containing one or more organic HAP. The rule specifies assignment procedures for determining whether a storage vessel is associated with an elastomer product process unit. The storage vessel provisions do not apply to the following: (1) Vessels permanently attached to motor vehicles, (2) pressure vessels designed to operate in excess of 204.9 kpa (29.7 psia) and without emissions to the atmosphere, (3) vessels with capacities smaller than 38 m^3 (10,000 gal), (4) vessels and equipment storing and/or handling material that contains no detectable organic HAP, and/or organic HAP as impurities only, (5) surge control vessels and bottoms receiver tanks, and (6) wastewater storage tanks. An impurity is produced coincidentally with another chemical substance and is processed, used, or distributed with it.

In addition to those vessels that do not meet the definition of storage vessels, the standards exempt certain storage vessels containing latex. Specifically, storage vessels containing a latex, located downstream of the stripping operations, all storage vessels containing styrene butadiene latex, and storage vessels containing styrene, acrylamide, and epichlorohydrin, are exempt from the storage vessel requirements of the final rule.

The owner or operator must determine whether a storage vessel is Group 1 or Group 2; Group 1 storage vessels require control. The criteria for determining whether a storage vessel is Group 1 or Group 2 are the same as the HON criteria.

TABLE 2.—SUMMARY OF FINAL STANDARDS FOR EXISTING AFFECTED SOURCES

Subcategory	Level of final standard[a]				
	Storage	Front-end process vents	Back-end process emissions	Wastewater	Equipment leaks
BR, HBR	HON	HON/ACT, exempting halogenated vent streams controlled by flare or boiler before June 12, 1995.	no control	HON	HON.
EPI, HYP, NEO, NBL, NBR, PSR, SBL	HON	HON/ACT	no control	HON	HON.
EPR	HON	HON/ACT, exempting halogenated vent streams controlled by flare or boiler before June 12, 1995.	MACT floor residual HAP limit.	HON	HON.
PBR/SBRS, SBRE	HON	HON/ACT	MACT floor residual HAP limit.	HON	HON.

[a] HON=the level of the standard is equivalent to existing source provisions of subpart G of 40 CFR 63 for storage and wastewater, and subpart H of 40 CFR 63 for equipment leaks.

HON/ACT=the level of the standard for continuous front-end process vents is equal to the existing source process vent provisions in subpart G of 40 CFR 63, and the level of the standard for batch front-end process vents is equal to the 90 percent control level from the Batch Processes ACT.

TABLE 3.—SUMMARY OF FINAL STANDARDS FOR NEW AFFECTED SOURCES

Subcategory	Level of standard[a]				
	Storage	Front-end process vents	Back-end process emissions	Wastewater	Equipment leaks
BR, EPI, HBR, HYP, NEO, NBL, NBR, SBL.	New source HON ...	New source HON/ ACT.	No control	Existing source HON.	New source HON
EPR, PBR/SBRS, SBRE	New source HON ...	New source HON/ ACT.	New source floor residual HAP limit.	Existing source HON.	New source HON

[a] HON=the level of the standard is equivalent to the provisions of subpart G of 40 CFR 63 for storage and wastewater, and subpart H of 40 CFR 63 for equipment leaks.
HON/ACT=the level of the standard for continuous front-end process vents is equal to the new source process vent provisions in subpart G of 40 CFR 63, and the level of the standard for batch front-end process vents is equal to the 90 percent control level from the Batch Processes ACT.

The storage provisions require that one of the following control systems be applied to Group 1 storage vessels: (1) An internal floating roof with proper seals and fittings; (2) an external floating roof with proper seals and fittings; (3) an external floating roof converted to an internal floating roof with proper seals and fittings; or (4) a closed vent system with a 95-percent efficient control device. The storage provisions give details on the types of seals and fittings required. Monitoring and compliance provisions include periodic visual inspections of vessels, roof seals, and fittings, as well as internal inspections. If a closed vent system and control device is used, the owner or operator must establish appropriate monitoring procedures. Reports and records of inspections, repairs, and other information necessary to determine compliance are also required by the storage provisions. No controls are required for Group 2 storage vessels.

B. Front-End Process Vent Provisions

There are separate provisions in the rule for front-end process vents that originate from unit operations operated in a continuous mode, and those from unit operations operated in a batch mode. An affected source could be subject to both the continuous and batch front-end process vent provisions if front-end operations at an elastomer production process unit consist of a combination of continuous and batch unit operations. The continuous provisions would be applied to those vents from continuous unit operations, and the batch provisions to vents from batch unit operations.

1. Continuous Front-End Process Vent Provisions

The provisions in the final rule for continuous front-end process vents are the same as the HON process vent provisions in subpart G. Continuous front-end process vents are gas streams that originate from continuously operated units in the front-end of an elastomer process, and include gas streams discharged directly to the atmosphere and gas streams discharged to the atmosphere after diversion through a product recovery device. The continuous front-end process vent provisions apply only to vents that emit gas streams containing more than 0.005 weight-percent HAP.

A Group 1 continuous front-end process vent is defined as a continuous front-end process vent with a flow rate greater than or equal to 0.005 scmm, an organic HAP concentration greater than or equal to 50 ppmv, and a total resource effectiveness (TRE) index value less than or equal to 1.0. The continuous front-end process vent provisions require the owner or operator of a Group 1 continuous front-end process vent stream to: (1) Reduce the emissions of organic HAP using a flare; (2) reduce emissions of organic HAP by 98 weight-percent or to a concentration of 20 ppmv or less; or (3) achieve and maintain a TRE index above 1. Performance test provisions are included for Group 1 continuous front-end process vents to verify that the control device achieves the required performance.

The organic HAP reduction is based on the level of control achieved by the reference control technology. Group 2 continuous front-end process vent streams with TRE index values between 1.0 and 4.0 are required to monitor those process vent streams to ensure those streams do not become Group 1, which require control.

The owner or operator can calculate a TRE index value to determine whether each process vent is a Group 1 or Group 2 continuous front-end process vent, or the owner or operator can elect to comply directly with the control requirements without calculating the TRE index. The TRE index value is determined after the final recovery device in the process or prior to venting to the atmosphere. The TRE calculation involves an emissions test or engineering assessment and use of the TRE equations in § 63.115 of subpart G.

The rule encourages pollution prevention through product recovery because an owner or operator of a Group 1 continuous front-end process vent may add recovery devices or otherwise reduce emissions to the extent that the TRE becomes greater than 1.0 and the Group 1 continuous front-end process vent becomes a Group 2 continuous front-end process vent.

Group 1 halogenated streams controlled using a combustion device must vent the emissions from the combustor to an acid gas scrubber or other device to limit emissions of halogens prior to venting to the atmosphere. The control device must reduce the overall emissions of hydrogen halides and halogens by 99 percent or reduce the outlet mass emission rate of total hydrogen halides and halogens to less than 0.45 kg/hr.

The rule exempts certain halogenated process vent streams from the requirement to control the halogens at the exit from a combustion device. Specifically, halogenated continuous front-end process vents at existing affected sources producing butyl rubber, halobutyl rubber, or ethylene-propylene rubber are exempt from the requirements to control hydrogen halides and halogens from the outlet of combustion devices. However, the rule requires that these vent streams be controlled in accordance with the other Group 1 requirements for continuous front-end process vents.

Monitoring, reporting, and recordkeeping provisions necessary to demonstrate compliance are also included in the continuous front-end process vent provisions. Compliance with the monitoring provisions is based on a comparison of daily average monitored values to enforceable parameter "levels" established by the owner or operator.

2. Batch Front-End Process Vent Provisions

Process vents that include gas streams originating from batch unit operations in the front-end of an elastomer product process unit are subject to the batch front-end process vent provisions of the rule. Consistent with provisions in the rule for other emission source types, batch front-end process vents are classified as Group 1 or Group 2, with control being required for Group 1 batch front-end process vents.

An important aspect of the batch front-end process vent provisions is that applicability is on an individual vent basis. All batch emission episodes that are emitted to the atmosphere through the vent are to be considered in the group determination. The rule does not require that emissions from similar batch unit operations emitted from different vents be combined for applicability determinations. In other words, if a process included four batch reactors, and each reactor had a dedicated vent to the atmosphere, applicability would be determined for each reactor.

The applicability criteria of the batch front-end process vent provisions are from the Batch Processes ACT, and are based on annual emissions of the HAP emitted from the vent, and the average flow rate of the vent stream. The vent stream characteristics are determined at the exit from the batch unit operation before any emission control or recovery device. The rule specifies that reflux condensers, condensers recovering monomer or solvent from a batch stripping operation, and condensers recovering monomer or solvent from a batch distillation operation are considered part of the unit operation. Therefore, the batch front-end process vent applicability criteria would be applied after these condensers.

The first step in the applicability determination is to calculate the annual HAP emissions. Annual HAP emissions may be calculated using equations contained in the regulation (which are from the Batch Processes ACT). Testing or engineering assessment may also be used if the equations are not appropriate. Batch front-end process vents with annual HAP emissions less than 225 kilograms per year are exempt from all batch front-end process vent requirements, other than the requirement to estimate annual HAP emissions.

There are two tiers of Group 2 batch front-end process vents. First, if the annual HAP emissions of a vent are below specified cutoff levels, the batch front-end process vent is classified as a Group 2 vent, and a batch cycle limitation must be established (discussed below). The cutoff emission level is 11,800 kilograms HAP per year.

If annual HAP emissions are greater than the cutoff emission level specified above, the owner must determine the annual average flow rate of the batch front-end process vent, and the "cutoff flow rate" using the equation in § 63.488(f). The Group 1/Group 2 classification is then based on a comparison between the actual annual average flow rate, and the cutoff flow rate. If the actual flow rate is less than the calculated cutoff flow rate, then the batch process vent is a Group 1 vent, and control is required. If the actual flow rate is greater than the calculated cutoff flow rate, then the batch process vent is a Group 2 batch front-end process vent, and the owner or operator must establish a batch cycle limitation.

Owners and operators of Group 2 batch front-end process vents must establish a batch cycle limitation that ensures that HAP emissions from the vent do not increase to a level that would make the batch front-end process vent Group 1. The batch cycle limitation is an enforceable restriction on the number of batch cycles that can be performed in a year. An owner or operator has two choices regarding the level of the batch cycle limitation. The limitation may be set to maintain emissions below the annual emission cutoff level listed above, or the limitation may be set to ensure that annual emissions do not increase to a level that makes the calculated cutoff flow rate increase beyond the actual annual average flow rate. The advantage to the first option is that the owner or operator would not be required to determine the annual average flow rate of the vent. A batch cycle limitation does not limit production to any previous production level, but is based on the number of cycles necessary to exceed one of the two batch front-end process vent applicability criteria discussed above.

The batch front-end process vent provisions require the owner or operator of a Group 1 batch front-end process vent stream to: (1) Reduce the emissions of organic HAP using a flare or (2) reduce emissions of organic HAP by 90 weight-percent over each batch cycle using a control or recovery device. If a halogenated batch vent stream (defined as a vent that has a mass emission rate of halogen atoms in organic compounds of 3,750 kilograms per year or greater) is sent to a combustion device, the outlet stream must be controlled to reduce emissions of hydrogen halides and halogens by 99 percent. Control could be achieved at varying levels for different emission episodes as long as the required level of control for the batch cycle was achieved. The owner or operator could even elect to control some emission episodes and by-pass control for others. Performance test provisions are included for Group 1 batch front-end process vents to verify that the control device achieves the required performance.

Monitoring, reporting, and recordkeeping provisions necessary to demonstrate compliance are also included in the batch front-end process vent provisions. These provisions are modeled after the analogous continuous process vent provisions in the HON. Compliance with the monitoring provisions is based on a comparison of batch cycle daily average monitored values to enforceable parameter monitoring levels established by the owner or operator.

The provisions for batch front-end process vents contain three conditions that can greatly simplify compliance. First, an owner or operator can control a batch front-end process vent in accordance with the Group 1 batch front-end process vent requirements and bypass the applicability determination. Second, if a batch front-end process vent is combined with a continuous vent stream before a recovery or control device, the owner or operator is exempt from all batch front-end process vent requirements. However, applicability determinations and performance tests for the continuous vent must be conducted at conditions when the addition of the batch vent streams makes the HAP concentration in the combined stream greatest. Finally, if batch front-end process vents combine to create a "continuous" flow to a control or recovery device, the less complicated continuous process vent monitoring requirements are used.

C. Back-End Process Provisions

Back-end process operations include all operations at an EPPU that occur after the stripping operations. These operations include, but are not limited to, filtering, drying, separating, and other finishing operations, as well as product storage.

The back-end process provisions contain residual HAP limitations for three subcategories: EPR, PBR/SBRS, and SBRE. The limitations for EPR and PBR/SBRS are in units of kilograms HAP per megagram of crumb rubber dry weight (crumb rubber dry weight means the weight of the polymer, minus the weight of water and residual organics), and the limitation for SBRE is in units of kilogram HAP per megagram latex.

The limitation is a monthly average weighted based on the weight of rubber or latex processed in the stripper. Two methods of compliance are available: (1) Stripping the polymer to remove the residual HAP to the levels in the standards, on a monthly weighted average basis, or (2) reducing emissions using add-on control to a level equivalent to the level that would be achieved if stripping was used.

1. Compliance Using Stripping Technology

If stripping is the method of compliance selected, the rule allows two options for demonstrating compliance: by sampling and by monitoring stripper operating parameters. If compliance is demonstrated by sampling, samples of the stripped wet crumb or stripped latex must be taken as soon as safe and feasible after the stripping operation, but no later than the entry point for the first unit operation following the stripper (e.g., the watering screen), and analyzed to determine the residual HAP content. For styrene-butadiene rubber produced by the emulsion process, the sample of latex shall be taken just prior to entering the coagulation operations.

A sample must be taken once per day for continuous processes, or once per batch for batch processes. The sample must be analyzed to determine the residual HAP content, and the corresponding weight of rubber or latex processed in the stripper must be recorded. This information is then used to calculate a monthly weighted average. A monthly weighted average that is above the limitation is a violation of the standard, as is a failure to sample and analyze at least 75 percent of the samples required during the month. The EPA is in the process of approving test methods that will be used to determine compliance with the standard. These methods are being promulgated separately by the EPA. Records of each test result would be required, along with the corresponding weight of the polymer processed in the stripper. Records of the monthly weighted averages must also be maintained.

An owner or operator complying using stripping can also demonstrate compliance by continuously monitoring stripper operating parameters. If using this approach, the owner or operator must establish stripper operating parameters for each grade of polymer processed in the stripper, along with the corresponding residual HAP content of that grade. The parameters that must be monitored include, at a minimum, temperature, pressure, steaming rates (for steam strippers), and some parameter that is indicative of residence time. The HAP content of the grade must be determined initially using the residual HAP test methods discussed above. The owner or operator can elect to establish a single set of stripper operating parameters for multiple grades.

The EPA believes that computer predictive modeling may be an attractive alternative to the periodic sampling and stripper parametric monitoring options in the rule, but did not specifically include provisions for these options, because the use of computer predictive modeling is so site-specific that it was not possible to include general requirements for its use in subpart U. However, the rule does allow the opportunity for site-specific approval of the use of computer predictive modeling, stack test monitoring, or other alternative means of compliance through the submittal of an alternative compliance plan.

The difference in the demonstration of compliance by sampling, and the demonstration of compliance by monitoring stripping parameters, is that the monitoring option is entirely based on a grade or batch. To further explain, if a particular grade of polymer is processed in the stripper continuously for 32 hours, a sample of that grade is required to be taken each operating day, if the sampling compliance demonstration option is selected. However, if the stripping parameter monitoring option is selected, the entire length of time the grade is being processed in the stripper is treated as a single unit.

During the operation of the stripper, the parameters must be continuously monitored, with a reading of each parameter taken at least once every 15 minutes. If, during the processing of a grade, all hourly average parameter values are in accordance with the established levels, the owner or operator can use the HAP content determined initially in the calculation of the monthly weighted average, and sampling is not required. However, if one hourly average value for any parameter is not in accordance with the established operating parameter, a sample must be taken and the HAP content determined using specified test methods.

Records of the initial residual HAP content results, along with the corresponding stripper parameter monitoring results for the sample, must be maintained. The hourly average monitoring results are required to be maintained, along with the results of any HAP content tests conducted due to exceedance of the established parameter monitoring levels. Records must also be kept of the weight of polymer processed in each grade, and the monthly weighted average values.

If complying with the residual HAP limitations using stripping technology, and demonstrating compliance by monitoring stripper parameters, there are three ways a facility can be in violation of the standard. First, a monthly weighted average that is above the limitation is a violation of the standard, as is a failure to sample and analyze a sample for a grade with an hourly average parameter value not in accordance with the established monitoring parameter levels. The third way for a facility to be out of compliance is if the stripper monitoring data are not sufficient for at least 75 percent of the grades produced during the month. Stripper data are considered insufficient if monitoring parameters are obtained for less than 75 percent of the 15-minute periods during the processing of a grade.

2. Compliance Using Add-On Control

If add-on control is the method of compliance selected, there are two levels of compliance. Initial compliance is based on a source test, and continuous compliance is based on the daily average of parameter monitoring results for the control or recovery device.

The initial performance test must consist of three 1-hour runs or three complete batch cycles, if the duration of the batch cycle is less than 1 hour. The test runs must be conducted during processing of "worst-case" grade, which means the grade with the highest residual HAP content leaving the stripper. The "uncontrolled" residual HAP content in the latex or wet crumb rubber must be determined, using the test methods, after the stripper. Then, when the crumb for which the uncontrolled residual HAP was determined is being processed in the back-end unit operation being controlled, the inlet and outlet emissions for the control or recovery device must be determined using Method 18 or Method 25A. The uncontrolled HAP content is then adjusted to account for the reduction in emissions by the control or recovery device, and compared to the levels in the standard. For initial compliance, the adjusted residual HAP content level for each test run must be less than the level in today's standards.

During the initial test, the appropriate parameter must be monitored, and an enforceable "level" established as a maximum or minimum operating parameter based on this monitoring. As

with continuous front-end process vents, the level is established as the average of the maximum (or minimum) point values for the three test runs.

Continuous monitoring must be conducted on the control or recovery device, and compliance is based on the daily average of the monitoring results. The monitoring, recordkeeping, and reporting provisions are the same as the process vent provisions in the HON, which are required for continuous front-end process vents in today's final standard.

3. Carbon Disulfide Limitations For Styrene Butadiene Rubber By Emulsion Producers

Today's regulation would reduce carbon disulfide (CS_2) emissions from styrene butadiene rubber producers using an emulsion process by limiting the concentration of CS_2 in the dryer vent stacks to 45 ppmv. Sulfur-containing shortstopping agents used to produce certain grades of rubber have been determined to be the source of CS_2 in the dryer stacks. Owners or operators would be required to develop standard operating procedures for each grade that uses a sulfur-containing shortstopping agent. These standard operating procedures would specify the type and amount of agent added, and the point in the process where the agent is added. One standard operating procedure can be used for more than one grade if possible.

The owner or operator is required to validate each standard operating procedure through either a performance test or a demonstration using engineering assessment. The facility would be in compliance with this the regulation if the appropriate standard operating procedure is followed whenever a sulfur-containing shortstopping agent is used. Facilities that route dryer vents to a combustion device would be exempt from § 63.500 of the regulation.

D. Wastewater Provisions

Except for back-end wastewater streams originating from equipment that only produces latex products and back-end wastewater streams at affected sources that are subject to the residual organic HAP limitation, the standards require owners and operators to comply with the wastewater provisions in the HON. Owners and operators of new and existing sources are required to make a group determination for each wastewater stream based on the existing source applicability criteria in the HON: Flow rate and organic HAP concentration. The level of control required for Group 1 wastewater streams is dependent upon the organic HAP constituents in the wastewater stream.

The standards also require owners and operators to comply with the maintenance wastewater requirements in § 63.105 of subpart F. These provisions require owners and operators to include a description of procedures for managing wastewaters generated during maintenance in their startup, shutdown, and malfunction plan.

E. Equipment Leak Provisions

For all subcategories, both existing and new affected sources are required to comply with the equipment leak standards specified in subpart H of 40 CFR part 63. In general, subpart H requires owners and operators to implement a leak detection and repair (LDAR) program, including various work practice and equipment standards. The subpart H standards are applicable to equipment in volatile HAP service for 300 or more hours per year (hr/yr). The standards define "in volatile organic HAP service" as being in contact with or containing process fluid that contains a total of 5 percent or more total HAP. Equipment subject to the standards are: Valves, pumps, compressors, connectors, pressure relief devices, open-ended valves or lines, sampling connection systems, instrumentation systems, agitators, surge control vessels, bottoms receivers, and closed-vent systems and control devices.

A few differences to the subpart H standards are contained in this final rule. These differences include not requiring the submittal of an Initial Notification or Implementation Plan and allowing 150 days (rather than 90 days) to submit the Notification of Compliance Status. In addition, the exemptions discussed earlier for storage vessels are also applicable for surge control vessels and bottoms receivers.

Affected sources subject to today's final rule and currently complying with the NESHAP for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (40 CFR part 63, subpart I) are required to continue to comply with subpart I until the compliance date of this final rule, at which point in time they must comply with today's rule and are no longer subject to subpart I. Further, affected sources complying with subpart I through a quality improvement program are allowed to continue these programs without interruption as part of complying with today's rule. In other words, becoming subject to today's standards does not restart or reset the "compliance clock" as it relates to reduced burden earned through a quality improvement program.

F. Emissions Averaging Provisions

The EPA is allowing emissions averaging among continuous front-end process vents, batch front-end process vents, aggregate batch vents, back-end process operations, storage vessels, and wastewater streams within an existing affected source. New affected sources are not allowed to use emissions averaging. Emissions averaging is not allowed between subcategories; it is only allowed between emission points within the same affected source. Under emissions averaging, a system of "credits" and "debits" is used to determine whether an affected source is achieving the required emission reductions. Twenty emission points per plant site are allowed in the set of emissions averaging plans submitted for the plant site, with an additional 5 emission points allowed if pollution prevention measures are used.

G. Compliance and Performance Test Provisions and Monitoring Requirements

Compliance and performance test provisions and monitoring requirements contained in the final standards are very similar to those found in the HON. Each type of emission point included in the standards is discussed briefly in the following paragraphs. Also, significant differences from the parameter monitoring requirements found in the HON are discussed.

1. Storage Vessels

Monitoring and compliance provisions for storage vessel improvements include periodic visual inspections of vessels, roof seals, and fittings, as well as internal inspections. If a control device is used, the owner or operator must identify the appropriate monitoring procedures to be followed in order to demonstrate compliance. Monitoring parameters and procedures for many of the control devices likely to be used are identified in the final standards. Reports and records of inspections, repairs, and other information necessary to determine compliance are also required by the final standards.

2. Continuous Front-end Process Vents

The final standards for continuous front-end process vents require the owner or operator to either calculate a TRE index value to determine the group status of each continuous front-end process vent or to comply with the control requirements. The TRE index value is determined after the last recovery device in the process or prior to venting to the atmosphere. The TRE calculation involves an emissions test or

engineering assessment and use of the TRE equations specified in the final standards.

Performance test provisions are included for Group 1 continuous front-end process vents to verify that control devices or recovery achieve the required performance. Monitoring provisions necessary to demonstrate compliance are also included in the standards.

3. Batch Front-End Process Vents

Similar to the provisions for continuous front-end process vents, there is a procedure for determining the group status of batch front-end process vents. This procedure is based on annual emissions and annual average flow rate of the batch front-end process vent. Equations for estimating and procedures for measuring annual emissions and annual average flow rates are provided in the final standards. The use of engineering assessment for the group determination is also allowed.

Performance test provisions are included for Group 1 batch front-end process vents to verify that control devices achieve the required performance. Monitoring provisions necessary to demonstrate compliance are also included in the final standard.

For Group 2 batch front-end process vents, the standard requires owners and operators to establish a batch cycle limitation. The batch cycle limitation restricts the number of batch cycles that can be accomplished per year. This enforceable limitation ensures that a Group 2 batch front-end process vent does not become a Group 1 batch front-end process vent as a result of running more batch cycles than anticipated when the group determination was made. The determination of the batch cycle limitation is not tied to any previous production amounts. An affected source may set the batch cycle limitation at any level it desires as long as the batch front-end process vent remains a Group 2 batch front-end process vent. Alternatively the standards would allow owners or operators to declare any Group 2 batch front-end process vent to be a Group 1 batch front-end process vent. In such cases, control of the batch process front-end vent is required.

4. Back-End Process Vents

The final rule specifies the performance tests, test methods (with the exception of residual HAP reference test methods), and monitoring requirements necessary to determine that the allowed back-end emission limitations are achieved. The following paragraphs discuss each of these.

Performance tests and test methods for residual HAP limitations. Initial performance tests, in the traditional sense, are required for facilities complying with the back-end operations provisions using add-on control. Testing is required for all control and recovery devices, other than flares and certain boilers and process heaters. The back-end process provisions require the use of approved test methods.

Initial tests are required for facilities complying by using stripper parameter monitoring. The purpose of this initial testing is to establish correlations between residual HAP contents and stripper operating parameters. Within a few months of the promulgation of this regulation, the EPA will promulgate test methods for determining the residual HAP content in crumb and latex.

If an owner or operator complies with the back-end standards by sampling, periodic sampling and testing is required. The residual HAP test methods would also be used for these analyses.

Performance tests and test methods for carbon disulfide emission limitations for SBRE facilities. Initial performance tests are one option for "verifying" each standard operating procedure as an acceptable procedure that results in carbon disulfide concentrations of 45 ppmv or less in the dryer stacks at SBRE facilities. Standard operating procedures may also be verified through engineering assessments. If the performance testing option is selected, one performance test is required for each standard operating procedure. Method 18 or 25A is specified to measure the carbon disulfide concentration. Additional verifications are not required unless a new standard operating procedure is added, or an existing standard operating procedure is revised.

Monitoring requirements. Control and recovery devices and strippers used to comply with the final rule need to be maintained and operated properly if the required level of control is to be achieved on a continuing basis. Monitoring of control and recovery device and stripper parameters can be used to ensure that such proper operation and maintenance are occurring.

For control and recovery devices, the back-end process operation standard uses the same list of parameters discussed above for continuous front-end process vents. For strippers, the regulation requires the monitoring of temperature, pressure, steaming rates, and a parameter indicative of residence time.

5. Wastewater

For demonstrating compliance with the various requirements, the final standard allows the owners or operators to either conduct performance tests or to document compliance using engineering calculations. Appropriate compliance and monitoring provisions are included in the final standard.

6. Equipment Leaks

The final standard retains the use of Method 21 to detect leaks. Method 21 requires a portable organic vapor analyzer to monitor for leaks from equipment in use. A "leak" is a concentration specified in the regulation for the type of equipment being monitored and is based on the instrument response to methane (the calibration gas) in the air. The observed screening value may require adjustment for the response factor relative to methane if the weighted response factor of the stream exceeds a specified multiplier. The final rule requires the use of Method 18 or Method 25A to determine the organic content of a process stream. To test for leaks in a batch system, test procedures using either a gas or a liquid for pressure testing the batch system are specified to test for leaks.

7. Continuous Parameter Monitoring

The final standards require owners or operators to establish parameter monitoring levels. The standards provide the owner or operator the flexibility to establish the levels based on site-specific information. Site-specific levels can best accommodate variation in emission point characteristics and control device designs. Three procedures for establishing these levels are provided in the final standards. They are based on performance tests; engineering assessments, performance tests, and/or manufacturer's recommendations; and engineering assessments and/or manufacturer's recommendations. While the establishment of a level based solely on performance tests is preapproved by the Administrator, values determined using the last two procedures, which may or may not use the results of performance tests, must be approved by the Administrator for each individual case.

The final standards require the availability of at least 75 percent of monitoring data to constitute a valid day's worth of data for continuous and batch front-end process vents. Failure to have a valid day's worth of monitoring data is considered an excursion. The criteria for determining a valid day's or

hour's worth of data are provided in the final standards. A certain number of excused excursions have been allowed for in the final standards; these provisions are the same as the provisions in the HON. The standards allow a maximum of 6 excused excursions for the first semiannual reporting period, decreasing by 1 excursion each semiannual reporting period. Starting with the sixth semiannual reporting period (i.e., the end of the third year of compliance) and thereafter, affected sources are allowed one excused excursion per semiannual reporting period. As is always the case, a State has the discretion to impose more stringent requirements than the requirements of NESHAP and other federal requirements and could choose not to allow the excused excursion provisions contained in these final standards.

H. Recordkeeping and Reporting Provisions

The final standards require owners or operators of affected sources to maintain required records for a period of at least 5 years. The final standards require that the following reports be submitted, as applicable: (1) Precompliance Report, (2) Emissions Averaging Plan, (3) Notification of Compliance Status report, (4) Periodic Reports, and (5) other reports (e.g., notifications of storage vessel internal inspections).

Specific recordkeeping and reporting requirements are specified in each section that addresses an individual emission point (e.g., § 63.486 for batch front-end process vents). The recordkeeping and reporting provisions related to the affected source as a whole (e.g., types of reports, such as the Notification of Compliance Status) are found in § 63.506. For example, § 63.491 requires an owner or operator to record the batch cycle limitation for each Group 2 batch front-end process vent. Section 63.492 goes on to require the owner or operator to submit this information in the Notification of Compliance Status as specified in § 63.506. Finally, § 63.506 requires submittal of the information specified in § 63.492.

III. Summary of Impacts

This section presents a summary of the air, non-air environmental (waste and solid waste), energy, cost, and economic impacts resulting from the control of HAP emissions under this final rule.

A. Facilities Affected by These NESHAP

The promulgated rule would affect BR, EPI, EPR, HYP, NEO, NBR, PBR, PSR, and SBR facilities that are major sources in themselves, or that are located at a major source. Based on available information, all of the facilities at which these elastomers are produced were judged to be major sources for the purpose of developing these standards. (Final determination of major source status occurs as part of the compliance determination process undertaken by each individual source.)

Impacts are presented relative to a baseline reflecting the level of control in the absence of the rule. The current level of control was well understood, because emissions and control data were collected on each facility included in the analysis. The impacts for existing sources were estimated by bringing each facility's control level up to today's standards.

Impacts are not assessed for new sources because it was projected that no new sources are expected to begin operation through 1999. For more information on this projection, see the New Source Memo in the SID.

B. Primary Air Impacts

Today's standards are estimated to reduce HAP emissions from all existing sources of listed elastomers by 6,400 Mg/yr. This represents a 48 percent reduction from baseline. Table 4 summarizes the HAP emission reductions for each individual subcategory.

C. Other Environmental Impacts

The total criteria air pollutant emissions resulting from process vent and wastewater control of today's standards are estimated to be around 178 Mg/yr, with NO_x emissions from incinerators and boilers accounting for around 155 Mg/yr. Minimal wastewater or solid and hazardous waste impacts are projected.

D. Energy Impacts

The total nationwide energy demands that would result from implementing the process vent and wastewater controls are around 1.10×10^{12} Btu annually.

TABLE 4. HAP EMISSION REDUCTION BY SUBCATEGORY

Subcategory	HAP emission reduction (Mg/yr)						Percentage reduction from baseline
	Storage	Front-end process vents	Back-end process operations	Wastewater operations	Equipment leaks	Total	
Butyl rubber	0	211	0	102	293	606	64
Epichlorohydrin elastomer	4	0	0	0	120	124	77
Ethylene propylene rubber	2	85	979	0	1,020	2,012	62
Halobutyl rubber	62	38	0	0	233	335	26
Hypalon™	0	0	0	0	0	0	0
Neoprene	0	258	0	0	96	354	48
Nitrile butadiene latex	0	0	0	94	41	135	85
Nitrile butadiene rubber	1	0	0	0	364	365	62
Polybutadiene rubber/styrene butadiene rubber by solution	0	0	882	0	637	1,519	44
Polysulfide rubber	0	0	0	0	0	0	0
Styrene butadiene latex	0	22	0	272	332	627	44
Styrene butadiene rubber by emulsion	0	0	195	48	0	243	23
Total—(percent of total reduction)	69, (1)	615, (10)	2,056, (32)	516, (8)	3,136, (49)	6,392	48

E. Cost Impacts

Cost impacts include the capital costs of new control equipment, the cost of energy (supplemental fuel, steam, and electricity) required to operate control equipment, operation and maintenance costs, and the cost savings generated by reducing the loss of valuable product in the form of emissions. Also, cost impacts include the costs of monitoring, recordkeeping, and reporting associated with today's standards. Average cost

effectiveness ($/Mg of pollutant removed) is also presented as part of cost impacts and is determined by dividing the annual cost by the annual emission reduction. Table 5 summarizes the estimated capital and annual costs and average cost effectiveness by subcategory.

Under the promulgated rule, it is estimated that total capital costs for existing sources would be $26 million (1989 dollars), and total annual costs would by $18.4 million (1989 dollars) per year. It is expected that the actual compliance cost impacts of the rule would be less than presented because of the potential to use common control devices, upgrade existing control devices, use other less expensive control technologies, implement pollution prevention technologies, or use emissions averaging. Because the effect of such practices is highly site-specific and data were unavailable to estimate how often the lower cost compliance practices could be utilized, it is not possible to quantify the amount by which actual compliance costs would be reduced.

TABLE 5. SUMMARY OF REGULATORY COSTS

	TCI[a] (1000$)	TAC[b] (1000$/yr)	AER[c] (Mg/yr)	CE[d] ($/Mg)
Butyl	691	1,316	606	2,200
Epichlorohydrin	491	241	124	1,900
Ethylene Propylene	5,854	3,506	2,012	1,700
Halobutyl	328	322	335	1,000
Hypalon®	0	0	0	N/A
Neoprene	560	897	354	2,500
Nitrile butadiene latex	465	243	135	1,800
Nitrile butadiene rubber	397	444	365	1,200
Polybutadine/styrene butadiene rubber by solution	11,780	8,335	1,519	[e]5,500
Polysulfide	0	0	0	N/A
Styrene butadiene latex	1,480	1,028	627	1,600
Styrene butadiene rubber by emulsion	3,942	2,112	243	[e]8,700

[a] "TCI" represents Total Capital Investment.
[b] "TAC" represents Total Annualized Cost, including the monitoring, recordkeeping, and reporting cost.
[c] "AER" represents the Annual Emission Reduction.
[d] "CE" represents Cost-Effectiveness.
[e] This cost-effectiveness is primarily due to the high costs estimated to control back-end process emissions to the MACT floor level. The costs developed are costs for incineration devices to sufficient back-end vents so that emissions will be reduced to a level equivalent to the level achieved by meeting the residual HAP limit by stripping. Extrapolation of industry estimates of the cost of enhanced stripping place the cost of enhanced stripping as low as 10 percent of the cost of incineration.

F. Economic Impacts

Economic impacts for the regulatory alternatives analyzed at proposal show that the estimated price increases for the affected chemicals range from 0.2 percent for nitrile butadiene latex (NBL) to 2.5 percent for BR. Estimated decreases in production range from 0.7 percent for NBL to 5.0 percent for BR. With the reduced estimate in costs from proposal, the economic impacts of the final rule should be lower than those estimated at proposal. No closures of facilities are expected as a result of the standard.

Three aspects of the analysis are likely to lead to an overestimate of the impacts. First, the economic analysis model assumes that all affected firms compete in a national market, though in reality some firms may be protected from competitors by regional or local trade barriers. Second, facilities with the highest control cost per unit of production are assumed to also have the highest baseline production costs per unit. This assumption may not always be true, because the baseline production costs per unit are not known, and thus, the estimated impacts, particularly for the smaller firms, may be too high. Finally, economic impacts may be overstated, because the alternative for halobutyl rubber and butyl rubber that was used in this analysis is more stringent and more costly than the selected regulatory alternative.

For more information regarding the impacts of the final standards, consult the Basis and Purpose Document (see the **SUPPLEMENTARY INFORMATION** section near the beginning of the preamble).

IV. Significant Comments and Changes to the Proposed Standards

In response to comments received on the proposed standards, changes have been made to the final standards. While several of these changes are clarifications designed to make the EPA's intent clearer, a number of them are significant changes to the requirements of the proposed standards. A summary of the substantive comments and/or changes made since the proposal are described in the following sections. The rationale for these changes and detailed responses to public comments are included in the Basis and Purpose Document for the final standards. Additional information is contained in the docket for these final standards (see **ADDRESSES** section of this preamble).

National Emission Standards for Hazardous Air Pollutant Emissions from the Production of Acrylonitrile Butadiene Styrene (ABS) Resin, Styrene Acrylonitrile (SAN) Resin, Methyl Methacrylate Acrylonitrile Butadiene Styrene (MABS) Resin, Methyl Methacrylate Butadiene Styrene (MBS) Resin, Polystyrene Resin, Poly(ethylene terephthalate) (PET) Resin, and Nitrile Resin (Group IV Polymers and Resins) (40 CFR part 63, subpart JJJ), were developed concurrently with subpart U. Many of the basic requirements of the two rules are alike, and in some cases they are identical. Subpart V was proposed on March 29, 1995, and comments from the public were received. In many instances, similar comments were received on analogous sections of subparts U and V. In these instances, the responses to comments and appropriate rule changes were coordinated. However, in some instances, comments were received on subpart V, and not on subpart U, that were applicable to provisions of subpart U. A summary of these comments can be found in the "Hazardous Air Pollutant Emissions from Process Units in the Thermoplastics Manufacturing Industry—Basis and Purpose Document for Final Standards, Summary of Public Comments and Responses" (EPA–453/R–96–001b, May 1996; Docket Number

A–92–45, Item Number V–C–1). In a few cases, the EPA decided that a change to subpart U based on these comments was appropriate. These changes did not result in a change in the stringency of the subpart U provisions, but were typically changes to improve the clarity of the rule. The one area where a subpart V comment resulted in a tangible change to subpart U was in the batch vent applicability determination; that is, an affected source is allowed to determine the group status of a batch front-end process vent based on its primary product.

A. Applicability Provisions and Definitions

1. Designation of Affected Source and the Definition of EPPU

Commenters expressed confusion about the definitions of affected source and EPPU in the proposed rule. The EPA reviewed both definitions and agreed the definitions needed clarification. Therefore, the EPA has revised the language describing affected source and EPPU in the final rule. The definition of affected source has been clarified, as discussed in section II and paragraph A.3 of this section.

The definition of EPPU was revised and now includes a list of the equipment that comprises an EPPU. Because wastewater operations are ancillary equipment and are often used by more than one EPPU and may be used by more than one affected source, they are not included as part of the EPPU.

2. Definition of Organic HAP

Numerous commenters recommended that the EPA restrict the list of organic HAP in the final rule to those that are used or are present in significant quantities at EPPUs or those that are listed in the HON, subpart F, table 2. The EPA agreed with the commenters that a table providing a listing of the specific organic HAP expected to be regulated for each subcategory covered by the rule should be included in the final rule. Therefore, the definition of organic HAP was revised to specify those organic HAP known to be used or present in significant quantities for each subcategory. This list is provided in table 7 of the final rule.

This revised definition of organic HAP was developed using available process description information received from industry and gathered from available literature. Because there may be additional organic HAP present at an affected source, the final rule requires owners or operators to notify the EPA of the presence of any additional organic HAP based on the following criteria: (1) Organic HAP is knowingly introduced into the manufacturing process, or has been or will be reported under any Federal or State program, such as TRIS or Title V; and (2) Organic HAP is presented in Table 2 of subpart F.

3. Determining New Source Status

The EPA received comments regarding the process for determining if new or existing source requirements would apply to a particular EPPU. In response to those comments, the EPA has revised the provisions in the final standards. Under the final standards, new affected sources are created under each of the following four situations: (1) If a plant site with an existing affected source producing an elastomer product as its primary product constructs a new EPPU also producing the same elastomer product as it primary product, the new EPPU is a new affected source if the new EPPU has the potential to emit more than 10 tons per year of a single HAP, or 25 tons per year of all HAP; (2) when an EPPU is constructed at a major source plant site where the elastomer product was not previously produced; (3) if a new EPPU is constructed at a new plant site (i.e., green field site) that will be a major source; and (4) when an existing affected source undergoes reconstruction, thus making the previously existing source subject to new source standards.

This approach to defining a new affected source was selected in order to make subpart U more consistent with the HON. This standard differs from the HON, however, in that it applies to multiple source categories. Thus, unlike the HON, a newly added EPPU at a facility is covered by this rule even if that EPPU is in a different source category from the existing EPPUs at the facility. It is the EPA's position that the addition of a process unit in a different source category is a new source and must meet the requirements for new sources even though the EPPU may have the potential to emit less than 10 tons per year of a single HAP or 25 tons per year of all HAP. Indeed, if a source covered by another MACT standard (i.e., a different source category) were built at a HON facility, that source would be subject to the new source requirements under that MACT standard.

4. Flexible Operation Units

The final rule has retained the HON concept of flexible operation units, but the language in the final rule has been significantly modified to more adequately address polymer production facilities. The final provisions require flexible operation units with an elastomer as the primary product to commit to complying with the elastomers rule at all times, regardless of what product they are producing at any particular time. The primary product for a flexible operation unit is determined based on projected production for the next 5 years.

B. Storage Vessel Provisions

In comments received on the storage tank provisions, the EPA noted a common misinterpretation of the proposed regulation related to the distinction between a "storage vessel" and a "surge control vessel". The EPA determined that many of the comments received on "storage vessels" were in fact referring to vessels that fall under the definition of surge control vessel. The EPA suggests that owners and operators of facilities subject to subpart U pay careful attention to these definitions.

1. Applicability Requirements

Several comments were received requesting that the EPA consider the exemption of vessels storing specific HAP or products. In fact, one commenter indicated that the EPA should conduct a full floor analysis for new and existing storage vessels, considering each chemical separately and the various sizes of tanks for each subcategory. Other commenters supported the exemption of stripped latex storage tanks from control requirements, but also declared that high conversion SBR or polybutadiene latex storage tanks should also be exempt. Another commenter stated that tanks downstream of EPR stripping operations should be exempt from storage vessel requirements, just as those containing latex downstream of stripping operations are exempt.

The EPA does not believe that the floor analyses for each HAP stored at elastomer production facilities are required to be conducted under the Act, nor should they be conducted. The Act requires the EPA to set emission standards for HAP on a source category (or subcategory) basis; it does not compel the EPA to establish separate control measures for each HAP emitted by a source in the category. As suggested by the commenter, this approach could result in an incomplete standard, since it would not include a standard for a listed HAP that may be used in the future by elastomer facilities. Further, consideration of individual HAP storage vessel controls would not be representative of facility-wide storage vessel control levels.

However, the EPA believes that it is reasonable to exempt a storage vessel from the final regulation when it is clear that the vessel would never be a Group 1 storage vessel. The EPA determined that the following HAP used in the elastomer industry have low enough vapor pressures that vessels storing these HAP would never be Group 1: acrylamide, epichlorohydrin, and styrene. Therefore, the final rule exempts storage vessels containing these HAP at existing sources. This exemption is also extended to surge control vessels and bottoms receivers at existing sources.

In addition, the EPA is convinced that an SBL storage vessel (high conversion or otherwise) would never contain sufficient HAP to exceed the vapor pressure cutoff for Group 1 storage vessels. This is primarily due to the low vapor pressure of styrene. Therefore, the final rule exempts all SBL storage vessels, surge control vessels, and bottoms receivers from the requirements of §§ 63.484 and 63.502.

Finally, the EPA agrees that storage vessels, surge control vessels, and bottoms receivers downstream of stripping operations at ethylene-propylene rubber facilities that are in compliance with the provisions of § 63.494 through the use of stripping technology should be exempt from the storage vessel, surge control vessel, and bottoms receiver requirements. Further, the EPA believes that these exemptions should also extend to the other subcategories required to comply with the residual organic HAP limitations in § 63.494(a)(1)–(3). However, since the residual organic HAP content of rubber leaving the stripping operations at ethylene propylene rubber and polybutadiene/ styrene-butadiene rubber by solution facilities complying with these provisions through the use of add-on control is not restricted, these exemptions are not available to these facilities.

2. Emission Limits

Commenters requested that the regulation allow the use of alternative storage vessel/surge control vessel control techniques. Two commenters described specific control systems present at their facilities, and asked that the EPA include allowances for these systems in the rule. They stressed that such allowances should consider the overall effectiveness of the control system, and not just the efficiency of the control or recovery device.

The EPA agrees that it is reasonable to consider the overall effectiveness of a control "system" in determining compliance with the rule, and that such systems that have been demonstrated to be equivalent to the reference control technology should be allowed. While the EPA believes the system described by the commenter could be demonstrated to be equivalent to the reference control technology for surge control vessels, the commenter did not provide sufficient documentation to allow a complete evaluation of equivalence.

However, the EPA maintains that subpart U, as proposed, already provides the opportunity for the commenter, as well as other elastomer production facilities, to demonstrate equivalency of alternative control techniques. For storage vessels, § 63.121 of subpart G addresses the procedures to obtain approval of alternative means of emission limitations. For surge control vessels and bottoms receivers, these procedures are contained in § 63.177 of subpart H. In summary, these sections specify that the owner or operator must submit documentation of the equivalency determination to the Administrator.

C. Continuous Front-end Process Vent Provisions

1. Applicability Requirements

Several commenters stated that the exemption from halide controls for butyl/halobutyl production should be extended to all rubber manufacturers, since halogen-containing compounds or by-products have historically been routed to flares. Another commenter agreed with the exemptions for butyl and halobutyl production facilities, but pointed out that this exemption should only be applicable to existing sources.

Only one existing facility was identified in each the halobutyl and the butyl rubber subcategories. At both of these facilities, halogenated vent streams were vented to a flare and/or boiler. Since both of these subcategories were single-facility subcategories, the MACT floor was determined to be the existing level of control. The EPA examined the impacts of requiring halogenated vent streams at the halobutyl and butyl rubber facilities to comply with the proposed requirements for all other elastomer subcategories (i.e, the HON-level of control). The EPA concluded that the costs associated with this level of control were not reasonable, given the associated emission reduction. Therefore, the proposed regulation allowed halogenated streams at halobutyl and butyl rubber facilities that were routed to a flare or boiler prior to proposal to continue to be controlled with these combustion devices, without additional control for the resulting halides.

Prior to proposal, the EPA was aware of one EPR facility that also routed a halogenated vent stream to a boiler. However, since only one of five EPR facilities reported this situation, the EPA concluded that this level of control was not the MACT floor for EPR. Other EPR producers claimed that they also had halogenated streams at their facilities, but none offered any information to quantify the amount of halogens in the stream to determine if the streams could be classified as halogenated.

After proposal, the EPA learned that chlorinated organic compounds are present in streams at all of the EPR facilities. These compounds are a by-product of the polymerization reaction, resulting from a chlorinated catalyst. At all four of the facilities contacted, the streams containing the chlorinated compounds are routed to either a flare or boiler. Due to the widely varying concentration in the stream, all facilities indicated that it was difficult, if not impossible, to accurately determine the halogen atom concentration in the vent stream. However, all expressed confidence that at times, the halide threshold in the incoming stream was exceeded.

Therefore, the EPA concluded that four of the five EPR facilities have halogenated streams that are routed to either a boiler or flare. For this reason, the EPA has determined that the floor for EPR is the existing level of control for these halogenated vent streams. In addition, as with halobutyl and butyl rubber, the EPA does not believe that it would be cost-effective to require new incinerators and scrubbers to be installed at these facilities, when the only net emission reduction would be the reduction of the hydrochloric acid, since the reduction of the halogenated organic compound in the incinerator would be the same as was already being achieved in the boiler or flare. However, as noted above, sufficient stream-specific information was not available to conduct this analysis. Therefore, the final rule has been changed to extend the exemption for existing halogenated streams routed to a boiler or flare to EPR producers. Further, the final rule specifies that this exemption does not apply to new sources.

2. Emission Limits

Based on a commenter's request, the final rule exempts a vent stream routed to an internal combustion engine as primary fuel from source testing requirements. The final rule also requires that the on/off status of internal

combustion be monitored as a means of demonstrating compliance with these control requirements.

D. Batch Front-End Process Vent Provisions

Commenters believed that batch front-end process vent provisions were inappropriate and unnecessarily burdensome. Several commenters disagreed with the EPA's reliance on the Batch Processes ACT document in the development of the batch vent provisions, claiming that it was not appropriate to the elastomer manufacturing industry.

The EPA believes that the potential for HAP emissions from batch operations at elastomer production facilities warrant control. While the EPA disagrees with the statement that the provisions are inappropriate, the EPA agrees with comments regarding the complexity of the proposed batch vent provisions. Therefore, in the final rule these provisions were simplified. Many of these changes are discussed below.

In response to comments on the batch front-end process vent applicability provisions, the volatility class concept has been eliminated. The Batch Processes ACT developed an annual threshold emission level for each of three volatility classes. The EPA initially judged that selection of a single annual threshold emission level would not be appropriate and included all three levels in the proposed standards. However, upon further review, the EPA found no adverse impact would result from the use of a single annual threshold emission level and, indeed, the final standards have been significantly simplified. Besides removing the requirement to determine the volatility class, the final standards contain only one equation for determining the cutoff flow rate (§ 63.488(f)) which is the last step in the group determination process.

A commenter on the proposed Polymers and Resins IV (40 CFR part 63, subpart V) regulation suggested changing the batch vent group determination provisions to only utilize emissions data from an EPPU's primary product. The EPA agreed that to base the group determination on a single product could, if appropriately applied, provide acceptable results from an environmental perspective, while simplifying the compliance requirements for and improving the enforceability of the batch front-end process vent standards. Therefore, the final standards contain provisions allowing the owner or operator of an affected source to perform the group determination for batch front-end process vents based on annualized production of a single batch product. However, the EPA does not consider it to be appropriate from an environmental perspective to allow anything other than the worst-case HAP emitting batch product to be considered when basing applicability on a single product. Therefore, the final standards specify that the worst-case HAP emitting batch product be used when an owner or operator chooses to annualize a single product for purposes of determining applicability. The final standards define the worst-case HAP emitting product and describe how emissions are to be annualized to represent full-time production, where full-time production does not necessarily mean operating at maximum production rate. Since the proposed batch vent provisions were similar between subparts U and V, the EPA decided that this change was also appropriate for subpart U.

Several commenters stated that the proposed provisions for the methods allowed for the calculation of batch front-end process vent emissions were overly restrictive. The proposed rule required that emissions be calculated using either the emission estimation equations or source testing. If the owner or operator could demonstrate that both the equations and source testing were inappropriate, then they were allowed to use engineering assessment to calculate HAP emissions. The commenters believed that an affected source should be allowed to use engineering assessments without having to demonstrate that source testing was inappropriate.

The EPA maintains that it is imperative that a consistent technique for the estimation of batch front-end process vent emissions be used, which is provided through the emission estimation equations. The EPA believes the data required to use the batch front-end process vent emissions estimation equations should be obtainable with reasonable effort. The final standards continue to require use of the emissions estimation equations, unless the owner or operator can demonstrate that these equations are inappropriate.

However, the EPA has concluded that direct measurement of emissions through testing may prove to be difficult and may or may not provide an increased assurance of accuracy over the use of engineering assessment. Therefore, if an owner or operator can demonstrate that the emissions estimation equations are not appropriate, the final standards allow the selection of either direct measurement or engineering assessment. Further, criteria for demonstrating that the emissions estimation equations are not appropriate to a specific batch emissions episode have been added to the final standards. These criteria require either: (1) The availability of test data that demonstrate a greater than 20 percent discrepancy between the test value and the estimated value, or (2) that the owner or operator demonstrate to the Administrator that the emissions estimation equations are not appropriate for a given batch emissions episode.

E. Back-End Process Operation Provisions

The back-end process operation provisions received the majority of the comments on the proposed rule. Significant comments were received on practically every aspect of these provisions. Following is a summary of the comments that resulted in notable changes to the back-end process operation requirements.

1. Averaging Period

Several commenters declared that compliance based on a weekly average HAP limitation was unreasonable, and that compliance should be demonstrated on the basis of a monthly (or 30-day) rolling average instead. These commenters claimed that requiring compliance based on a weekly average fails to provide adequate operational flexibility for manufacturers to produce different grades of polymers in accordance with customer demands.

Upon investigation of this issue, the EPA concluded that a monthly averaging period for the residual HAP limitations was more appropriate. Changing to a monthly averaging period would provide more operational flexibility to elastomer producers, while maintaining the same annual emission reduction.

2. Residual Organic HAP Limitations

Commenters objected to numerous aspects of the residual organic HAP limitations. Most of these comments were directed towards the methods used to determine the back-end MACT floors. Discussed below are comments on definitions, test methods, and other areas that affect the determination of the residual organic HAP limitations. The EPA addressed these comments and re-assessed the MACT floors.

Definition of crumb rubber dry weight. Comments stated that, for solution processes, the definition of "crumb rubber dry weight" should not exclude extender oils and carbon black for compliance purposes, because these are an integral part of the polymer. The EPA agrees with these comments, and has

revised the definition of crumb rubber dry weight to reflect this decision.

Residual organic HAP test methods. Concurrent with the proposal of subpart U, the EPA proposed three residual HAP test methods—one each for SBRE, PBR/SBRS, and EPR. Several commenters stated that no single analytical method would produce consistent results for all polymers, and consequently, each company should be allowed to demonstrate compliance using a company-specific method that is comparable to the EPA test method.

After careful review and consideration of this issue, the EPA agreed with the commenters and has undergone an extensive effort to rectify this situation. The EPA concluded that it was appropriate to allow every interested company to validate their own test method using a modified version of 40 CFR part 63, appendix A, Method 301.

A total of nine test methods were submitted (three for EPR, three for SBRE, and three for PBR/SBRS). The modified Method 301 analysis performed allows each company to validate their own test method, and seven of the ten affected companies have done so. Therefore, each source has a compliance method available for determining residual HAP. The EPA believes that it would be helpful if the industry had access to all validated test methods, and is in the process of reviewing the methods and validation data that were submitted, and has preliminarily indicated that approval of all nine methods is anticipated. The EPA intends to promulgate these methods as appendix A Methods 310 a, b, and c for EPR, Methods 312 a, b, and c for SBRE, and Methods 313 a, b, and c for PBR/SBRS. However, since the approval and subsequent promulgation of the methods has not yet occurred, this final rule does not stipulate the methods to be used to determine residual organic HAP. Upon promulgation of these methods, the Agency will propose modifications to subpart U to specify that these methods be used to determine residual organic HAP.

Furthermore, the affected industry has been intimately involved with all activity associated with the EPA's promulgation of the residual organic HAP test methods. The EPA held meetings with industry representatives to discuss their comments on the proposed methods, and to discuss procedures for validating company test methods. Every company that was expected to be subject to the back-end residual organic HAP limitations was invited to these meetings. As noted above, a total of nine test methods were submitted. These methods were from seven companies, leaving only three affected companies that decided not to submit methods. Representatives of each of those three companies which did not submit test methods were in attendance at one or more of the meetings and are therefore knowledgeable about the test methods. Since industry's submittal of the test methods, the EPA has worked closely with industry representatives to finalize the methods. Therefore, the EPA contends that all affected companies should be well aware of the methods that will be promulgated.

As noted earlier, the final approval of these test methods is upcoming. It is anticipated that these methods will be promulgated in the autumn of 1996. The EPA does not believe that the interval between the promulgation of subpart U and the promulgation of these residual organic HAP test methods impairs the ability of any source to comply with the requirements by the specified compliance date. This is the case because affected sources are not required to be in compliance until three years after promulgation of the rule.

MACT floor determination. Commenters indicated that the selection of a MACT floor "somewhere between the mean, median, and mode" did not represent central tendency. They maintained that a mean is the correct approach for establishing the MACT floor. The EPA agreed that one measure of central tendency should be used to establish the average and decided that the mean was the most appropriate measure for the residual organic HAP limitations floor determinations. In some situations, the use of the mean can result in a floor level of control that is not represented by any available control technology. However, this did not apply to this situation, where the emissions used to determine the floor were a result of process-specific stripping techniques, and not specific add-on control technologies.

For EPR and PBR/SBRS, commenters stated that combining data received from different companies using different sampling and analytical methods, without establishing whether the methods achieve comparable results, was not an appropriate way to establish residual HAP limits. The commenters stated that if production figures and dryer stack testing results were used to establish these limits, these results cannot be equated to those from crumb sampling at the EPA's designated sampling point, because there are numerous potential emission sources between the proposed sampling point and the stack testing locations. In addition, commenters indicated that the proposed limitation did not recognize the fact that residual HAP may remain in the polymer after finishing. Finally, the commenters also stated that using annual emissions and limited weekly data to establish weekly limits is inherently uncertain, and may have resulted in an inappropriate standard.

In the original MACT floor analyses, the EPA presumed that the back-end emission factor calculated from the reported emissions and production was equivalent to the residual HAP levels in the crumb leaving the stripping operations. Inherent in this analysis was the assumption that the companies reported total HAP emissions from all back-end emission sources, rather than only a portion of these sources.

Upon receipt of these comments, the EPA again contacted each EPR and PBR/SBRS production facility to (1) verify the emissions numbers used to determine the back-end emission factor, (2) discuss the correlation of the methods used to estimate the original emission estimates and the residual organic HAP test methods undergoing validation, (3) determine the appropriate production, including oil extender weight, to use in determining the emission factor, (4) obtain information related to residual HAP remaining in the product after finishing, and (5) obtain short-term residual HAP information to be used in the adjustment of annual emissions to monthly.

After obtaining this information, the EPA recalculated the MACT floors for each subcategory. It should be noted that only one facility indicated that the original emission estimates were calculated in a manner that was inconsistent with the residual organic HAP test methods. Two PBR/SBRS companies and one EPR company provided detailed short-term residual HAP data to allow the conversion of the annual data to a monthly limit. The resulting monthly limits were 8 kg/Mg for EPR and 10 kg/Mg for PBR/SBRS.

While no comments were received criticizing the MACT floor analysis for SBRE, the change to a monthly average limit resulted in a change in the SBRE limit. In the determination of the original SBRE back-end MACT floor, residual HAP data were used from three of the four facilities. The fourth facility provided residual HAP data, but it was in a monthly average format and could not be used in the determination of a weekly limit. However, the change to a monthly limit meant that the data from this facility could also be used, resulting in a monthly limit of 0.4 kg styrene per

Mg latex leaving the stripping operation for existing SBRE sources.

3. Monitoring Requirements

Several comments were received regarding the proposed crumb and latex sampling requirements. In both instances, the EPA decided that the changes suggested by the commenters were technically appropriate, and they did not result in any detrimental environmental impact.

Specifically, commenters found the requirement to sample "before any opportunity for emissions to the atmosphere" to be either infeasible or unsafe for PBR/SBRS and EPR and suggested modifications to the proposed sampling provisions. In response to these comments, the final rule states that PBR/SBRS or EPR crumb samples must be taken "as soon as safe and feasible after the stripping operation, but no later than the entry point for the first unit operation following the stripper (e.g., the dewatering screen)."

For SBRE, commenters pointed out that a more logical sampling location for determining the initial HAP concentration in the SBL is the mixed latex in the storage tank feeding the coagulator (rather than directly after the stripper). The EPA agreed with these comments, and the final rule has revised the SBL sampling location to be "prior to any coagulation operations."

Comments were also received opposing the proposed crumb or latex sampling frequency provisions. Commenters believed that it is impractical to take a rubber sample each operating day for every grade of elastomer produced, because of the time required to reach representative operating conditions and to run an accurate analytical test. Suggested alternatives included one test per day, one test per "campaign," daily sampling that is reduced to weekly sampling upon demonstration of daily compliance, and daily sampling with the exception of grades produced for less than 4 hours in a day. Since the variability of the residual HAP contents between elastomer grades is relatively small, and since production schedules typically produce very similar grades of polymer for extended periods of time, the EPA concluded that reducing the sampling frequency to once per day for continuous processes would greatly simplify the rule, while still ensuring that practically all grades of elastomer are represented by such sampling. This change is reflected in the final rule.

Some commenters were concerned that compliance would be based on one sample per day, and requested that an owner or operator be allowed to sample crumb or latex more frequently, and include the residual organic HAP results of these samples in the average. While the EPA believes that the proposed rule did not preclude a company from using more than one sample per day in determining the (weekly) average, the EPA has revised the language in the final rule to make this opportunity clearer.

Several commenters stated that the rule should provide an allowance for missed or invalid crumb or latex samples. The proposed rule designated the failure to collect any single sample as an excursion. These commenters suggested that the EPA should require 75 percent of samples to be collected.

The EPA recognizes that a number of circumstances could occur that cause a sample not to be analyzed in accordance with the rule. These may be in the form of sampling system malfunctions, mis-analysis, or other problems. The EPA realizes that there are unique challenges associated with the sampling of solid polymer, and agrees that problems could occur that would cause a sample to be missed. The EPA also recognizes that some of the test methods being validated to analyze the residual organic HAP in the crumb take long periods of time to perform, meaning that the opportunity to obtain a second sample may not be available if a mis-analysis in the laboratory occurs. While the EPA expects that sound company procedures could eliminate most of these and other problems, the EPA agrees that it is unreasonable to expect that no problems would ever occur that result in a missed sample. Therefore, an excursion for back-end process operations is defined in the final rule as when either (1) the monthly weighted average is above the applicable limit, or (2) when less than 75 percent of the required samples are taken, analyzed, and included in the monthly average.

At proposal, the EPA specifically requested comments on the feasibility of the use of computer predictive modeling as an alternative to the daily crumb or latex sampling, or the stripper parametric monitoring compliance alternatives. Numerous commenters supported the allowance of such systems, while other expressed reservations. While the EPA believes that computer predictive modeling may be an attractive alternative to the periodic sampling and stripper parametric monitoring compliance options, the EPA is convinced that the use of computer predictive modeling is so site-specific that it is not possible to include general requirements for the use of such a system in subpart U. Nevertheless, the EPA believes that facilities should have the opportunity to utilize techniques that are equivalent to the two options of compliance provided in the proposed rule for facilities using stripping technology. Therefore, the EPA has included a third option that provides the opportunity for the site-specific approval of alternative means of compliance through the submittal of an alternative compliance plan.

F. Wastewater Operations Provisions

Several commenters pointed out that the wastewater provisions of subpart G that are referenced in § 63.501 of subpart U are the subject of litigation brought by the Chemical Manufacturers' Association against the EPA. Consequently, sources subject to these provisions cannot know what the final wastewater provisions, proposed to be incorporated into subpart U, will be. These commenters believed that the EPA should "reserve" the provisions of § 63.501 pending the outcome of the litigation.

As part of the HON litigation proposal, the EPA will request comments specific to the elastomers rule. If comments specific to the elastomers rule are received they will be addressed as part of the HON rulemaking actions or in actions specific to the elastomers rule, depending on the comments. Therefore, the comment period for this rule will not be reopened.

The EPA believes that the wastewater provisions and the other HON provisions should be referenced in the elastomers rule so that final resolutions of the HON litigation will be automatically included in the elastomers rule. However, changes made to the HON will be evaluated by the EPA for applicability to this rule. The "automatic" part refers to the fact that text changes will not need to be made to this rule once the EPA, following notice and an opportunity for comment, finds the HON changes to be applicable. If the EPA determines that any changes to the HON are not applicable to this rule, the elastomers rule will be revised accordingly.

Comments were received that the VOHAP threshold for regulation of new source wastewater streams (10 ppmw) was too restrictive, and that the EPA has not provided an economic justification regarding the achievability of the limit. Another comment was received stating that many elastomer product process wastewater streams will have VOHAP concentrations less than 50 ppmw, and monitoring and recordkeeping requirements are not needed for these streams. This comment recommended that the EPA exempt from regulation

"any process stream at an affected source with an average flow rate of less than 0.02 liters per minute or an average VOHAP concentration of less than 50 ppmw."

The EPA evaluated the new source MACT floor determinations for wastewater, and determined that no facility in any subcategory reported wastewater controls equivalent to the new source levels. In fact, no facility-wide wastewater controls greater than the existing source HON limitations were reported. Therefore, the EPA believes that this comment is valid, and has changed the final rule so that the new sources are subject to the same wastewater requirements as existing sources.

In the proposed rule, the definition of "wastewater" stated that a stream must contain at least 5 ppmw of VOHAP and have a flow rate of 0.02 liter per minute. Given the change in the definition of a Group 1 wastewater stream for new sources, the EPA believes that it is reasonable to revise the definition of wastewater in accordance with the commenter's suggestion and therefore the wastewater definition has been revised in the final rule.

G. Equipment Leak Provisions

One commenter requested that the proposed rule include an exclusion for reciprocating pumps that must leak small quantities of product to lubricate and cool the shaft and seal areas. The EPA agrees that an exemption for the situation described by the commenter is reasonable. The EPA reached a similar conclusion in the proposed Polymers and Resins IV regulation (subpart V). Therefore, § 63.502(d) has been added to the final rule that exempts these reciprocating pump systems.

Several commenters stated that 3 years should be allowed for compliance with equipment leak provisions for compressors (instead of 6 months) under certain circumstances. The EPA agrees with the commenters, and has amended the compliance schedule for compressors in the following situations: (1) Existing reciprocating compressors which would require design modifications to connect to a closed-vent or recovery system; and (2) systems where existing compressors would be replaced.

H. Emissions Averaging Provisions

Several commenters requested that batch front-end process vents be eligible to average emissions. The EPA had not allowed emissions averaging of batch front-end process vents at proposal because the EPA considered the accuracy and consistency needed for emissions averaging to be greater than that needed for applicability determinations. However, upon reconsideration, the EPA determined that the accuracy and consistency needs of emissions averaging could be met by applying a "discount" factor (10 percent) to calculated emissions or by requiring direct measurement of emissions. Therefore, the final rule allows emissions averaging of existing batch front-end process vents.

I. Monitoring

Many commenters requested that the proposed rule allow excused excursions in the same way that the HON rule allows excused excursions. In the final rule, the EPA decided to excuse a certain number of excursions for each reporting period. This decision was based on data and information presented during public comment on the HON and reiterated in public comments received on this rule, and during industry meetings held subsequent to proposal that indicated that a certain number of excursions could be expected even with properly operated pollution control devices. The EPA also concluded that not allowing excused excursions would impose significant additional capital and operating costs on the affected source for only negligible corresponding reductions in air emissions. As is always the case, a State has the discretion to impose more stringent requirements than the requirements of NESHAP and other Federal requirements and could choose not to allow the excused excursion provisions of this rule.

The EPA considered the number of excused excursions that would be most appropriate for this standard and determined that the number of excursions allowed in the HON would be reasonable. Therefore, the final provisions allow a maximum of 6 excused excursions for the first semiannual reporting period, decreasing by 1 excursion each semiannual reporting period. Starting with the sixth semiannual reporting period (i.e., the end of the third year of compliance) and thereafter, affected sources are allowed one excused excursion per semiannual reporting period.

J. Recordkeeping and Reporting

Several commenters stated that the recordkeeping and reporting requirements of the proposed rule were extremely burdensome and requested that the EPA reduce the burden. The EPA reexamined the recordkeeping and reporting requirements of the rule after proposal and determined that burden reductions were warranted. The EPA considers the recordkeeping and reporting requirements of the final rule the minimum necessary to ensure compliance with the final standards. The following changes were made to reduce the recordkeeping and reporting burden:

(1) The requirement to submit an Initial Notification has been eliminated;

(2) The requirement to submit an Implementation Plan has been eliminated;

(3) The requirement to record monitored parameters every 15 minutes has been removed. The final rule requires hourly recording of monitored parameters in place of the 15 minute records required in the proposed rule.

Although the above changes will reduce the burden on industry, the level of this reduction was not quantified.

V. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of the final standards. The principal purposes of the docket are:

(1) To allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process; and

(2) To serve as the record in case of judicial review (except for interagency review materials as provided for in section 307(d)(7)(A)).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 5173 (October 4, 1993)), the EPA 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 Executive Order defines "significant regulatory action" as one that is likely to result in standards 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, or 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 or 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.

Pursuant to the terms of the Executive Order, the OMB has notified the EPA that it considers this a "significant regulatory action" within the meaning of the Executive Order. The EPA submitted this action to the OMB for review. Changes made in response to suggestions or recommendations from the OMB were documented and included in the public record.

C. Paperwork Reduction Act

The information collection requirements for this NESHAP have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1746.01), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2137), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or by calling (202) 260–2740.

The public recordkeeping and reporting burden for this collection of information is estimated to average approximately 587 hours per respondent for each of the first 3 years following promulgation of the rule. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the recordkeeping and reporting burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (2137), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

D. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant adverse economic impact on a substantial number of small businesses. Consistent with Small Business Administration (SBA) size standards, an elastomer producing firm is classified as a small entity if it has less than 750 employees and is unaffiliated with a larger domestic entity. Based upon this standard, three of the eighteen elastomer producing firms are classified as small entities (i.e., having fewer than 750 employees). The EPA determined that annual compliance costs as a percentage of sales are less than one percent for all of the small entities affected by this regulation. This does not qualify as a significant economic impact on a substantial number of small businesses.

E. Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Pursuant to Subtitle E of SBREFA, this rule, which is nonmajor, was submitted to Congress before publication in the **Federal Register**.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final standards that include a Federal mandate that may result in estimated costs to State, local, or tribal governments, or to the private sector, of, in the aggregate, $100 million or more. Under section 205, the EPA must select the most cost effective and least burdensome alternative that achieves the objectives of the standard and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the standards.

The EPA has determined that the final standards do not include a Federal mandate that may result in estimated costs of, in the aggregate, $100 million or more to either State, local, or tribal governments, or to the private sector, nor do the standards significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements of the Unfunded Mandates Act do not apply to this final rule.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 15, 1996.

Fred Hansen,

Acting Administrator.

For the reasons set out in the preamble, part 63 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AFFECTED SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart U to read as follows:

Subpart U—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

Sec.

Subpart U—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

§ 63.480 Applicability and designation of affected sources.

(a) *Definition of affected source.* The provisions of this subpart apply to each affected source. An affected source is either an existing affected source or a new affected source. Existing affected source is defined in paragraph (a)(1) of this section, and new affected source is defined in paragraph (a)(2) of this section. The affected source also includes all wastewater streams and wastewater operations associated with the elastomer product process unit(s) (EPPUs) included in the affected source.

(1) Except as specified in paragraphs (b) through (d) of this section, an existing affected source is defined as each group of one or more EPPUs that is not part of a new affected source, as defined in paragraph (a)(2) of this section, and that is manufacturing the same primary product and located at a plant site that is a major source.

(2) Except as specified in paragraphs (b) through (d) of this section, a new affected source is defined as a source meeting the criteria of paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section.

(i) At a plant site previously without HAP emission points, each group of one or more EPPUs manufacturing the same primary product that is part of a major source on which construction commenced after June 12, 1995,

(ii) An EPPU meeting the criteria in paragraph (i)(1)(i) of this section, or

(iii) A reconstructed affected source meeting the criteria in paragraph (i)(2)(i) of this section.

(b) *EPPUs exempted from the affected source.* EPPUs that do not use any organic HAP may be excluded from the affected source, provided that the owner or operator complies with the requirements of paragraphs (b)(1) and (b)(2) of this section, if requested to do so by the Administrator.

(1) Retain information, data, and analyses used to document the basis for the determination that the EPPU does not use any organic HAP. Types of information that could document this determination include, but are not limited to, records of chemicals purchased for the process, analyses of process stream composition, or engineering calculations.

(2) When requested by the Administrator, demonstrate that the EPPU does not use any organic HAP.

(c) *Emission points exempted from the affected source.* The affected source does not include the emission points listed in paragraphs (c)(1) through (c)(6) of this section:

(1) Stormwater from segregated sewers;

(2) Water from fire-fighting and deluge systems in segregated sewers;

(3) Spills;

(4) Water from safety showers;

(5) Vessels and equipment storing and/or handling material that contains no organic HAP or organic HAP as impurities only; and

(6) Equipment that is intended to operate in organic HAP service for less than 300 hours during the calendar year.

(d) *Processes exempted from the affected source.* The processes specified in paragraphs (d)(1) through (d)(3) of this section are not part of the affected source.

(1) Research and development facilities;

(2) Equipment that is located within an EPPU that is subject to this subpart but does not contain organic HAP; and

(3) Solvent reclamation, recovery, or recycling operations at hazardous waste treatment, storage, and disposal facilities (TSDF) requiring a permit under 40 CFR part 270 that are separate entities and not part of an EPPU to which this subpart applies.

(e) *Applicability determination of elastomer equipment included in a process unit producing a non-elastomer product.* If an elastomer product that is subject to this subpart is produced within a process unit that is subject to subpart V of this part, and at least 50 percent of the elastomer is used in the production of the product manufactured by the subpart V process unit, the unit operations involved in the production of the elastomer are considered part of the process unit that is subject to subpart V, and not this subpart.

(f) *Primary product determination and applicability.* The primary product of a process unit shall be determined according to the procedures specified in paragraphs (f)(1) and (f)(2) of this section. Paragraphs (f)(3) through (f)(4) of this section describe whether or not a process unit is subject to this subpart. Paragraphs (f)(5) through (f)(7) of this section discuss compliance for those EPPUs operated as flexible operation units, as specified in paragraph (f)(2) of this section.

(1) If a process unit only manufactures one product, then that product shall represent the primary product of the process unit.

(2) If a process unit is designed and operated as a flexible operation unit, the primary product shall be determined as specified in paragraphs (f)(2)(i) or (f)(2)(ii) of this section based on the anticipated operations for the 5 years following September 5, 1996 for existing affected sources and for the first 5 years after initial startup for new affected sources.

(i) If the flexible operation unit will manufacture one product for the greatest operating time over the five-year period, then that product shall represent the primary product of the flexible operation unit.

(ii) If the flexible operation unit will manufacture multiple products equally based on operating time, then the product with the greatest production on a mass basis over the five-year period shall represent the primary product of the flexible operation unit.

(3) If the primary product of a process unit is an elastomer product, then that process unit is considered an EPPU. If that EPPU meets all the criteria of paragraph (a) of this section, it is either an affected source or is part of an affected source comprised of other EPPU subject to this rule at the same plant site with the same primary product. The status of a process unit as an EPPU, and as an affected source or part of an affected source shall not change regardless of what products are produced in the future by the EPPU, with the exception noted in paragraph (f)(3)(i) of this section.

(i) If a process unit terminates the production of all elastomer products and does not anticipate the production of any elastomer product in the future, the process unit is no longer an EPPU and is not subject to the provisions of this subpart after notification is made as specified in paragraph (f)(3)(ii) of this section.

(ii) The owner or operator of a process unit that wishes to remove the EPPU designation from the process unit, as specified in paragraph (f)(3)(i) of this section, shall notify the Administrator. This notification shall be accompanied by rationale for why it is anticipated that no elastomer products will be produced in the process unit in the future.

(iii) If a process unit meeting the criteria of paragraph (f)(3)(i) of this section begins the production of an elastomer product in the future, the owner or operator shall use the procedures in paragraph (f)(4)(i) of this section to determine if the process unit is re-designated as an EPPU.

(4) If the primary product of a process unit is not an elastomer product, then that process unit is not an affected source, nor is it part of any affected source subject to this rule. The process unit is not subject to this rule at any time, regardless of what product is being produced. The status of the process unit

as not being an EPPU, and therefore not being an affected source or part of an affected source subject to this subpart, shall not change regardless of what products are produced in the future by the EPPU, with the exception noted in paragraph (f)(4)(i) of this section.

(i) If, at any time beginning September 5, 2001, the owner or operator determines that an elastomer product is the primary product for the process unit based on actual production data for any preceding consecutive five-year period, then the process unit shall be classified as an EPPU. If an EPPU meets all the criteria in paragraph (a) of this section, it is either an affected source or part of an affected source and shall be subject to this rule.

(ii) If a process unit meets the criteria of paragraph (f)(4)(i) of this section, the owner or operator shall notify the Administrator within 6 months of making this determination. The EPPU, as the entire affected source or part of an affected source, shall be in compliance with the provisions of this rule within 3 years from the date of such notification.

(iii) If a process unit is re-designated as an EPPU but does not meet all the criteria of paragraph (a) of this section, the owner or operator shall notify the Administrator within 6 months of making this determination. This notification shall include documentation justifying the EPPU's status as not being an affected source or not being part of an affected source.

(5) Once the primary product of a process unit has been determined to be an elastomer product and it has been determined that all the criteria of paragraph (a) of this section are met for the EPPU, the owner or operator of the affected source shall comply with the standards for the primary product. Owners or operators of flexible operation units shall comply with the standards for the primary product as specified in either paragraph (f)(5)(i) or (f)(5)(ii) of this section, except as specified in paragraph (f)(5)(iii) of this section.

(i) Each owner or operator shall determine the group status of each emission point that is part of that flexible operation unit based on emission point characteristics when the primary product is being manufactured. Based on this finding, the owner or operator shall comply with the applicable standards for the primary product for each emission point, as appropriate, at all times, regardless of what product is being produced.

(ii) Alternatively, each owner or operator shall determine the group status of each emission point that is part of the flexible operation unit based on the emission point characteristics when each product produced by the flexible operation unit is manufactured, regardless of whether the product is an elastomer product or not. Based on these findings, the owner or operator shall comply with the applicable standards, as appropriate, regardless of what product is being produced.

Note: Under this scenario, it is possible that the group status, and therefore the requirement to achieve emission reductions, for an emission point may change depending on the product being manufactured.]

(iii) Whenever a flexible operation unit manufactures a product that meets the criteria of paragraph (b) of this section (i.e., does not use or produce any organic HAP), all activities associated with the manufacture of the product, including the operation and monitoring of control or recovery devices, shall be exempt from the requirements of this rule.

(6) The determination of the primary product for a process unit, to include the determination of applicability of this subpart to process units that are designed and operated as flexible operation units, shall be reported in the Notification of Compliance Status required by § 63.506(e)(5) when the primary product is determined to be an elastomer product. The Notification of Compliance Status shall include the information specified in either paragraph (e)(6)(i) or (e)(6)(ii) of this section. If the primary product is determined to be something other than an elastomer product, the owner or operator shall retain information, data, and analysis used to document the basis for the determination that the primary product is not an elastomer product.

(i) If the EPPU manufactures only one elastomer product, identification of that elastomer product.

(ii) If the EPPU is designed and operated as a flexible operation unit, the information specified in paragraphs (f)(6)(ii)(A) through (f)(6)(ii)(C) of this section, as appropriate.

(A) Identification of the primary product.

(B) Information concerning operating time and/or production mass for each product that was used to make the determination of the primary product under paragraph (f)(2)(i) or (f)(2)(ii) of this section.

(C) Identification of which compliance option, either paragraph (f)(5)(i) or (f)(5)(ii) of this section, has been selected by the owner or operator.

(7) To demonstrate compliance with the rule during those periods when a flexible operation unit that is subject to this subpart is producing a product other than an elastomer product or is producing an elastomer product that is not the primary product, the owner or operator shall comply with either paragraphs (f)(7)(i) and (f)(7)(ii) or paragraph (f)(7)(iii) of this section.

(i) Establish parameter monitoring levels as specified in § 63.505, for those emission points designated as Group 1, as appropriate.

(ii) Submit the parameter monitoring levels developed under paragraph (f)(7)(i) of this section and the basis for them in the Notification of Compliance Status report, as specified in § 63.506(e)(5).

(iii) Demonstrate that the parameter monitoring levels established for the primary product are also appropriate for those periods when products other than the primary product are being produced. Material demonstrating this finding shall be submitted in the Notification of Compliance Status report as specified in § 63.506(e)(5).

(g) *Storage vessel ownership determination.* The owner or operator shall follow the procedures specified in paragraphs (g)(1) through (g)(8) of this section to determine to which process unit a storage vessel shall belong.

(1) If a storage vessel is already subject to another subpart of 40 CFR part 63 on September 5, 1996, that storage vessel shall belong to the process unit subject to the other subpart.

(2) If a storage vessel is dedicated to a single process unit, the storage vessel shall belong to that process unit.

(3) If a storage vessel is shared among process units, then the storage vessel shall belong to that process unit located on the same plant site as the storage vessel that has the greatest input into or output from the storage vessel (i.e., the process unit has the predominant use of the storage vessel).

(4) If predominant use cannot be determined for a storage vessel that is shared among process units and if only one of those process units is an EPPU subject to this subpart, the storage vessel shall belong to that EPPU.

(5) If predominant use cannot be determined for a storage vessel that is shared among process units and if more than one of the process units are EPPUs that have different primary products and that are subject to this subpart, then the owner or operator shall assign the storage vessel to any one of the EPPUs sharing the storage vessel.

(6) If the predominant use of a storage vessel varies from year to year, then predominant use shall be determined based on the utilization that occurred during the year preceding September 5, 1996 or based on the expected

utilization for the 5 years following September 5, 1996 for existing affected sources, whichever is more representative of the expected operations for that storage vessel, and based on the expected utilization for the 5 years after initial startup for new affected sources. The determination of predominant use shall be reported in the Notification of Compliance Status required by § 63.506(e)(5)(vii). If the predominant use changes, the redetermination of predominant use shall be reported in the next Periodic Report.

(7) If the storage vessel begins receiving material from (or sending material to) another process unit; ceases to receive material from (or send material to) a process unit; or if the applicability of this subpart to a storage vessel has been determined according to the provisions of paragraphs (g)(1) through (g)(6) of this section and there is a significant change in the use of the storage vessel that could reasonably change the predominant use, the owner or operator shall reevaluate the applicability of this subpart to the storage vessel.

(8) Where a storage vessel is located at a major source that includes one or more process units which place material into, or receive materials from the storage vessel, but the storage vessel is located in a tank farm, the applicability of this subpart shall be determined according to the provisions in paragraphs (g)(8)(i) through (g)(8)(iv) of this section.

(i) The storage vessel may only be assigned to a process unit that utilizes the storage vessel and does not have an intervening storage vessel for that product (or raw materials, as appropriate). With respect to any process unit, an intervening storage vessel means a storage vessel connected by hard-piping to the process unit and to the storage vessel in the tank farm so that product or raw material entering or leaving the process unit flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(ii) If there is no process unit at the major source that meets the criteria of paragraph (g)(8)(i) of this section with respect to a storage vessel, this subpart does not apply to the storage vessel.

(iii) If there is only one process unit at the major source that meets the criteria of paragraph (g)(8)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to that process unit. Applicability of this subpart to the storage vessel shall then be determined according to the provisions of paragraph (a) of this section.

(iv) If there are two or more process units at the major source that meet the criteria of paragraph (g)(8)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to one of those process units according to the provisions of paragraph (g)(6) of this section. The predominant use shall be determined among only those process units that meet the criteria of paragraph (g)(8)(i) of this section.

(h) *Recovery operation equipment ownership determination.* The owner or operator shall follow the procedures specified in paragraphs (h)(1) through (h)(7) of this section to determine to which process unit recovery operation equipment shall belong.

(1) If recovery operation equipment is already subject to another subpart of 40 CFR part 63 on September 5, 1996, that recovery operation equipment shall belong to the process unit subject to the other subpart.

(2) If recovery operation equipment is used exclusively by a single process unit, the recovery operation shall belong to that process unit.

(3) If recovery operation equipment is shared among process units, then the recovery operation equipment shall belong to that process unit located on the same plant site as the recovery operation equipment that has the greatest input into or output from the recovery operation equipment (i.e., that process unit has the predominant use of the recovery operation equipment).

(4) If predominant use cannot be determined for recovery operation equipment that is shared among process units and if one of those process units is an EPPU subject to this subpart, the recovery operation equipment shall belong to the EPPU subject to this subpart.

(5) If predominant use cannot be determined for recovery operation equipment that is shared among process units and if more than one of the process units are EPPUs that have different primary products and that are subject to this subpart, then the owner or operator shall assign the recovery operation equipment to any one of those EPPUs.

(6) If the predominant use of recovery operation equipment varies from year to year, then the predominant use shall be determined based on the utilization that occurred during the year preceding September 5, 1996 or based on the expected utilization for the 5 years following September 5, 1996 for existing affected sources, whichever is the more representative of the expected operations for the recovery operations equipment, and based on the expected utilization for the first 5 years after initial startup for new affected sources. This determination shall be reported in the Notification of Compliance Status required by § 63.506(e)(5)(viii). If the predominant use changes, the redetermination of predominant use shall be reported in the next Periodic Report.

(7) If there is an unexpected change in the utilization of recovery operation equipment that could reasonably change the predominant use, the owner or operator shall redetermine to which process unit the recovery operation belongs by reperforming the procedures specified in paragraphs (h)(2) through (h)(6) of this section.

(i) *Changes or additions to plant sites.* The provisions of paragraphs (i)(1) through (i)(4) of this section apply to owners or operators that change or add to their plant site or affected source. Paragraph (i)(5) provides examples of what are and are not considered process changes for purposes of paragraph (i) of this section.

(1) *Adding an EPPU to a plant site.* The provisions of paragraphs (i)(1)(i) through (i)(1)(ii) of this section apply to owners or operators that add EPPUs to a plant site.

(i) If an EPPU is added to a plant site, the addition shall be a new affected source and shall be subject to the requirements for a new affected source in this subpart upon initial startup or by September 5, 1996, whichever is later, if the addition meets the criteria specified in paragraphs (i)(1)(i)(A) through (i)(1)(i)(B) and either (i)(1)(i)(C) or (i)(1)(i)(D) of this section:

(A) It is an addition that meets the definition of construction in § 63.2 of subpart A;

(B) Such construction commenced after June 12, 1995; and

(C) The addition has the potential to emit 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP, and the primary product of the addition is currently produced at the plant site as the primary product of an affected source; or

(D) The primary product of the addition is not currently produced at the plant site as the primary product of an affected source, and the plant site meets, or after the addition is constructed will meet, the definition of a major source in § 63.2 of subpart A.

(ii) If an EPPU is added to a plant site, the addition shall be subject to the requirements for an existing affected source in this subpart upon initial startup or by 3 years after September 5, 1996, whichever is later, if the addition does not meet the criteria specified in

paragraph (i)(1)(i) of this section and the plant site meets, or after the addition is completed will meet, the definition of major source.

(2) *Adding emission points or making process changes to existing affected sources.* The provisions of paragraphs (i)(2)(i) through (i)(2)(ii) of this section apply to owners or operators that add emission points or make process changes to an existing affected source.

(i) If any process change is made or emission point is added to an existing affected source, or if a process change creating one or more additional Group 1 emission point(s) is made to an existing affected source, the entire affected source shall be a new affected source and shall be subject to the requirements for a new affected source in this subpart upon initial startup or by September 5, 1996, whichever is later, if the process change or addition meets the criteria specified in paragraphs (i)(2)(i)(A) through (i)(2)(i)(B) of this section:

(A) It is a process change or addition that meets the definition of reconstruction in § 63.2 of subpart A; and

(B) Such reconstruction commenced after June 12, 1995.

(ii) If any process change is made or emission point is added to an existing affected source, or if a process change creating one or more additional Group 1 emission point(s) is made to an existing affected source and the process change or addition does not meet the criteria specified in paragraphs (i)(2)(i)(A) and (i)(2)(i)(B) of this section, the resulting emission point(s) shall be subject to the requirements for an existing affected source in this subpart. The resulting emission point(s) shall be in compliance upon initial startup or by 3 years after September 5, 1996, whichever is later, unless the owner or operator demonstrates to the Administrator that achieving compliance will take longer than making the process change or addition. If this demonstration is made to the Administrator's satisfaction, the owner or operator shall follow the procedures in paragraphs (i)(2)(iii)(A) through (i)(2)(iii)(C) of this section to establish a compliance date.

(iii) To establish a compliance date for an emission point or points specified in paragraph (i)(2)(ii) of this section, the procedures specified in paragraphs (i)(2)(iii)(A) through (i)(2)(iii)(C) of this section shall be followed.

(A) The owner or operator shall submit to the Administrator for approval a compliance schedule, along with a justification for the schedule.

(B) The compliance schedule shall be submitted within 180 days after the process change or addition is made or the information regarding the change or addition is known to the owner or operator, unless the compliance schedule has been previously submitted to the permitting authority. The compliance schedule may be submitted in the next Periodic Report if the process change or addition is made after the date the Notification of Compliance Status report is due.

(C) The Administrator shall approve the compliance schedule or request changes within 120 calendar days of receipt of the compliance schedule and justification.

(3) *Existing source requirements for Group 2 emission points that become Group 1 emission points.* If a process change or addition that does not meet the criteria in paragraph (i)(1) or (i)(2) of this section is made to an existing plant site or existing affected source, and the change causes a Group 2 emission point to become a Group 1 emission point, for that emission point the owner or operator shall comply with the requirements of this subpart for existing Group 1 emission points. Compliance shall be achieved as expeditiously as practicable, but in no event later than 3 years after the emission point becomes a Group 1 emission point.

(4) *Existing source requirements for some emission points that become subject to subpart H requirements.* If a surge control vessel or bottoms receiver becomes subject to § 63.170 of subpart H, or if a compressor becomes subject to § 63.164 of subpart H, the owner or operator shall be in compliance upon initial startup or by 3 years after September 5, 1996, whichever is later, unless the owner or operator demonstrates to the Administrator that achieving compliance will take longer than making the change. If this demonstration is made to the Administrator's satisfaction, the owner or operator shall follow the procedures in paragraphs (i)(2)(iii)(A) through (i)(2)(iii)(C) of this section to establish a compliance date.

(5) *Determining what are and are not process changes.* For purposes of paragraph (i) of this section, examples of process changes include, but are not limited to, changes in production capacity, feedstock type, or catalyst type, or whenever there is a replacement, removal, or addition of recovery equipment. For purposes of paragraph (i) of this section, process changes do not include: Process upsets, unintentional temporary process changes, and changes that are within the equipment configuration and operating conditions documented in the Notification of Compliance Status report required by § 63.506(e)(5).

(j) *Applicability of this subpart except during periods of startup, shutdown, and malfunction.* Each provision set forth in this subpart or referred to in this subpart shall apply at all times except during periods of startup, shutdown, and malfunction if the startup, shutdown, or malfunction precludes the ability of a particular emission point at an affected source to comply with one or more specific provisions to which it is subject.

§ 63.481 Compliance schedule and relationship to existing applicable rules.

(a) Affected sources are required to achieve compliance on or before the dates specified in paragraphs (b) through (d) of this section. Paragraph (e) of this section provides information on requesting compliance extensions. Paragraphs (f) through (i) of this section discuss the relationship of this subpart to subpart A and to other applicable rules. Where an override of another authority of the Act is indicated in this subpart, only compliance with the provisions of this subpart is required. Paragraph (j) of this section specifies the meaning of time periods.

(b) New affected sources that commence construction or reconstruction after June 12, 1995 shall be in compliance with this subpart upon initial startup or September 5, 1996, whichever is later, as provided in § 63.6(b) of subpart A.

(c) Existing affected sources shall be in compliance with this subpart (except for § 63.502 for which compliance is covered by paragraph (d) of this section) no later than 3 years after September 5, 1996, as provided in § 63.6(c) of subpart A, unless an extension has been granted as specified in paragraph (e) of this section.

(d) Except as provided for in paragraphs (d)(1) through (d)(4) of this section, existing affected sources shall be in compliance with § 63.502 no later than March 5, 1997 unless a request for a compliance extension is granted pursuant to section 112(i)(3)(B) of the Act, as discussed in § 63.182(a)(6) of subpart H.

(1) Compliance with the compressor provisions of § 63.164 of subpart H shall occur no later than September 5, 1997 for any compressor meeting one or more of the criteria in paragraphs (d)(1)(i) through (d)(1)(iii) of this section, if the work can be accomplished without a process unit shutdown, as defined in § 63.161 of subpart H.

(i) The seal system will be replaced;

(ii) A barrier fluid system will be installed; or

(iii) A new barrier fluid will be utilized which requires changes to the existing barrier fluid system.

(2) Compliance with the compressor provisions of § 63.164 of subpart H shall occur no later than March 5, 1998, for any compressor meeting all the criteria in paragraphs (d)(2)(i) through (d)(2)(iv) of this section.

(i) The compressor meets one or more of the criteria specified in paragraphs (d)(1)(i) through (d)(1)(iii) of this section;

(ii) The work can be accomplished without a process unit shutdown as defined in § 63.161 of subpart H;

(iii) The additional time is actually necessary, due to the unavailability of parts beyond the control of the owner or operator; and

(iv) The owner or operator submits the request for a compliance extension to the U.S. Environmental Protection Agency (EPA) Regional Office at the addresses listed in § 63.13 of subpart A no later than 45 days before March 5, 1997. The request for a compliance extension shall contain the information specified in § 63.6(i)(6)(i)(A), (B), and (D) of subpart A. Unless the EPA Regional Office objects to the request for a compliance extension within 30 calendar days after receipt of the request, the request shall be deemed approved.

(3) If compliance with the compressor provisions of § 63.164 of subpart H cannot reasonably be achieved without a process unit shutdown, as defined in § 63.161 of subpart H, the owner or operator shall achieve compliance no later than September 8, 1998. The owner or operator who elects to use this provision shall submit a request for an extension of compliance in accordance with the requirements of paragraph (d)(2)(iv) of this section.

(4) Compliance with the compressor provisions of § 63.164 of subpart H shall occur not later than September 6, 1999 for any compressor meeting one or more of the criteria in paragraphs (d)(4)(i) through (d)(4)(iii) of this section. The owner or operator who elects to use these provisions shall submit a request for an extension of compliance in accordance with the requirements of paragraph (d)(2)(iv) of this section.

(i) Compliance cannot be achieved without replacing the compressor;

(ii) Compliance cannot be achieved without recasting the distance piece; or

(iii) Design modifications are required to connect to a closed-vent or recovery system.

(5) Compliance with the surge control vessel and bottoms receiver provisions of § 63.170 of subpart H shall occur no later than September 6, 1999.

(e) Pursuant to section 112(i)(3)(B) of the Act, an owner or operator may request an extension allowing the existing source up to 1 additional year to comply with section 112(d) standards. For purposes of this subpart, a request for an extension shall be submitted to the operating permit authority as part of the operating permit application or to the Administrator as a separate submittal or as part of the Precompliance Report. Requests for extensions shall be submitted no later than the date on which the Precompliance Report is required to be submitted in § 63.506(e)(3)(i). The dates specified in § 63.6(i) of subpart A for submittal of requests for extensions shall not apply to this subpart.

(1) A request for an extension of compliance shall include the data described in § 63.6(i)(6)(i) (A), (B), and (D) of subpart A.

(2) The requirements in § 63.6(i)(8) through § 63.6(i)(14) of subpart A shall govern the review and approval of requests for extensions of compliance with this subpart.

(f) Table 1 of this subpart specifies the provisions of subpart A that apply and those that do not apply to owners and operators of affected sources subject to this subpart. For the purposes of this subpart, Table 3 of subpart F is not applicable.

(g) Table 2 of this subpart summarizes the provisions of subparts F, G, and H that apply and those that do not apply to owners and operators of affected sources subject to this subpart.

(h)(1) After the compliance dates specified in this section, an affected source subject to this subpart that is also subject to the provisions of 40 CFR part 63, subpart I, is required to comply only with the provisions of this subpart.

(2) Sources subject to 40 CFR part 63, subpart I that have elected to comply through a quality improvement program, as specified in § 63.175 or § 63.176 or both of subpart H, may elect to continue these programs without interruption as a means of complying with this subpart. In other words, becoming subject to this subpart does not restart or reset the "compliance clock" as it relates to reduced burden earned through a quality improvement program.

(i) After the compliance dates specified in this section, a storage vessel that belongs to an affected source subject to this subpart that is also subject to the provisions of 40 CFR part 60, subpart Kb is required to comply only with the provisions of this subpart. After the compliance dates specified in paragraph (d) of this section, that storage vessel shall no longer be subject to 40 CFR part 60, subpart Kb.

(j) All terms in this subpart that define a period of time for completion of required tasks (e.g., monthly, quarterly, annual), unless specified otherwise in the section or subsection that imposes the requirement, refer to the standard calendar periods.

(1) Notwithstanding time periods specified in this subpart for completion of required tasks, such time periods may be changed by mutual agreement between the owner or operator and the Administrator, as specified in subpart A of this part (e.g., a period could begin on the compliance date or another date, rather than on the first day of the standard calendar period). For each time period that is changed by agreement, the revised period shall remain in effect until it is changed. A new request is not necessary for each recurring period.

(2) Where the period specified for compliance is a standard calendar period, if the initial compliance date occurs after the beginning of the period, compliance shall be required according to the schedule specified in paragraphs (j)(2)(i) or (j)(2)(ii) of this section, as appropriate.

(i) Compliance shall be required before the end of the standard calendar period within which the compliance deadline occurs, if there remain at least 2 weeks for tasks that must be performed monthly, at least 1 month for tasks that must be performed each quarter, or at least 3 months for tasks that must be performed annually; or

(ii) In all other cases, compliance shall be required before the end of the first full standard calendar period after the period within which the initial compliance deadline occurs.

(3) In all instances where a provision of this subpart requires completion of a task during each multiple successive period, an owner or operator may perform the required task at any time during the specified period, provided that the task is conducted at a reasonable interval after completion of the task during the previous period.

§ 63.482 Definitions.

(a) The following terms used in this subpart shall have the meaning given them in subparts A (§ 63.2), F (§ 63.101), G (§ 63.111), and H (§ 63.161) as specified after each term:

Act (subpart A)
Administrator (subpart A)
Automated monitoring and recording system (subpart G)
Average concentration (subpart G)
Boiler (subpart G)
Bottoms receiver (subpart H)

By compound (subpart G)
By-product (subpart F)
Car-seal (subpart G)
Chemical manufacturing process unit (subpart F)
Closed-vent system (subpart G)
Co-product (subpart F)
Combustion device (subpart G)
Commenced (subpart A)
Compliance date (subpart A)
Compliance schedule (subpart A)
Connector (subpart H)
Construction (subpart A)
Continuous monitoring system (subpart A)
Continuous record (subpart G)
Continuous recorder (subpart G)
Cover (subpart G)
Distillation unit (subpart G)
Emission standard (subpart A)
Emissions averaging (subpart A)
EPA (subpart A)
Equipment (subpart H)
Equipment leak (subpart F)
Existing source (subpart A)
External floating roof (subpart G)
Fill (subpart G)
Fixed roof (subpart G)
Flame zone (subpart G)
Flexible operation unit (subpart F)
Floating roof (subpart G)
Flow indicator (subpart G)
Halogens and hydrogen halides (subpart G)
Hazardous air pollutant (subpart A)
Heat exchange system (subpart F)
Impurity (subpart F)
Incinerator (subpart G)
In organic hazardous air pollutant service (subpart H)
Instrumentation system (subpart H)
Internal floating roof (subpart G)
Lesser quantity (subpart A)
Maintenance wastewater (subpart F)
Major source (subpart A)
Malfunction (subpart A)
Mass flow rate (subpart G)
Maximum true vapor pressure (subpart G)
New source (subpart A)
Open-ended valve or line (subpart H)
Operating permit (subpart F)
Organic HAP service (subpart H)
Organic monitoring device (subpart G)
Owner or operator (subpart A)
Performance evaluation (subpart A)
Performance test (subpart A)
Permitting authority (subpart A)
Plant site (subpart F)
Point of generation (subpart G)
Potential to emit (subpart A)
Primary fuel (subpart G)
Process heater (subpart G)
Process unit shutdown (subpart H)
Process wastewater (subpart F)
Process wastewater stream (subpart G)
Product separator (subpart F)
Reactor (subpart G)
Reconstruction (subpart A)
Recovery device (subpart G)
Reference control technology for process vents (subpart G)
Reference control technology for storage vessels (subpart G)
Reference control technology for wastewater (subpart G)
Relief valve (subpart G)
Research and development facility (subpart F)
Residual (subpart G)
Run (subpart A)
Secondary fuel (subpart G)
Sensor (subpart H)
Shutdown (subpart A)
Specific gravity monitoring device (subpart G)
Startup (subpart A)
Startup, shutdown, and malfunction plan (subpart F)
State (subpart A)
Surge control vessel (subpart H)
Temperature monitoring device (subpart G)
Test method (subpart A)
Total resource effectiveness index value (subpart G)
Treatment process (subpart G)
Unit operation (subpart F)
Vent stream (subpart G)
Visible emission (subpart A)
Waste management unit (subpart G)
Wastewater (subpart F)
Wastewater stream (subpart G)

(b) All other terms used in this subpart shall have the meaning given them in this section. If a term is defined in a subpart referenced above and in this section, it shall have the meaning given in this section for purposes of this subpart.

Affected source is defined in § 63.480(a).

Aggregate batch vent stream means a gaseous emission stream containing only the exhausts from two or more batch front-end process vents that are ducted together before being routed to a control device that is in continuous operation.

Average flow rate, as used in conjunction with wastewater provisions, is defined in and determined by the specifications in § 63.144(c) of subpart G; or, as used in conjunction with the batch front-end process vent provisions, is defined in and determined by the specifications in § 63.488(e).

Back-end refers to the unit operations in an EPPU following the stripping operations. Back-end process operations include, but are not limited to, filtering, coagulation, blending, concentration, drying, separating, and other finishing operations, as well as latex and crumb storage.

Batch cycle means the operational step or steps, from start to finish, that occur as part of a batch unit operation.

Batch cycle limitation means an enforceable restriction on the number of batch cycles that can be performed in a year for an individual batch front-end process vent.

Batch emission episode means a discrete emission venting episode associated with a single batch unit operation. Multiple batch emission episodes may occur from a single batch unit operation.

Batch front-end process vent means a point of emission from a batch unit operation having a gaseous emission stream with annual organic HAP emissions greater than 225 kilograms per year and located in the front-end of a process unit. Batch front-end process vents exclude relief valve discharges and leaks from equipment regulated under § 63.502.

Batch process means a discontinuous process involving the bulk movement of material through sequential manufacturing steps. Mass, temperature, concentration, and other properties of the process vary with time. Addition of raw material and withdrawal of product do not typically occur simultaneously in a batch process. For the purposes of this subpart, a process producing polymers is characterized as continuous or batch based on the operation of the polymerization reactors.

Batch unit operation means a unit operation operated in a batch process mode.

Butyl rubber means a copolymer of isobutylene and other monomers. Typical other monomers include isoprene and methylstyrenes. A typical composition of butyl rubber is approximately 85 to 99 percent isobutylene and one to fifteen percent other monomers. Most butyl rubber is produced by precipitation polymerization, although other methods may be used.

Compounding unit means a unit of operation which blends, melts, and resolidifies solid polymers for the purpose of incorporating additives, colorants, or stabilizers into the final elastomer product. A unit operation whose primary purpose is to remove residual monomers from polymers is not a compounding unit.

Continuous front-end process vent means a point of emission from a continuous process unit operation within an affected source having a gaseous emission stream with a flow rate greater than or equal to 0.005 standard cubic meter per minute and with a total organic HAP concentration greater than or equal to 50 parts per million by volume. Continuous front-end process vents exclude relief valve

discharges and leaks from equipment regulated under § 63.502.

Continuous process means a process where the inputs and outputs flow continuously through sequential manufacturing steps throughout the duration of the process. Continuous processes typically approach steady-state conditions. Continuous processes typically involve the simultaneous addition of raw material and withdrawal of product. For the purposes of this subpart, a process producing polymers is characterized as continuous or batch based on the operation of the polymerization reactors.

Continuous unit operation means a unit operation operated in a continuous process mode.

Control device is defined in § 63.111 of subpart G, except that the term "process vent" shall be replaced with the term "continuous front-end process vent" for the purpose of this subpart.

Crumb rubber dry weight means the weight of the polymer, minus the weight of water and residual organics.

Drawing unit means a unit operation which converts polymer into a different shape by melting or mixing the polymer and then pulling it through an orifice to create a continuously extruded product.

Elastomer means any polymer having a glass transition temperature lower than −10°C, or a glass transition temperature between −10°C and 25°C that is capable of undergoing deformation (stretching) of several hundred percent and recovering essentially when the stress is removed. For the purposes of this subpart, resins are not considered to be elastomers.

Elastomer product means one of the following 12 types of products, as they are defined in this section:

(1) Butyl Rubber,
(2) Halobutyl Rubber,
(3) Epichlorohydrin Elastomers,
(4) Ethylene Propylene Rubber,
(5) Hypalon™,
(6) Neoprene,
(7) Nitrile Butadiene Rubber,
(8) Nitrile Butadiene Latex,
(9) Polybutadiene Rubber/Styrene Butadiene Rubber by Solution,
(10) Polysulfide Rubber,
(11) Styrene Butadiene Rubber by Emulsion, and
(12) Styrene Butadiene Latex.

Elastomer product process unit (EPPU) means a collection of equipment assembled and connected by pipes or ducts used to process raw materials and to manufacture an elastomer product as its primary product. This collection of equipment includes process vents; storage vessels, as determined in § 63.480(g); and the equipment (i.e., pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, surge control vessels, and bottoms receivers that are associated with the elastomer product process unit) that are subject to the equipment leak provisions as specified in § 63.502. Compounding units, spinning units, drawing units, extruding units, and other finishing steps are not part of an EPPU. In addition, a solid state polymerization unit is not part of an EPPU.

Elastomer type means one of the elastomers defined under "elastomer product" in this section. Each elastomer identified in that definition represents a different elastomer type.

Emission point means an individual continuous front-end process vent, batch front-end process vent, back-end process vent, storage vessel, wastewater stream, or equipment leak.

Emulsion process means a process carried out with the reactants in an emulsified form (e.g., polymerization reaction).

Epichlorohydrin elastomer means an elastomer formed from the polymerization or copolymerization of epichlorohydrin (EPI). The main epichlorohydrin elastomers are polyepichlorohydrin, epi-ethylene oxide (EO) copolymer, epi-allyl glycidyl ether (AGE) copolymer, and epi-EO-AGE terpolymer. Epoxy resins produced by the copolymerization of EPI and bisphenol A are not epichlorohydrin elastomers.

Ethylene-propylene rubber means an ethylene-propylene copolymer or an ethylene-propylene terpolymer. Ethylene-propylene copolymers (EPM) result from the polymerization of ethylene and propylene and contain a saturated chain of the polymethylene type. Ethylene-propylene terpolymers (EPDM) are produced in a similar manner as EPM, except that a moderate amount of the third monomer is added to the reaction sequence. Typical third monomers include ethylidene norbornene, 1,4-hexadiene, or dicyclopentadiene. Ethylidene norbornene is the most commonly used. The production process includes, but is not limited to, polymerization, recycle, recovery, and packaging operations. The polymerization reaction may occur in either a solution process or a suspension process.

Extruding unit means a unit operation which converts polymer into a different shape by melting or mixing the polymer and then forcing it through an orifice to create a continuously extruded product.

Front-end refers to the unit operations in an EPPU prior to, and including, the stripping operations. The process front-end includes all activity from raw material storage through the stripping operation, including pre-polymerization blending, reactions, etc. For all gas-phased reaction processes, all unit operations are considered to be front-end.

Gas-phased reaction process means an elastomer production process where the reaction occurs in a gas phase, fluidized bed.

Grade means the subdivision of an elastomer product type by different characteristics such as molecular weight, monomer composition, significant mooney values, and the presence or absence of extender oil and/or carbon black.

Group 1 batch front-end process vent means a batch front-end process vent releasing annual organic HAP emissions greater than or equal to 11,800 kg/yr and with a cutoff flow rate, calculated in accordance with § 63.488(f), greater than or equal to the annual average flow rate.

Group 2 batch front-end process vent means a batch front-end process vent that does not fall within the definition of a Group 1 batch front-end process vent.

Group 1 continuous front-end process vent means a continuous front-end process vent releasing a gaseous emission stream that has a total resource effectiveness index value, calculated according to § 63.115 of subpart G, less than or equal to 1.0.

Group 2 continuous front-end process vent means a continuous front-end process vent that does not fall within the definition of a Group 1 continuous front-end process vent.

Group 1 storage vessel means a storage vessel at an existing affected source that meets the applicability criteria specified in Table 3 of this subpart, or a storage vessel at a new affected source that meets the applicability criteria specified in Table 4 of this subpart.

Group 2 storage vessel means a storage vessel that does not fall within the definition of a Group 1 storage vessel.

Group 1 wastewater stream means a process wastewater stream from an elastomer product process unit at an existing or new source with a total volatile organic hazardous air pollutant average concentration greater than or equal to 10,000 parts per million by weight of compounds listed in table 9 of subpart G at any flowrate; or a process wastewater stream from a process unit at an existing or new source that has an average flow rate greater than or equal to 10 liters per minute and a total volatile organic hazardous air pollutant

concentration greater than 1,000 parts per million by weight of compounds listed in table 9 of subpart G.

Group 2 wastewater stream means any process wastewater stream that does not meet the definition of a Group 1 wastewater stream.

Halobutyl rubber means a butyl rubber elastomer produced using halogenated copolymers.

Halogenated aggregate batch vent stream means an aggregate batch vent stream determined to have a total mass emission rate of halogen atoms contained in organic compounds of 3,750 kg/yr or greater determined by the Procedures presented in § 63.488(h).

Halogenated batch front-end process vent means a batch front-end process vent determined to have a mass emission rate of halogen atoms contained in organic compounds of 3,750 kg/yr or greater determined by the procedures presented in § 63.488(h).

Halogenated continuous front-end process vent means a continuous front-end process vent determined to have a mass emission rate of halogen atoms contained in organic compounds of 0.45 kg/hr or greater determined by the procedures presented in § 63.115(d)(2)(v) of subpart G.

High conversion latex means a latex where all monomers are reacted to at least 95 percent conversion.

Hypalon ™ means a chlorosulfonated polyethylene that is a synthetic rubber produced for uses such as wire and cable insulation, shoe soles and heels, automotive components, and building products.

Latex means a colloidal aqueous emulsion of elastomer. A latex may be further processed into finished products by direct use as a coating or as a foam, or it may be precipitated to separate the rubber particles, which are then used in dry state to prepare finished products.

Latex weight includes the weight of the polymer and the weight of the water solution.

Mass process means a process carried out through the use of thermal energy (e.g., polymerization reaction). Mass processes do not utilize emulsifying or suspending agents, but can utilize catalysts or other additives.

Material recovery section means the equipment that recovers unreacted or by-product materials from any process section for return to the EPPU, off-site purification or treatment, or sale. Equipment designed to separate unreacted or by-product material from the polymer product is to be included in this process section, provided that at the time of initial compliance some of the material is recovered for reuse in the process, off-site purification or treatment, or sale. Otherwise, such equipment is to be assigned to one of the other process sections, as appropriate. If equipment is used to recover unreacted or by-product material and return it directly to the same piece of process equipment from which it was emitted, then the recovery equipment is considered to be part of the process section that contains the process equipment. On the other hand, if equipment is used to recover unreacted or by-product material and return it to a different piece of process equipment in the same process section, the recovery equipment is considered to be part of a material recovery section. Equipment that treats recovered materials is to be included in this process section, but equipment that also treats raw materials is not to be included in this process section. The latter equipment is to be included in the raw materials preparation section.

Month means either a calendar month or a repeating 30-day period. For the purposes of compliance with the back-end limitations in § 63.506, a month can begin on any day of the month (i.e., starting on the 15th and ending on the 14th of the following month), as long as the month never contains more than 31 calendar days.

Neoprene means a polymer of chloroprene (2-chloro-1,3-butadiene). The free radical emulsion process is generally used to produce neoprene, although other methods may be used.

Nitrile butadiene latex means a polymer consisting primarily of unsaturated nitriles and dienes, usually acrylonitrile and 1,3-butadiene, that is sold as a latex.

Nitrile butadiene rubber means a polymer consisting primarily of unsaturated nitriles and dienes, usually acrylonitrile and 1,3-butadiene, not including those facilities that produce nitrile butadiene latex.

Organic hazardous air pollutant(s) (organic HAP) means one or more of the chemicals listed in Table 5 of this subpart or any other chemical which:

(1) Is knowingly introduced into the manufacturing process other than as an impurity, or has been or will be reported under any Federal or State program, such as EPCRA section 311, 312, or 313 or Title V; and

(2) Is listed in Table 2 of subpart F of this part.

Polybutadiene rubber/styrene butadiene rubber by solution means a polymer of 1,3-butadiene produced using a solution process, and/or a polymer that consists primarily of styrene and butadiene monomer units and is produced using a solution process.

Polymerization reaction section means the equipment designed to cause monomer(s) to react to form polymers, including equipment designed primarily to cause the formation of short polymer chains (e.g., oligomers or low polymers), but not including equipment designed to prepare raw materials for polymerization (e.g., esterification vessels). For the purposes of this subpart, the polymerization reaction section begins with the equipment used to transfer the materials from the raw materials preparation section and ends with the last vessel in which polymerization occurs.

Polysulfide rubber means a polymer produced by reacting sodium polysulfide and chloroethyl formal. Polysulfide rubber may be produced as latexes or solid product.

Primary product is defined in and determined by the procedures specified in § 63.480(f).

Process section means the equipment designed to accomplish a general but well-defined task in polymers production. Process sections include raw materials preparation, polymerization reaction, and material recovery. A process section may be dedicated to a single EPPU or may be common to more than one EPPU.

Process unit means a collection of equipment assembled and connected by pipes or ducts to process raw materials and to manufacture a product.

Process vent means a point of emission from a unit operation having a gaseous emission stream. Typical process vents include condenser vents, dryer vents, vacuum pumps, steam ejectors, and atmospheric vents from reactors and other process vessels, but do not include pressure relief valves.

Product means a compound or material which is manufactured by a process unit. By-products, isolated intermediates, impurities, wastes, and trace contaminants are not considered products.

Raw materials preparation section means the equipment at a polymer manufacturing plant designed to prepare raw materials, such as monomers and solvents, for polymerization. For the purposes of this standard, this process section begins with the equipment used to transfer raw materials from storage and/or the equipment used to transfer recovered material from the material recovery process sections, and ends with the last piece of equipment that prepares the material for polymerization. The raw materials preparation section may include equipment that is used to purify, dry, or otherwise treat raw materials or raw and recovered

materials together; to activate catalysts; and to promote esterification including the formation of some short polymer chains (oligomers). The raw materials preparation section does not include equipment that is designed primarily to accomplish the formation of oligomers, the treatment of recovered materials alone, or the storage of raw materials.

Recovery operations equipment means the equipment used to separate the components of process streams. Recovery operations equipment includes distillation units, condensers, etc. Equipment used for wastewater treatment shall not be considered recovery operations equipment.

Resin means a polymer that is not an elastomer. The following are characteristics of resins and the production of resins:

(1) The polymer is a block polymer;

(2) The manufactured polymer does not require vulcanization to make useful products;

(3) The polymer production process is operated to achieve at least 99 percent monomer conversion; and

(4) The polymer process unit does not recycle unreacted monomer back to the process.

Solid state polymerization unit means a unit operation which, through the application of heat, furthers the polymerization (i.e., increases the intrinsic viscosity) of polymer chips.

Solution process means a process where both the monomers and the resulting polymers are dissolved in an organic solvent.

Steady-state conditions means that all variables (temperatures, pressures, volumes, flow rates, etc.) in a process do not vary significantly with time; minor fluctuations about constant mean values can occur.

Storage vessel means a tank or other vessel that is used to store liquids that contain one or more organic HAP and that has been assigned, according to the procedures in § 63.480(g), to an EPPU that is subject to this subpart. Storage vessels do not include:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere;

(3) Vessels with capacities smaller than 38 cubic meters;

(4) Vessels and equipment storing and/or handling material that contains no organic HAP, or organic HAP as impurities only;

(5) Surge control vessels and bottoms receiver tanks; and

(6) Wastewater storage tanks.

Stripping technology means the removal of organic compounds from a raw elastomer product by the use of heat and/or vacuum. Stripping technology includes steam stripping, direct volatilization, chemical stripping, and other methods of devolatilization.

Styrene butadiene latex means a polymer consisting primarily of styrene and butadiene monomer units produced using an emulsion process and sold as a latex.

Styrene butadiene rubber by emulsion means a polymer consisting primarily of styrene and butadiene monomer units produced using an emulsion process. Styrene butadiene rubber by emulsion does not include styrene butadiene latex.

Suspension process means a process carried out with the reactants in a state of suspension, typically achieved through the use of water and/or suspending agents (e.g., polymerization reaction).

Total organic compounds (TOC) means those compounds, excluding methane and ethane, measured according to the procedures of Method 18 or Method 25A of 40 CFR part 60, appendix A.

Year means any consecutive 12-month period or 365 rolling days. For the purposes of emissions averaging, the term year applies to any 12-month period selected by the facility and defined in its Emissions Averaging Plan. For the purposes of batch cycle limitations, the term year applies to the 12-month period defined by the facility in its Notification of Compliance Status.

§ 63.483 Emission standards.

(a) Except as allowed under paragraphs (b) and (c) of this section, the owner or operator of an existing or new affected source shall comply with the provisions in:

(1) Section 63.484 for storage vessels;

(2) Section 63.485 for continuous front-end process vents;

(3) Sections 63.486 through 63.492 for batch front-end process vents;

(4) Sections 63.493 through 63.500 for back-end process operations;

(5) Section 63.501 for wastewater;

(6) Section 63.502 for equipment leaks;

(7) Section 63.504 for additional test methods and procedures;

(8) Section 63.505 for monitoring levels and excursions; and

(9) Section 63.506 for general reporting and recordkeeping requirements.

(b) Instead of complying with §§ 63.484, 63.485, 63.493, and 63.501, the owner or operator of an existing affected source may elect to control any or all of the storage vessels, continuous front-end process vents, batch front-end process vents; aggregate batch vent streams, and back-end process emissions within the affected source, plus any or all process wastewater streams associated with the affected source, to different levels using an emissions averaging compliance approach that uses the procedures specified in § 63.503. An owner or operator electing to use emissions averaging must still comply with the provisions of §§ 63.484, 63.485, 63.486, 63.493, and 63.501 for affected source emission points not included in the emissions average.

(c) A State may decide not to allow the use of the emissions averaging compliance approach specified in paragraph (b) of this section as a compliance option for an existing affected source.

§ 63.484 Storage vessel provisions.

(a) For each storage vessel located at an affected source, except for those storage vessels exempted by paragraph (b) of this section, the owner or operator shall comply with the requirements of §§ 63.119 through 63.123 and § 63.148 of subpart G, with the differences noted in paragraphs (c) through (q) of this section.

(b) Storage vessels described in paragraphs (b)(1) through (b)(7) of this section are exempt from the storage vessel requirements of this section.

(1) Storage vessels containing styrene-butadiene latex;

(2) Storage vessels containing other latex products and located downstream of the stripping operations;

(3) Storage vessels containing high conversion latex products;

(4) Storage vessels located downstream of the stripping operations at affected sources subject to the back-end residual organic HAP limitation located in § 63.494, that are complying through the use of stripping technology, as specified in § 63.495;

(5) Storage vessels containing styrene;

(6) Storage vessels containing acrylamide; and

(7) Storage vessels containing epichlorohydrin.

(c) When the term "storage vessel" is used in §§ 63.119 through 63.123 and 63.148 of subpart G, the definition of this term in § 63.482 shall apply for the purposes of this subpart.

(d) When the term "Group 1 storage vessel" is used in §§ 63.119 through 63.123 and § 63.148 of subpart G, the definition of this term in § 63.482 shall apply for the purposes of this subpart.

(e) When the term "Group 2 storage vessel" is used in §§ 63.119 through

63.123 and § 63.148 of subpart G, the definition of this term in § 63.482 shall apply for the purposes of this subpart.

(f) When the emissions averaging provisions of § 63.150 of subpart G are referred to in § 63.119 and § 63.123 of subpart G, the emissions averaging provisions contained in § 63.503 shall apply for the purposes of this subpart.

(g) When December 31, 1992 is referred to in § 63.119 of subpart G, it shall be replaced with June 12, 1995 for the purposes of this subpart.

(h) When April 22, 1994 is referred to in § 63.119 of subpart G, it shall be replaced with September 5, 1996 for the purposes of this subpart.

(i) Each owner or operator shall comply with this paragraph instead of § 63.120(d)(1)(ii) of subpart G for the purposes of this subpart. If the control device used to comply with this section is also used to comply with §§ 63.485 through § 63.501, the performance test required for these sections is acceptable for demonstrating compliance with § 63.119(e) of subpart G for the purposes of this subpart. The owner or operator will not be required to prepare a design evaluation for the control device as described in § 63.120(d)(1)(i) of subpart G, if the performance test meets the criteria specified in paragraphs (i)(1) and (i)(2) of this section.

(1) The performance test demonstrates that the control device achieves greater than or equal to the required control efficiency specified in § 63.119(e)(1) or § 63.119(e)(2) of subpart G, as applicable; and

(2) The performance test is submitted as part of the Notification of Compliance Status required by § 63.506(e)(5).

(j) When the term "operating range" is used in § 63.120(d)(3)(i) of subpart G, it shall be replaced with the term "level," for the purposes of this subpart. This level shall be established using the procedures specified in § 63.505.

(k) When the Notification of Compliance Status requirements contained in § 63.152(b) of subpart G are referred to in §§ 63.120, 63.122, and 63.123 of subpart G, the Notification of Compliance Status requirements contained in § 63.506(e)(5) shall apply for the purposes of this subpart.

(l) When the Periodic Report requirements contained in § 63.152(c) of subpart G are referred to in §§ 63.120, 63.122, and 63.123 of subpart G, the Periodic Report requirements contained in § 63.506(e)(6) shall apply for the purposes of this subpart.

(m) When other reports as required in § 63.152(d) of subpart G are referred to in § 63.122 of subpart G, the reporting requirements contained in § 63.506(e)(7) shall apply for the purposes of this subpart.

(n) When the Implementation Plan requirements contained in § 63.151(c) of subpart G are referred to in § 63.119 through § 63.123 of subpart G, for the purposes of this subpart the owner or operator of an affected source need not comply.

(o) When the Initial Notification Plan requirements contained in § 63.151(b) of subpart G are referred to in § 63.119 through § 63.123 of subpart G, for the purposes of this subpart the owner or operator of an affected source need not comply.

(p) When the determination of equivalence criteria in § 63.102(b) of subpart F are referred to in § 63.121(a) of subpart G, the provisions in § 63.6(g) of subpart A shall apply for the purposes of this subpart.

(q) The compliance date for storage vessels at affected sources subject to the provisions of this section is specified in § 63.481.

§ 63.485 Continuous front-end process vent provisions.

(a) For each continuous front-end process vent located at an affected source, the owner or operator shall comply with the requirements of §§ 63.113 through 63.118 of subpart G, except as provided for in paragraphs (b) through (s) of this section. Continuous front-end process vents that are combined with one or more batch front-end process vents shall comply with paragraph (m) or (n) of this section.

(b) When the term "process vent" is used in §§ 63.113 through 63.118 of subpart G, it shall be replaced with the term "continuous front-end process vent," and the definition of this term in § 63.482 shall apply for the purposes of this subpart.

(c) When the term "halogenated process vent" is used in §§ 63.113 through 63.118 of subpart G, it shall be replaced with the term "halogenated continuous front-end process vent," and the definition of this term in § 63.482 shall apply for the purposes of this subpart.

(d) When the term "Group 1 process vent" is used in §§ 63.113 through 63.118 of subpart G, it shall be replaced with the term "Group 1 continuous front-end process vent," and the definition of this term in § 63.482 shall apply for the purposes of this subpart.

(e) When the term "Group 2 process vent" is used in §§ 63.113 through 63.118 of subpart G, it shall be replaced with the term "Group 2 continuous front-end process vent," and the definition of this term in § 63.482 shall apply for the purposes of this subpart.

(f) When December 31, 1992 is referred to in § 63.113 of subpart G, it shall be replaced with June 12, 1995 for the purposes of this subpart.

(g) When §§ 63.151(f), alternative monitoring parameters, and 63.152(e), submission of an operating permit, of subpart G are referred to in §§ 63.114(c) and 63.117(e) of subpart G, § 63.506(f), alternative monitoring parameters, and § 63.506(e)(8), submission of an operating permit, respectively, shall apply for the purposes of this subpart.

(h) When the Notification of Compliance Status requirements contained in § 63.152(b) of subpart G are referred to in §§ 63.114, 63.117, and 63.118 of subpart G, the Notification of Compliance Status requirements contained in § 63.506(e)(5) shall apply for the purposes of this subpart.

(i) When the Periodic Report requirements contained in § 63.152(c) of subpart G are referred to in §§ 63.117 and 63.118 of subpart G, the Periodic Report requirements contained in § 63.506(e)(6) shall apply for the purposes of this subpart.

(j) When the definition of excursion in § 63.152(c)(2)(ii)(A) of subpart G is referred to in § 63.118(f)(2) of subpart G, the definition of excursion in § 63.505(g) and (h) shall apply for the purposes of this subpart.

(k) For the purposes of this subpart, owners and operators shall comply with § 63.505, parameter monitoring levels and excursions, instead of § 63.114(e) of subpart G. When the term "range" is used in § 63.117(f), § 63.118(a)(2)(iv), (b)(2)(iv), (f)(1), and (f)(6) of subpart G, it shall be replaced with the term "level." This level is determined in accordance with § 63.505.

(l) When reports of process changes are required under § 63.118 (g), (h), (i), and (j) of subpart G, paragraphs (l)(1) through (l)(4) of this section shall apply for the purposes of this subpart.

(1) Whenever a process change, as defined in § 63.115(e) of subpart G, is made that causes a Group 2 continuous front-end process vent to become a Group 1 continuous front-end process vent, the owner or operator shall submit the following information in the first periodic report following the process change, as specified in § 63.506(e)(6)(iii)(D)(*2*):

(i) A description of the process change; and

(ii) A schedule for compliance with § 63.113(a) of subpart G, as required under § 63.506(e)(6)(iii)(D)(*2*).

(2) Whenever a process change, as defined in § 63.115(e) of subpart G, is made that causes a Group 2 continuous front-end process vent with a TRE greater than 4.0 to become a Group 2

continuous front-end process vent with a TRE less than 4.0, the owner or operator shall submit the following information in the first periodic report following the process change, as specified in § 63.506(e)(6)(iii)(D)(*2*):

(i) A description of the process change; and

(ii) A schedule for compliance with the provisions of § 63.113(d) of subpart G, as required under § 63.506(e)(6)(iii)(D)(*2*).

(3) Whenever a process change, as defined in § 63.115(e) of subpart G, is made that causes a Group 2 continuous front-end process vent with a flow rate less than 0.005 standard cubic meter per minute (scmm) to become a Group 2 continuous front-end process vent with a flow rate of 0.005 scmm or greater and a TRE index value less than or equal to 4.0, the owner or operator shall submit the following information in the first periodic report following the process change, as specified in § 63.506(e)(6)(iii)(D)(*2*):

(i) A description of the process change; and

(ii) A schedule for compliance with two provisions of § 63.113(d) of subpart G, as required under § 63.506(e)(6)(iii)(D)(*2*).

(4) Whenever a process change, as defined in § 63.115(e) of subpart G, is made that causes a Group 2 continuous front-end process vent with an organic HAP concentration less than 50 parts per million by volume (ppmv) to become a Group 2 continuous front-end process vent with an organic HAP concentration of 50 ppmv or greater and a TRE index value less than or equal to 4.0, the owner or operator shall submit the following information in the first periodic report following the process change, as specified in § 63.506(e)(6)(iii)(D)(*2*):

(i) A description of the process change; and

(ii) A schedule for compliance with the provisions of § 63.113(d) of subpart G, as required under § 63.506(e)(6)(iii)(D)(*2*).

(m) If a batch front-end process vent is combined with a continuous front-end process vent prior to being routed to a control device, the combined vent stream shall comply with either paragraph (m)(1) or (m)(2) of this section, as appropriate.

(1) If the continuous front-end process vent is a Group 1 continuous front-end process vent, the combined vent stream shall comply with all requirements for a Group 1 continuous process vent stream in §§ 63.113 through 63.118 of subpart G, with the differences noted in paragraphs (b) through (l) of this section.

(2) If the continuous front-end process vent is a Group 2 continuous front-end process vent, the TRE index value shall be calculated during maximum representative operating conditions. For combined streams containing continuous front-end and batch front-end process vents, the maximum representative operating conditions shall be during periods when batch emission episodes are venting to the control device resulting in the highest concentration of organic HAP in the combined vent stream.

(n) If a batch front-end process vent is combined with a continuous front-end process vent prior to being routed to a recovery device, the TRE index value shall be calculated at the exit of the recovery device at maximum representative operating conditions. For combined vent streams containing continuous front-end and batch front-end process vents, the maximum representative operating conditions shall be during periods when batch emission episodes are venting to the recovery device resulting in the highest concentration of organic HAP in the combined vent stream.

(o) Group 1 halogenated continuous front-end process vents at affected existing sources producing butyl rubber, halobutyl rubber, or ethylene propylene rubber are exempt from the requirements to control hydrogen halides and halogens from the outlet of combustion devices contained in § 63.113(c) of subpart G, if the conditions in paragraphs (o)(1) and (o)(2) of this section are met. Affected new sources are not exempt from these provisions.

(1)(i) For affected sources producing butyl rubber, halobutyl rubber, or ethylene propylene rubber using a solution process, if the halogenated continuous front-end process vent stream was controlled by a combustion device prior to June 12, 1995, or

(ii) For affected sources producing ethylene propylene rubber using a gas-phased reaction process, if the halogenated continuous front-end process vent stream was controlled by a combustion device since startup.

(2) The combustion device meets the requirements of § 63.113(a)(1)(i), § 63.113(a)(2), § 63.113(a)(3), or § 63.113(b) of subpart G.

(p) The compliance date for continuous front-end process vents subject to the provisions of this section is specified in § 63.481. This replaces the reference to § 63.100 of subpart F in § 63.115(e)(2) of subpart G.

(q) *Internal combustion engines.* In addition to the three options for the control of a Group 1 continuous front-end process vent listed in § 63.113(a)(1)–(3) of subpart G, an owner or operator can route emissions of organic HAP to an internal combustion engine, provided the conditions listed in paragraphs (q)(1) through (q)(3) of this section are met.

(1) The vent stream routed to the internal combustion engine shall not be a halogenated continuous front-end process vent stream.

(2) The organic HAP is introduced with the primary fuel.

(3) The owner or operator continuously monitors the on/off status of the internal combustion engine.

(4) If an internal combustion engine meeting the requirements of paragraphs (q) (1) through (3) of this section is used to comply with the provisions of § 63.113(a) of subpart G, the internal combustion engine is exempt from the source testing requirements of § 63.116 of subpart G.

(r) When the provisions of § 63.116 (c)(3) and (c)(4) of subpart G specify that Method 18 shall be used, Method 18 or Method 25A may be used for the purposes of this subpart. The use of Method 25A shall comply with paragraphs (r)(1) and (r)(2) of this section.

(1) The organic HAP used as the calibration gas for Method 25A shall be the single organic HAP representing the largest percent by volume of the emissions.

(2) The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(s) When the provisions of § 63.116(b) identify conditions under which a performance test is not required, for purposes of this subpart, the exemption in paragraph (s)(1) of this section shall also apply. Further, if a performance test meeting the conditions specified in paragraph (s)(2) of this section has been conducted by the owner or operator, the results of that performance test shall suffice, for the purposes of this section.

(1) An incinerator burning hazardous waste for which the owner or operator complies with the requirements of 40 CFR part 264, subpart O.

(2) Performance tests done for other subparts in part 60 or part 63 where total organic HAP or TOC was measured, provided that the owner or operator can demonstrate that operating conditions for the process and control or recovery device during the performance test are representative of current operating conditions.

§ 63.486 Batch front-end process vent provisions.

(a) *Batch front-end process vents.* Except as specified in paragraph (b) of this section, owners and operators of new and existing affected sources with batch front-end process vents shall comply with the requirements in §§ 63.487 through 63.492. The batch front-end process vent group status shall be determined in accordance with § 63.488. Batch front-end process vents classified as Group 1 shall comply with the reference control technology requirements for Group 1 batch front-end process vents in § 63.487, the monitoring requirements in § 63.489, the performance test methods and procedures to determine compliance requirements in § 63.490, the recordkeeping requirements in § 63.491, and the reporting requirements in § 63.492. All Group 2 batch front-end process vents shall comply with the applicable reference control technology requirements in § 63.487, the recordkeeping requirements in § 63.491, and the reporting requirements in § 63.492.

(b) *Aggregate batch vent streams.* Aggregate batch vent streams, as defined in § 63.482, are subject to the control requirements for individual batch front-end process vents, as specified in § 63.487(b), as well as the monitoring, testing, recordkeeping, and reporting requirements specified in § 63.489 through § 63.492.

§ 63.487 Batch front-end process vents—reference control technology.

(a) *Batch front-end process vents.* The owner or operator of a Group 1 batch front-end process vent, as determined using the procedures in § 63.488, shall comply with the requirements of either paragraph (a)(1) or (a)(2) of this section. Compliance can be based on either organic HAP or TOC.

(1) For each batch front-end process vent, reduce organic HAP emissions using a flare.

(i) The flare shall comply with the requirements of § 63.11(b) of subpart A.

(ii) Halogenated batch front-end process vents, as defined in § 63.482, shall not be vented to a flare.

(2) For each batch front-end process vent, reduce organic HAP emissions for the batch cycle by 90 weight percent using a control device. Owners or operators may achieve compliance with this paragraph through the control of selected batch emission episodes or the control of portions of selected batch emission episodes. Documentation demonstrating how the 90 weight percent emission reduction is achieved is required by § 63.490(c)(2).

(b) *Aggregate batch vent streams.* The owner or operator of an aggregate batch vent stream that contains one or more Group 1 batch front-end process vents shall comply with the requirements of either paragraph (b)(1) or (b)(2) of this section. Compliance can be based on either organic HAP or TOC.

(1) For each aggregate batch vent stream, reduce organic HAP emissions using a flare.

(i) The flare shall comply with the requirements of § 63.11(b) of subpart A.

(ii) Halogenated aggregate batch vent streams, as defined in § 63.482, shall not be vented to a flare.

(2) For each aggregate batch vent stream, reduce organic HAP emissions by 90 weight percent on a continuous basis using a control device.

(c) *Halogenated emissions.* Halogenated Group 1 batch front-end process vents, halogenated aggregate batch vent streams, and halogenated continuous front-end process vents that are combusted as part of complying with paragraph (a)(2) or (b)(2) of this section, shall be controlled according to either paragraph (c)(1) or (c)(2) of this section.

(1) If a combustion device is used to comply with paragraph (a)(2) or (b)(2) of this section for a halogenated batch front-end process vent or halogenated aggregate batch vent stream, the emissions shall be ducted from the combustion device to an additional control device that reduces overall emissions of hydrogen halides and halogens by 99 percent before those emissions are discharged to the atmosphere.

(2) A control device may be used to reduce the halogen atom mass emission rate to less than 3,750 kg/yr for batch front-end process vents or aggregate batch vent streams and thus make the batch front-end process vent or aggregate batch vent stream nonhalogenated. The nonhalogenated batch front-end process vent or aggregate batch vent stream must then comply with the requirements of either paragraph (a) or (b) of this section, as appropriate.

(d) If a boiler or process heater is used to comply with the percent reduction requirement specified in paragraph (a)(2) or (b)(2) of this section, the batch front-end process vent or aggregate batch vent stream shall be introduced into the flame zone of such a device.

(e) *Combination of batch front-end process vents or aggregate batch vent streams with continuous front-end process vents.* A batch front-end process vent or aggregate batch vent stream combined with a continuous front-end process vent stream is not subject to the provisions of §§ 63.488 through 63.492, providing the requirements of paragraphs (e)(1), (e)(2), and either (e)(3) or (e)(4) of this section are met.

(1) The batch front-end process vent is combined with a continuous front-end process vent prior to routing the continuous front-end process vent to a control or recovery device. In this paragraph, the definitions of control device and recovery device as they relate to continuous front-end process vents shall be used.

(2) The only emissions to the atmosphere from the batch front-end process vent or aggregate batch vent stream prior to being combined with the continuous front-end process vent are from equipment subject to and in compliance with § 63.502.

(3) If the batch front-end vent stream or aggregate batch vent stream is combined with a continuous front-end process vent stream prior to being routed to a control device, the combined vent stream shall comply with the requirements in § 63.485(m). In this paragraph, the definition of control device as it relates to continuous front-end process vents shall be used.

(4) If the batch front-end process vent or aggregate batch vent stream is combined with a continuous front-end process vent stream prior to being routed to a recovery device, the combined vent stream shall comply with the requirements in § 63.485(n). In this paragraph, the definition of recovery device as it relates to continuous front-end process vents shall be used.

(f) *Group 2 batch front-end process vents with annual emissions greater than or equal to the level specified in § 63.488(d).* The owner or operator of a Group 2 batch front-end process vent with annual emissions greater than or equal to the level specified in § 63.488(d) shall comply with the provisions of paragraphs (f)(1) and (f)(2) of this section.

(1) Establish a batch cycle limitation that ensures that the Group 2 batch front-end process vent does not become a Group 1 batch front-end process vent, and

(2) Comply with the recordkeeping requirements in § 63.491(d)(2), and the reporting requirements in § 63.492(a)(3) and (b).

(g) *Group 2 batch front-end process vents with annual emissions less than the level specified in § 63.488(d).* The owner or operator of a Group 2 batch front-end process vent with annual organic HAP emissions less than the level specified in § 63.488(d), shall comply with either paragraphs (g)(1) and (g)(2) of this section or with

paragraphs (f)(1) and (f)(2) of this section.

(1) Establish a batch cycle limitation that ensures emissions do not exceed the appropriate level specified in § 63.488(d), and

(2) Comply with the recordkeeping requirements in § 63.491(d)(1), and the reporting requirements in § 63.492(a)(2), (b), and (c).

§ 63.488 Methods and procedures for batch front-end process vent group determination.

(a) *General requirements.* Except as provided in paragraph (a)(3) of this section, the owner or operator of batch front-end process vents at affected sources shall determine the group status of each batch front-end process vent in accordance with the provisions of this section. This determination may be based on either organic HAP or TOC emissions.

(1) The procedures specified in paragraphs (b) through (i) shall be followed for the expected mix of products for a given batch front-end process vent, as specified in paragraph (a)(1)(i) of this section, or for the worst-case HAP emitting batch unit operation, as specified in paragraphs (a)(1)(ii) through (a)(1)(iv) of this section. "Worst-case HAP emitting product" is defined in paragraph (a)(1)(iii) of this section.

(i) If an owner or operator chooses to follow the procedures specified in paragraphs (b) through (i) of this section for the expected mix of products, an identification of the different products and the number of batch cycles accomplished for each is required as part of the group determination documentation.

(ii) If an owner or operator chooses to follow the procedures specified in paragraphs (b) through (i) of this section for the worst-case HAP emitting product, documentation identifying the worst-case HAP emitting product is required as part of the group determination documentation.

(iii) Except as specified in paragraph (a)(1)(iii)(B) of this section, the worst-case HAP emitting product is as defined in paragraph (a)(1)(iii)(A) of this section.

(A) The worst-case HAP emitting product is the one with the highest mass emission rate (kg organic HAP per hour) averaged over the entire time period of the batch cycle.

(B) Alternatively, when one product is produced more than 75 percent of the time, accounts for more than 75 percent of the annual mass of product, and the owner or operator can show that the mass emission rate (kg organic HAP per hour) averaged over the entire time period of the batch cycle can reasonably be expected to be similar to the mass emission rate for other products having emissions from the same batch front-end process vent, that product may be considered the worst-case HAP emitting product.

(C) An owner or operator shall determine the worst-case HAP emitting product for a batch front-end process vent as specified in paragraphs (a)(1)(iii)(C)(*1*) through (a)(1)(iii)(C)(*3*) of this section.

(*1*) The emissions per batch emission episode shall be determined using any of the procedures specified in paragraph (b) of this section. The mass emission rate (kg organic HAP per hour) averaged over the entire time period of the batch cycle shall be determined by summing the emissions for each batch emission episode making up a complete batch cycle and dividing by the total duration in hours of the batch cycle.

(*2*) To determine the worst-case HAP emitting product as specified under paragraph (a)(1)(iii)(A) of this section, the mass emission rate for each product shall be determined and compared.

(*3*) To determine the worst-case HAP emitting product as specified under paragraph (a)(1)(iii)(B) of this section, the mass emission rate for the product meeting the time and mass criteria of paragraph (a)(1)(iii)(B) of this section shall be determined, and the owner or operator shall provide adequate information to demonstrate that the mass emission rate for said product is similar to the mass emission rates for the other products having emissions from the same batch process vent. In addition, the owner or operator shall provide information demonstrating that the selected product meets the time and mass criteria of paragraph (a)(1)(iii)(B) of this section.

(iv) The annual production of the worst-case HAP emitting product shall be determined by ratioing the production time of the worst-case product up to a 12 month period of actual production. It is not necessary to ratio up to a maximum production rate (i.e., 8,760 hours per year at maximum design production).

(2) The annual uncontrolled organic HAP or TOC emissions and average flow rate shall be determined at the exit from the batch unit operation. For the purposes of these determinations, the primary condenser operating as a reflux condenser on a distillation column, the primary condenser recovering monomer or solvent from a batch stripping operation, and the primary condenser recovering monomer or solvent from a batch distillation operation shall be considered part of the batch unit operation. All other devices that recover or oxidize organic HAP or TOC vapors shall be considered control devices as defined in § 63.482.

(3) The owner or operator of a batch front-end process vent complying with the flare provisions in § 63.487(a)(1) or § 63.487(b)(1) or routing the batch front-end process vent to a control device to comply with the requirements in § 63.487(a)(2) or § 63.487(b)(2) is not required to perform the batch front-end process vent group determination described in this section, but shall comply with all requirements applicable to Group 1 batch front-end process vents.

(b) *Determination of annual emissions.* The owner or operator shall calculate annual uncontrolled TOC or organic HAP emissions for each batch front-end process vent using the methods described in paragraphs (b)(1) through (b)(8) of this section. Paragraphs (b)(1) through (b)(4) of this section present procedures that can be used to calculate the emissions from individual batch emission episodes. Emissions from batch front-end processes involving multicomponent systems are to be calculated using the procedures in paragraphs (b)(1) through (b)(4) of this section. Individual HAP partial pressures in multicomponent systems shall be determined by the following methods: If the components are miscible in one another, use Raoult's law to calculate the partial pressures; if the solution is a dilute aqueous mixture, use Henry's law constants to calculate partial pressures; if Raoult's law or Henry's law are not appropriate or available, use experimentally obtained activity coefficients, Henry's law constants, or solubility data; if Raoult's law or Henry's law are not appropriate, use models, such as the group-contribution models, to predict activity coefficients; and if Raoult's law or Henry's law are not appropriate, assume the components of the system behave independently and use the summation of all vapor pressures from the HAP's as the total HAP partial pressure. Chemical property data can be obtained from standard reference texts. Paragraph (b)(5) of this section describes how direct measurement can be used to estimate emissions. If the owner or operator can demonstrate that the procedures in paragraphs (b)(1) through (b)(4) of this section are not appropriate to estimate emissions from a batch front-end process emission episode, emissions may be estimated using engineering assessment, as described in paragraph (b)(6) of this section. Owners or operators are not required to demonstrate that direct measurement is

not appropriate before utilizing engineering assessment. Paragraph (b)(6)(ii) of this section describes how an owner or operator shall demonstrate that the procedures in paragraphs (b)(1) through (b)(4) of this section are not appropriate. Emissions from a batch cycle shall be calculated in accordance with paragraph (b)(7) of this section, and annual emissions from the batch front-end process vent shall be calculated in accordance with paragraph (b)(8) of this section.

(1) TOC or organic HAP emissions from the purging of an empty vessel shall be calculated using Equation 1. This equation does not take into account evaporation of any residual liquid in the vessel.

$$E_{episode} = \frac{(V_{ves})(P)(MW_{WAVG})}{RT}\left(1 - 0.37^{m}\right) \quad \text{[Eq. 1]}$$

where:

$E_{episode}$=Emissions, kg/episode.
V_{ves}=Volume of vessel, m^3.
P=TOC or total organic HAP partial pressure, kPa.
MW_{WAVG}=Weighted average molecular weight of TOC or organic HAP in vapor, determined in accordance with paragraph (b)(4)(iii) of this section, kg/kmol.
R=Ideal gas constant, 8.314 $m^3 \bullet kPa/kmol \bullet °K$.
T=Temperature of vessel vapor space, °K.
m=Number of volumes of purge gas used.

(2) TOC or organic HAP emissions from the purging of a filled vessel shall be calculated using Equation 2.

$$E_{episode} = \frac{(y)(V_{dr})(P)^2(MW_{WAVG})}{RT\left(P - \sum_{i=1}^{n} P_i x_i\right)}(T_m) \quad \text{[Eq. 2]}$$

where:

$E_{episode}$=Emissions, kg/episode.
y=Saturated mole fraction of all TOC or organic HAP in vapor phase.
V_{dr}=Volumetric gas displacement rate, m^3/min.
P=Pressure in vessel vapor space, kPa.
MW_{WAVG}=Weighted average molecular weight of TOC or organic HAP in vapor, determined in accordance with paragraph (b)(4)(iii) of this section, kg/kmol.
R=Ideal gas constant, 8.314 $m^3 \bullet kPa/kmol \bullet °K$.
T=Temperature of vessel vapor space, °K.
P_i=Vapor pressure of TOC or individual organic HAP i, kPa.
x_i=Mole fraction of TOC or organic HAP i in the liquid.
n=Number of organic HAP in stream.

Note: Summation not required if TOC emissions are being estimated.

T_m=Minutes/episode.

(3) Emissions from vapor displacement due to transfer of material into or out of a vessel shall be calculated using Equation 3.

$$E_{episode} = \frac{(y)(V)(P)(MW_{WAVG})}{RT} \quad \text{[Eq. 3]}$$

where:

$E_{episode}$=Emissions, kg/episode.
y=Saturated mole fraction of all TOC or organic HAP in vapor phase.
V=Volume of gas displaced from the vessel, m^3.
P=Pressure of vessel vapor space, kPa.
MW_{WAVG}=Weighted average molecular weight of TOC or organic HAP in vapor, determined in accordance with paragraph (b)(4)(iii) of this section, kg/kmol.
R=Ideal gas constant, 8.314 $m^3 \bullet kPa/kmol \bullet °K$.
T=Temperature of vessel vapor space, °K.

(4) Emissions caused by the heating of a vessel shall be calculated using the procedures in either paragraph (b)(4)(i), (b)(4)(ii), or (b)(4)(iii) of this section, as appropriate.

(i) If the final temperature to which the vessel contents is heated is lower than 50 K below the boiling point of the HAP in the vessel, then emissions shall be calculated using the equations in paragraphs (b)(4)(i)(A) through (b)(4)(i)(D) of this section.

(A) Emissions caused by heating of a vessel shall be calculated using Equation 4. The assumptions made for this calculation are atmospheric pressure of 760 mm Hg and the displaced gas is always saturated with VOC vapor in equilibrium with the liquid mixture.

$$E_{episode} = \left[\frac{\sum_{i=1}^{n} (P_i)T1}{101.325 - \sum_{i=1}^{n} (P_i)T1} + \frac{\sum_{i=1}^{n} (P_i)T2}{101.325 - \sum_{i=1}^{n} (P_i)T2} \right] \Big/ 2 \quad \text{[Eq. 4]}$$

$$* (\Delta\eta) \left[\frac{(MW_{WAVG,T1}) + (MW_{WAVG,T2})}{2} \right]$$

where:

$E_{episode}$=Emissions, kg/episode.

$(P_i)T1$, $(P_i)T2$=Partial pressure (kPa) TOC or each organic HAP in the vessel headspace at initial (T1) and final (T2) temperature.

n=Number of organic HAP in stream. Note: Summation not required if TOC emissions are being estimated.

$\Delta\eta$=Number of kilogram-moles (kg-moles) of gas displaced, determined in accordance with paragraph (b)(4)(i)(B) of this section.

101.325=Constant, kPa.

$(MW_{WAVG,T1})$, $(MW_{WAVG,T2})$=Weighted average molecular weight of TOC or organic HAP in vapor, determined in accordance with paragraph (b)(4)(iii) of this section.

(B) The moles of gas displaced, $\Delta\eta$, is calculated using equation 5.

$$\Delta\eta = \frac{V_{fs}}{R} \left[\left(\frac{Pa_1}{T_1} \right) - \left(\frac{Pa_2}{T_2} \right) \right] \quad \text{[Eq. 5]}$$

where:

$\Delta\eta$=Number of kg-moles of gas displaced.

V_{fs}=Volume of free space in the vessel, m^3.

R=Ideal gas constant, 8.314 $m^3 \cdot kPa/kmol \cdot K$.

Pa_1=Initial noncondensible gas pressure in the vessel, kPa.

Pa_2=Final noncondensible gas pressure, kPa.

T_1=Initial temperature of vessel, K.

T_2=Final temperature of vessel, K.

(C) The initial and final pressure of the noncondensible gas in the vessel shall be calculated using equation 6.

$$Pa = 101.325 - \sum_{i=1}^{n} (P_i)T \quad \text{[Eq. 6]}$$

where:

Pa=Initial or final partial pressure of noncondensible gas in the vessel headspace, kPa.

101.325=Constant, kPa.

$(P_i)T$=Partial pressure of TOC or each organic HAP i in the vessel headspace, kPa, at the initial or final temperature (T_1 or T_2).

n=Number of organic HAP in stream. Note: Summation not required if TOC emissions are being estimated.

(D) The weighted average molecular weight of organic HAP in the displaced gas, MW_{HAP}, shall be calculated using equation 7:

$$MW_{WAVG} = \frac{\sum_{i=1}^{n} (\text{mass of C})_i (\text{molecular weight of C})_i}{\sum_{i=1}^{n} (\text{mass of C})_i} \quad \text{[Eq. 7]}$$

where:

c=TOC or organic HAP component

n=Number of TOC or organic HAP components in stream.

(ii) If the vessel contents are heated to a temperature greater than 50 K below the boiling point, then emissions from the heating of a vessel shall be calculated as the sum of the emissions calculated in accordance with paragraphs (b)(4)(ii)(A) and (b)(4)(ii)(B) of this section.

(A) For the interval from the initial temperature to the temperature 50 K below the boiling point, emissions shall be calculated using Equation 4, where T_2 is the temperature 50 K below the boiling point.

(B) For the interval from the temperature 50 K below the boiling point to the final temperature, emissions shall be calculated as the summation of emissions for each 5 K increment, where the emissions for each increment shall be calculated using Equation 4.

(*1*) If the final temperature of the heatup is lower than 5 K below the boiling point, the final temperature for the last increment shall be the final temperature for the heatup, even if the last increment is less than 5 K.

(*2*) If the final temperature of the heatup is higher than 5 K below the boiling point, the final temperature for the last increment shall be the temperature 5 K below the boiling point, even if the last increment is less than 5 K.

(*3*) If the vessel contents are heated to the boiling point and the vessel is not operating with a condenser, the final temperature for the final increment shall be the temperature 5 K below the boiling point, even if the last increment is less than 5 K.

(iii) If the vessel is operating with a condenser, and the vessel contents are heated to the boiling point, the primary condenser is considered part of the process, as described in § 63.488(a)(2). Emissions shall be calculated as the sum of Equation 4, which calculates emissions due to heating the vessel contents to the temperature of the gas

exiting the condenser, and Equation 3, which calculates emissions due to the displacement of the remaining saturated noncondensible gas in the vessel. The final temperature in Equation 4 shall be set equal to the exit gas temperature of the condenser. Equation 3 shall be used as written below in Equation 3a, using free space volume, and T_2 is set equal to the condenser exit gas temperature.

$$E_{episode} = \frac{(y_i)(V_{fs})(P_T)(MW_{HAP})}{(R)(T)} \quad \text{[Eq. 3a]}$$

where:

$E_{episode}$=Organic HAP emissions, kg/episode.
y_i=Saturated mole fraction of organic HAP in the vapor phase.
V_{fs}=Volume of the free space in the vessel, m^3.
P_T=Pressure of the vessel vapor space, kPa.
MW_{HAP}=Weighted average molecular weight of organic HAP in vapor, determined in accordance with paragraph (b)(4)(iii) of this section.
R=Ideal gas constant, 8.314 m^3•kPa/kmol•K.
T=Temperature of condenser exit stream K.
n=Number of organic HAP in stream.

(5) The owner or operator may estimate annual emissions for a batch emission episode by direct measurement. If direct measurement is used, the owner or operator shall either perform a test for the duration of a representative batch emission episode or perform a test during only those periods of the batch emission episode for which the emission rate for the entire episode can be determined or for which the emissions are greater than the average emission rate of the batch emission episode. The owner or operator choosing either of these options must develop an emission profile for the entire batch emission episode, based on either process knowledge or test data collected, to demonstrate that test periods are representative. Examples of information that could constitute process knowledge include calculations based on material balances and process stoichiometry. Previous test results may be used provided the results are still relevant to the current batch process vent conditions. Performance tests shall follow the procedures specified in paragraphs (b)(5)(i) through (b)(5)(iii) of this section. The procedures in either paragraph (b)(5)(iv) or (b)(5)(v) of this section shall be used to calculate the emissions per batch emission episode.

(i) Method 1 or 1A, as appropriate, shall be used for selection of the sampling sites if the flow measuring device is a pitot tube. No traverse is necessary when Method 2A or 2D is used to determine gas stream volumetric flow rate.

(ii) Gas stream volumetric flow rate and/or average flow rate shall be determined as specified in paragraph (e) of this section.

(iii) Method 18 or Method 25A, of 40 CFR part 60, appendix A, shall be used to determine the concentration of TOC or organic HAP, as appropriate. The use of Method 25A shall comply with paragraphs (b)(5)(iii)(A) and (b)(5)(iii)(B) of this section.

(A) The organic HAP used as the calibration gas for Method 25A shall be the single organic HAP representing the largest percent by volume of the emissions.

(B) The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(iv) If an integrated sample is taken over the entire batch emission episode to determine TOC or average total organic HAP concentration, emissions shall be calculated using Equation 8.

$$E_{episode} = K\left[\sum_{j=1}^{n}(C_j)(M_j)\right]AFR(T_h) \quad \text{[Eq. 8]}$$

where:

$E_{episode}$=Emissions, kg/episode
K=Constant, 2.494×10^{-6} $(ppmv)^{-1}$ (gm-mole/scm) (kg/gm) (min/hr), where standard temperature is 20°C.
C_j=Average concentration of TOC or sample organic HAP component j of the gas stream for the batch emission episode, dry basis, ppmv.
M_j=Molecular weight of TOC or sample component j of the gas stream, dry basis, gm/gm-mole.
AFR=Average flow rate of gas stream, dry basis, scmm.
T_h=Hours/episode
n=Number of organic HAP in stream. Note: Summation not required if TOC emissions are being estimated using a TOC concentration measured using Method 25A.

(v) If grab samples are taken to determine TOC or average total organic HAP concentration, emissions shall be calculated according to paragraphs (b)(5)(v)(A) and (b)(5)(v)(B) of this section.

(A) For each measurement point, the emission rate shall be calculated using Equation 9.

$$E_{point} = K\left[\sum_{j=1}^{n} C_j M_j\right]FR \quad \text{[Eq. 9]}$$

where:

E_{point}=Emission rate for individual measurement point, kg/hr.
K=Constant, $2.494 \times 10_{-6}$ $(ppmv)_{-1}$ (gm-mole/scm) (kg/gm) (min/hr), where standard temperature is 20°C.
C_j=Concentration of TOC or sample component j of the gas stream, dry basis, ppmv.
M_j=Molecular weight of TOC or sample component j of the gas stream, gm/gm-mole.
FR=Flow rate of gas stream for the measurement point, dry basis, scmm.
n=Number of organic HAP in stream. Note: Summation not required if TOC emissions are being estimated using a TOC concentration measured using Method 25A.

(B) The emissions per batch emission episode shall be calculated using Equation 10.

$$E_{episode} = (DUR)\left[\sum_{i=1}^{n}\frac{E_i}{n}\right] \quad \text{[Eq. 10]}$$

where:

$E_{episode}$=Emissions, kg/episode.
DUR=Duration of the batch emission episode, hr/episode.
E_i=Emissions for measurement point i, kg/hr.
n=Number of measurements.

(6) If the owner or operator can demonstrate that the methods in paragraphs (b)(1) through (b)(4) of this section are not appropriate to estimate emissions for a batch emissions episode, the owner or operator may use engineering assessment to estimate emissions as specified in paragraphs (b)(6)(i) and (b)(6)(ii) of this section. All data, assumptions, and procedures used in an engineering assessment shall be documented.

(i) Engineering assessment includes, but is not limited to, the following:

(A) Previous test results, provided the tests are representative of current operating practices.

(B) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(C) Flow rate, TOC emission rate, or organic HAP emission rate specified or implied within a permit limit applicable to the batch front-end process vent.

(D) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to:

(1) Use of material balances,

(2) Estimation of flow rate based on physical equipment design, such as pump or blower capacities, and

(3) Estimation of TOC or organic HAP concentrations based on saturation conditions.

(ii) The emissions estimation equations in paragraphs (b)(1) through (b)(4) of this section shall be considered inappropriate for estimating emissions for a given batch emissions episode if one or more of the criteria in paragraphs (b)(6)(ii)(A) through (b)(6)(ii)(B) of this section are met.

(A) Previous test data are available that show a greater than 20 percent discrepancy between the test value and the estimated value.

(B) The owner or operator can demonstrate to the Administrator through any other means that the emissions estimation equations are not appropriate for a given batch emissions episode.

(C) Data or other information supporting a finding that the emissions estimation equations are inappropriate as specified under paragraph (b)(6)(ii)(A) of this section shall be reported in the Notification of Compliance Status, as required in § 63.506(e)(5).

(D) Data or other information supporting a finding that the emissions estimation equations are inappropriate as specified under paragraph (b)(6)(ii)(B) of this section shall be reported in the Precompliance Report, as required in § 63.506(e)(3).

(7) For each batch front-end process vent, the TOC or organic HAP emissions associated with a single batch cycle shall be calculated using Equation 11.

$$E_{cycle} = \sum_{i=1}^{n} E_{episode_i} \qquad \text{[Eq. 11]}$$

where:

E_{cycle}=Emissions for an individual batch cycle, kg/batch cycle.

$E_{episodei}$=Emissions from a batch emission episode i, kg/episode.

n=Number of batch emission episodes for the batch cycle.

(8) Annual TOC or organic HAP emissions from a batch front-end process vent shall be calculated using Equation 12.

$$AE = \sum_{i=1}^{n} \left(N_i\right)\left(E_{cycle_i}\right) \qquad \text{[Eq. 12]}$$

where:

AE=Annual emissions from a batch front-end process vent, kg/yr.

N_i=Number of type i batch cycles performed annually, cycles/year.

E_{cyclei}=Emissions from the batch front-end process vent associated with single type i batch cycle, as determined in paragraph (b)(7) of this section, kg/batch cycle.

n=Number of different types of batch cycles that cause the emission of TOC or organic HAP from the batch front-end process vent.

(c) [Reserved]

(d) *Minimum emission level exemption.* A batch front-end process vent with annual emissions less than 11,800 kg/yr is considered a Group 2 batch front-end process vent and the owner or operator of that batch front-end process vent shall comply with the requirements in § 63.487 (f) or (g). The owner or operator of that batch front-end process vent is not required to comply with the provisions in paragraphs (e) through (g) of this section.

(e) *Determination of average flow rate.* The owner or operator shall determine the average flow rate for each batch emission episode in accordance with one of the procedures provided in paragraphs (e)(1) through (e)(2) of this section. The annual average flow rate for a batch front-end process vent shall be calculated as specified in paragraph (e)(3) of this section.

(1) Determination of the average flow rate for a batch emission episode by direct measurement shall be made using the procedures specified in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(i) The vent stream volumetric flow rate (Q_s) for a batch emission episode, in scmm at 20 °C, shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

(ii) The volumetric flow rate of a representative batch emission episode shall be measured every 15 minutes.

(iii) The average flow rate for a batch emission episode shall be calculated using Equation 13.

$$AFR_{episode} = \frac{\sum_{i=1}^{n} FR_i}{n} \qquad \text{[Eq. 13]}$$

where:

$AFR_{episode}$=Average flow rate for the batch emission episode, scmm.

FR_i=Flow rate for individual measurement i, scmm.

n=Number of flow rate measurements taken during the batch emission episode.

(2) The average flow rate for a batch emission episode may be determined by engineering assessment, as defined in paragraph (b)(6)(i) of this section. All data, assumptions, and procedures used shall be documented.

(3) The annual average flow rate for a batch front-end process vent shall be calculated using Equation 14.

$$AFR = \frac{\sum_{i=1}^{n} \left(DUR_i\right)\left(AFR_{episode,i}\right)}{\sum_{i=1}^{n} \left(DUR_i\right)} \qquad \text{[Eq. 14]}$$

where:

AFR=Annual average flow rate for the batch front-end process vent, scmm.

DUR_i=Duration of type i batch emission episodes annually, hr/yr.

$AFR_{episode,i}$=Average flow rate for type i batch emission episode, scmm.

n=Number of types of batch emission episodes venting from the batch front-end process vent.

(f) *Determination of cutoff flow rate.* For each batch front-end process vent, the owner or operator shall calculate the cutoff flow rate using Equation 15.

$$CFR = (0.00437)(AE) - 51.6 \qquad \text{[Eq. 15]}$$

where:

CFR=Cutoff flow rate, scmm.

AE=Annual TOC or organic HAP emissions, as determined in paragraph (b)(8) of this section, kg/yr.

(g) *Group 1/Group 2 status determination.* The owner or operator shall compare the cutoff flow rate, calculated in accordance with paragraph (f) of this section, with the annual average flow rate, determined in accordance with paragraph (e)(3) of this section. The group determination status for each batch front-end process vent shall be made using the criteria specified in paragraphs (g)(1) and (g)(2) of this section.

(1) If the cutoff flow rate is greater than or equal to the annual average flow rate of the stream, the batch front-end process vent is classified as a Group 1 batch front-end process vent.

(2) If the cutoff flow rate is less than the annual average flow rate of the stream, the batch front-end process vent is classified as a Group 2 batch front-end process vent.

(h) *Determination of halogenation status.* To determine whether a batch front-end process vent or an aggregate batch vent stream is halogenated, the annual mass emission rate of halogen atoms contained in organic compounds shall be calculated using the procedures specified in paragraphs (h)(1) through (h)(3) of this section.

(1) The concentration of each organic compound containing halogen atoms (ppmv, by compound) for each batch emission episode shall be determined based on the following procedures:

(i) Process knowledge that no halogens or hydrogen halides are present in the process may be used to demonstrate that a batch emission episode is nonhalogenated. Halogens or hydrogen halides that are unintentionally introduced into the process shall not be considered in making a finding that a batch emission episode is nonhalogenated.

(ii) Engineering assessment as discussed in paragraph (b)(6)(i) of this section.

(iii) Concentration of organic compounds containing halogens and hydrogen halides as measured by Method 26 or 26A of 40 CFR part 60, appendix A.

(iv) Any other method or data that has been validated according to the applicable procedures in Method 301 of appendix A of this part.

(2) The annual mass emissions of halogen atoms for a batch front-end process vent shall be calculated using Equation 16.

$$E_{halogen} = K\left[\sum_{j=1}^{n}\sum_{i=1}^{m}\left(C_{avg_j}\right)\left(L_{j,i}\right)\left(M_{j,i}\right)\right]AFR \qquad \text{[Eq. 16]}$$

where:

$E_{halogen}$=Mass of halogen atoms, dry basis, kg/yr.

K=Constant, 0.022 $(ppmv)^{-1}$ (kg-mole per scm) (min/yr), where standard temperature is 20°C.

AFR=Annual average flow rate of the batch front-end process vent, determined according to paragraph (e) of this section, scmm.

$M_{j,i}$=Molecular weight of halogen atom i in compound j, kg/kg-mole.

$L_{j,i}$=Number of atoms of halogen i in compound j.

n=Number of halogenated compounds j in the batch front-end process vent.

m=Number of different halogens i in each compound j of the batch front-end process vent.

C_{avgj}=Average annual concentration of halogenated compound j in the batch front-end process vent, as determined by using Equation 17, dry basis, ppmv.

$$C_{avg_j} = \frac{\sum_{i=1}^{n}\left(DUR_i\right)\left(C_i\right)}{\sum_{i=1}^{n}\left(DUR_i\right)} \qquad \text{[Eq. 17]}$$

where:

DUR_i=Duration of type i batch emission episodes annually, hr/yr.

C_i=Average concentration of halogenated compound j in type i batch emission episode, ppmv.

n=Number of types of batch emission episodes venting from the batch front-end process vent.

(3) The annual mass emissions of halogen atoms for an aggregate batch vent stream shall be the sum of the annual mass emissions of halogen atoms for all batch front-end process vents included in the aggregate batch vent stream.

(i) *Process changes affecting Group 2 batch front-end process vents.* Whenever process changes, as described in paragraph (i)(1) of this section, are made that affect one or more Group 2 batch front-end process vents, the owner or operator shall comply with paragraphs (i)(2) and (i)(3) of this section.

(1) Examples of process changes include, but are not limited to, changes in production capacity, production rate, feedstock type, or catalyst type; or whenever there is replacement, removal, or modification of recovery equipment considered part of the batch unit operation as specified in paragraph (a)(2) of this section. An increase in the annual number of batch cycles beyond the batch cycle limitation constitutes a process change. For purposes of this paragraph, process changes do not include: Process upsets; unintentional, temporary process changes; and changes that are within the margin of variation on which the original group determination was based.

(2) For each batch front-end process vent affected by a process change, the owner or operator shall redetermine the group status by repeating the procedures specified in paragraphs (b) through (g) of this section, as applicable. Alternatively, engineering assessment, as described in paragraph (b)(6)(i) of this section, can be used to determine the effects of the process change.

(3) Based on the results of paragraph (i)(2) of this section, owners or operators shall comply with either paragraph (i)(3)(i), (ii), or (iii) of this section.

(i) If the redetermination described in paragraph (i)(2) of this section indicates that a Group 2 batch front-end process vent has become a Group 1 batch front-end process vent as a result of the process change, the owner or operator shall submit a report as specified in § 63.492(b) and shall comply with the Group 1 provisions in § 63.487 through § 63.492 in accordance with the compliance schedule described in § 63.506(e)(6)(iii)(D)(*2*).

(ii) If the redetermination described in paragraph (i)(2) of this section indicates that a Group 2 batch front-end process vent with annual emissions less than the applicable level specified in paragraph (d) of this section, and that is in compliance with § 63.487(g), now has annual emissions greater than or equal to the applicable level specified by paragraph (d) of this section but remains a Group 2 batch front-end process vent, the owner or operator shall submit a report as specified in § 63.492(c) and shall comply with § 63.487(f) in accordance with the compliance schedule required by § 63.506(e)(6)(iii)(D)(*2*).

(iii) If the redetermination described in paragraph (i)(2) of this section indicates no change in group status or no change in the relation of annual emissions to the levels specified in paragraph (d) of this section, the owner or operator is not required to submit a report, as described in § 63.492(d).

§ 63.489 Batch front-end process vents—monitoring requirements.

(a) *General requirements.* Each owner or operator of a batch front-end process vent or aggregate batch vent stream that uses a control device to comply with the

requirements in § 63.487(a)(2) or § 63.487(b)(2) shall install the monitoring equipment specified in paragraph (b) of this section.

(1) This monitoring equipment shall be in operation at all times when batch emission episodes, or portions thereof, that the owner or operator has selected to control are vented to the control device, or at all times when an aggregate batch vent stream is vented to the control device.

(2) The owner or operator shall operate control devices such that monitored parameters remain above the minimum level or below the maximum level, as appropriate, established as specified in paragraph (e) of this section.

(b) *Batch front-end process vent and aggregate batch vent stream monitoring parameters.* The monitoring equipment specified in paragraphs (b)(1) through (b)(8) of this section shall be installed as specified in paragraph (a) of this section. The parameters to be monitored are specified in Table 6 of this subpart.

(1) Where an incinerator is used, a temperature monitoring device equipped with a continuous recorder is required.

(i) Where an incinerator other than a catalytic incinerator is used, the temperature monitoring device shall be installed in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange occurs.

(ii) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) Where a flare is used, a device (including, but not limited to, a thermocouple, ultra-violet beam sensor, or infrared sensor) capable of continuously detecting the presence of a pilot flame is required.

(3) Where a boiler or process heater of less than 44 megawatts design heat input capacity is used, a temperature monitoring device in the firebox equipped with a continuous recorder is required. Any boiler or process heater in which all batch front-end process vents or aggregate batch vent streams are introduced with the primary fuel or are used as the primary fuel is exempt from this requirement.

(4) Where a scrubber is used with an incinerator, boiler, or process heater in concert with the combustion of halogenated batch front-end process vents, the following monitoring equipment is required for the scrubber:

(i) A pH monitoring device equipped with a continuous recorder to monitor the pH of the scrubber effluent; and

(ii) A flow meter equipped with a continuous recorder shall be located at the scrubber influent to monitor the scrubber liquid flow rate.

(5) Where an absorber is used, a scrubbing liquid temperature monitoring device and a specific gravity monitoring device are required, each equipped with a continuous recorder.

(6) Where a condenser is used, a condenser exit temperature (product side) monitoring device equipped with a continuous recorder is required.

(7) Where a carbon adsorber is used, an integrating regeneration stream flow monitoring device having an accuracy of ±10 percent, capable of recording the total regeneration stream mass flow for each regeneration cycle; and a carbon bed temperature monitoring device, capable of recording the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle are required.

(8) As an alternate to paragraphs (b)(5) through (b)(7) of this section, the owner or operator may install an organic monitoring device equipped with a continuous recorder.

(c) *Alternative monitoring parameters.* An owner or operator of a batch front-end process vent or aggregate batch vent stream may request approval to monitor parameters other than those required by paragraph (b) of this section. The request shall be submitted according to the procedures specified in § 63.506(f). Approval shall be requested if the owner or operator:

(1) Uses a control device other than those included in paragraph (b) of this section; or

(2) Uses one of the control devices included in paragraph (b) of this section, but seeks to monitor a parameter other than those specified in Table 6 of this subpart and paragraph (b) of this section.

(d) *Monitoring of bypass lines.* The owner or operator of a batch front-end process vent or aggregate batch vent stream using a vent system that contains bypass lines that could divert emissions away from a control device used to comply with § 63.487(a) or § 63.487(b) shall comply with either paragraph (d)(1), (d)(2), or (d)(3) of this section. Equipment such as low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and pressure relief valves needed for safety purposes are not subject to this paragraph.

(1) Properly install, maintain, and operate a flow indicator that takes a reading at least once every 15 minutes. Records shall be generated as specified in § 63.491(e)(3). The flow indicator shall be installed at the entrance to any bypass line that could divert emissions away from the control device and to the atmosphere; or

(2) Secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the non-diverting position and emissions are not diverted through the bypass line. Records shall be generated as specified in § 63.491(e)(4).

(3) Continuously monitor the bypass line damper or valve position using computer monitoring and record any periods when the position of the bypass line damper or valve has changed as specified in § 63.491(e)(4).

(e) *Establishment of parameter monitoring levels.* Parameter monitoring levels for batch front-end process vents and aggregate batch vent streams shall be established as specified in paragraphs (e)(1) through (e)(3) of this section.

(1) For each parameter monitored under paragraph (b) of this section, the owner or operator shall establish a level, defined as either a maximum or minimum operating parameter as denoted in Table 7 of this subpart, that indicates proper operation of the control device. The level shall be established in accordance with the procedures specified in § 63.505.

(i) For batch front-end process vents using a control device to comply with § 63.487(a)(2), the established level shall reflect the control efficiency established as part of the initial compliance demonstration specified in § 63.490(c)(2).

(ii) For aggregate batch vent streams using a control device to comply with § 63.487(b)(2), the established level shall reflect the control efficiency requirement specified in § 63.487(b)(2).

(2) The established level, along with supporting documentation, shall be submitted in the Notification of Compliance Status or the operating permit application as required in § 63.506(e)(5) or § 63.506(e)(8), respectively.

(3) The operating day shall be defined as part of establishing the parameter monitoring level and shall be submitted with the information in paragraph (e)(2) of this section. The definition of operating day shall specify the times at which an operating day begins and ends. The operating day shall not exceed 24 hours.

§ 63.490 Batch front-end process vents—performance test methods and procedures to determine compliance.

(a) *Use of a flare.* When a flare is used to comply with § 63.487(a)(1) or § 63.487(b)(1), the owner or operator shall comply with the flare provisions in § 63.11(b) of subpart A.

(b) *Exceptions to performance tests.* An owner or operator is not required to conduct a performance test when a control device specified in paragraphs (b)(1) through (b)(4) of this section is used to comply with § 63.487(a)(2).

(1) A boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(2) A boiler or process heater where the vent stream is introduced with the primary fuel or is used as the primary fuel.

(3) A control device for which a performance test was conducted for determining compliance with a new source performance standard (NSPS) and the test was conducted using the same procedures specified in this section and no process changes have been made since the test.

(4) A boiler or process heater burning hazardous waste for which the owner or operator:

(i) Has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or

(ii) Has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(5) An incinerator burning hazardous waste for which the owner or operator complies with the requirements of 40 CFR part 264, subpart O.

(6) Performance tests done for other subparts in part 60 or part 63 where total organic HAP or TOC was measured, provided that the owner or operator can demonstrate that operating conditions for the process and control device during the performance test are representative of current operating conditions.

(c) *Batch front-end process vent testing and procedures for compliance with § 63.487(a)(2).* Except as provided in paragraph (b) of this section, an owner or operator using a control device to comply with § 63.487(a)(2) shall conduct a performance test using the procedures specified in paragraph (c)(1) of this section in order to determine the control efficiency of the control device. An owner or operator shall determine the percent reduction for the batch cycle using the control efficiency of the control device as specified in paragraphs (c)(2)(i) through (c)(2)(iii) of this section and the procedures specified in paragraph (c)(2) of this section. Compliance may be based on either total organic HAP or TOC. For purposes of this paragraph and all paragraphs that are part of paragraph (c) of this section, the term "batch emission episode" shall have the meaning "period of the batch emission episode selected for control," which may be the entire batch emission episode or may only be a portion of the batch emission episode.

(1) Performance tests shall be conducted as specified in paragraphs (c)(1)(i) through (c)(1)(v) of this section.

(i) Except as specified in paragraph (c)(1)(i)(A) of this section, a test shall be performed for the entire period of each batch emission episode in the batch cycle that the owner or operator selects to control as part of achieving the required 90 percent emission reduction for the batch cycle specified in § 63.487(a)(2). Only one test is required for each batch emission episode selected by the owner or operator for control. The owner or operator shall follow the procedures listed in paragraphs (c)(1)(i)(B) through (c)(1)(i)(D) of this section.

(A) Alternatively, an owner or operator may choose to test only those periods of the batch emission episode during which the emission rate for the entire episode can be determined or during which the emissions are greater than the average emission rate of the batch emission episode. The owner or operator choosing either of these options must develop an emission profile for the entire batch emission episode, based on either process knowledge or test data collected, to demonstrate that test periods are representative. Examples of information that could constitute process knowledge include calculations based on material balances and process stoichiometry. Previous test results may be used, provided the results are still relevant to the current batch front-end process vent conditions.

(B) Method 1 or 1A, as appropriate, shall be used for selection of the sampling sites if the flow measuring device is a pitot tube. No traverse is necessary when Method 2A or 2D is used to determine gas stream volumetric flow rate. Inlet sampling sites shall be located as specified in paragraphs (c)(1)(i)(B)(*1*) and (c)(1)(i)(B)(*2*) of this section. Outlet sampling sites shall be located at the outlet of the final control device prior to release to the atmosphere.

(*1*) The control device inlet sampling site shall be located at the exit from the batch unit operation before any control device. Section 63.488(a)(2) describes those recovery devices considered part of the unit operation. Inlet sampling sites would be after these specified recovery devices.

(*2*) If a batch process vent is introduced with the combustion air or as a secondary fuel into a boiler or process heater with a design capacity less than 44 megawatts, selection of the location of the inlet sampling sites shall ensure the measurement of total organic HAP or TOC (minus methane and ethane) concentrations in all batch front-end process vents and primary and secondary fuels introduced into the boiler or process heater.

(C) Gas stream volumetric flow rate and/or average flow rate shall be determined as specified in § 63.488(ε).

(D) Method 18 or Method 25A of 40 CFR part 60, Appendix A, shall be used to determine the concentration of organic HAP or TOC, as appropriate. The use of Method 25A shall comply with paragraphs (c)(1)(i)(D)(*1*) and (c)(1)(i)(D)(*2*) of this section.

(*1*) The organic HAP used as the calibration gas for Method 25A shall be the single organic HAP representing the largest percent by volume of the emissions.

(*2*) The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(ii) If an integrated sample is taken over the entire batch emission episode to determine TOC or average total organic HAP concentration, emissions per batch emission episode shall be calculated using Equations 18 and 19.

$$E_{episode,inlet} = K\left[\sum_{j=1}^{n}\left(C_{j,inlet}\right)\left(M_j\right)\right]\left(AFR_{inlet}\right)\left(T_h\right) \qquad \text{[Eq. 18]}$$

$$E_{episode,outlet} = K\left[\sum_{j=1}^{n}\left(C_{j,outlet}\right)\left(M_j\right)\right]\left(AFR_{outlet}\right)\left(T_h\right) \quad [Eq.\ 19]$$

where:

$E_{episode}$=Inlet or outlet emissions, kg/episode.

K=Constant, 2.494×10^{-6} $(ppmv)^{-1}$ (gm-mole/scm) (kg/gm) (min/hr), where standard temperature is 20°C.

C_j=Average inlet or outlet concentration of TOC or sample component j of the gas stream for the batch emission episode, dry basis, ppmv.

M_j=Molecular weight of TOC or sample component j of the gas stream, gm/gm-mole.

AFR=Average inlet or outlet flow rate of gas stream for the batch emission episode, dry basis, scmm.

T_h=Hours/episode.

n=Number of organic HAP in stream. Note: Summation not required if TOC emissions are being estimated using a TOC concentration measured using Method 25A.

(iii) If grab samples are taken to determine TOC or total organic HAP concentration, emissions shall be calculated according to paragraphs (c)(1)(iii)(A) and (c)(1)(iii)(B) of this section.

(A) For each measurement point, the emission rates shall be calculated using Equations 20 and 21.

$$E_{point,inlet} = K\left[\sum_{j=1}^{n} C_j M_j\right] FR_{inlet} \quad [Eq.\ 20]$$

$$E_{point,outlet} = K\left[\sum_{j=1}^{n} C_j M_j\right] FR_{outlet} \quad [Eq.\ 21]$$

where:

E_{point}=Inlet or outlet emission rate for the measurement point, kg/hr.

K=Constant, 2.494×10^{-6} $(ppmv)^{-1}$ (gm-mole/scm) (kg/gm) (min/hr), where standard temperature is 20°C.

C_j=Inlet or outlet concentration of TOC or sample organic HAP component j of the gas stream, dry basis, ppmv.

M_j=Molecular weight of TOC or sample organic HAP component j of the gas stream, gm/gm-mole.

FR=Inlet or outlet flow rate of gas stream for the measurement point, dry basis, scmm.

n=Number of organic HAP in stream.

Note: Summation not required if TOC emissions are being estimated using a TOC concentration measured using Method 25A.

(B) The emissions per batch emission episode shall be calculated using Equations 22 and 23.

$$E_{episode,inlet} = (DUR)\left[\sum_{i=1}^{n}\frac{E_{point,inlet,i}}{n}\right] \quad [Eq.\ 22]$$

$$E_{episode,outlet} = (DUR)\left[\sum_{i=1}^{n}\frac{E_{point,outlet,i}}{n}\right] \quad [Eq.\ 23]$$

where:

$E_{episode}$=Inlet or outlet emissions, kg/episode.

DUR=Duration of the batch emission episode, hr/episode.

$E_{point,i}$=Inlet or outlet emissions for measurement point i, kg/hr.

n=Number of measurements.

(iv) The control efficiency for the control device shall be calculated using Equation 24.

$$R = \frac{\sum_{i=1}^{n} E_{inlet,i} - \sum_{i=1}^{n} E_{outlet,i}}{\sum_{i=1}^{n} E_{inlet,i}}(100) \quad [Eq.\ 24]$$

Where:

R=Control efficiency of control device, percent.

$E_{inlet,i}$=Mass rate of TOC or total organic HAP for batch emission episode i at the inlet to the control device as calculated under paragraph (c)(1)(ii) or (c)(1)(iii) of this section, kg/hr.

$E_{outlet,i}$=Mass rate of TOC or total organic HAP for batch emission episode i at the outlet of the control device, as calculated under paragraph (c)(1)(ii) or (c)(1)(iii) of this section, kg/hr.

n=Number of batch emission episodes in the batch cycle selected to be controlled.

(v) If the batch front-end process vent entering a boiler or process heater with a design capacity less than 44 megawatts is introduced with the combustion air or as a secondary fuel, the weight-percent reduction of total organic HAP or TOC across the device shall be determined by comparing the TOC or total organic HAP in all combusted batch front-end process vents and primary and secondary fuels with the TOC or total organic HAP exiting the combustion device, respectively.

(2) The percent reduction for the batch cycle shall be determined using Equation 25 and the control device efficiencies specified in paragraphs (c)(2)(i) through (c)(2)(iii) of this section. All information used to calculate the batch cycle percent reduction, including a definition of the batch cycle identifying all batch emission episodes, must be recorded as specified in § 63.491(b)(2). This information shall include identification of those batch emission episodes, or portions thereof, selected for control.

$$\text{Percent Reduction} = \frac{\sum_{i=1}^{n} E_{unc} + \sum_{i=1}^{n} E_{inlet,con} - \sum_{i=1}^{n} (1-R)(E_{inlet,con})}{\sum_{i=1}^{n} E_{unc} + \sum_{i=1}^{n} E_{inlet,con}} 100 \quad \text{[Eq. 25]}$$

where:

E_{unc}=Mass rate of TOC or total organic HAP for uncontrolled batch emission episode i, kg/hr.

$E_{inlet,con}$=Mass rate of TOC or total organic HAP for controlled batch emission episode i at the inlet to the control device, kg/hr.

R=Control efficiency of control device as specified in paragraphs (c)(2)(i) through (c)(2)(iii) of this section.

n=Number of uncontrolled batch emission episodes, controlled batch emission episodes, and control devices. The value of n is not necessarily the same for these three items.

(i) If a performance test is required by paragraph (c) of this section, the control efficiency of the control device shall be as determined in paragraph (c)(1)(iv) of this section.

(ii) If a performance test is not required by paragraph (c) of this section for a combustion control device, as specified in paragraph (b) of this section, the control efficiency of the control device shall be 98 percent. The control efficiency for a flare shall be 98 percent.

(iii) If a performance test is not required by paragraph (c) of this section for a noncombustion control device, the control efficiency shall be determined by the owner or operator based on engineering assessment.

(d) *Batch process vent and aggregate batch vent stream testing for compliance with § 63.487(c) [halogenated emission streams].* An owner or operator controlling halogenated emissions in compliance with § 63.487(c) shall conduct a performance test to determine compliance with the control efficiency specified in § 63.487(c)(1) or the emission limit specified in § 63.487(c)(2) for hydrogen halides and halogens.

(1) Sampling sites shall be located at the inlet and outlet of the scrubber or other control device used to reduce halogen emissions in complying with § 63.487(c)(1) or at the outlet of the control device used to reduce halogen emissions in complying with § 63.487(c)(2).

(2) The mass emissions of each hydrogen halide and halogen compound for the batch cycle or aggregate batch vent stream shall be calculated from the measured concentrations and the gas stream flow rate(s) determined by the procedures specified in paragraphs (d)(2)(i) and (d)(2)(ii) of this section, except as specified in paragraph (d)(5) of this section.

(i) Method 26 or Method 26A of 40 CFR part 60, appendix A, shall be used to determine the concentration, in Mg per dry scm, of total hydrogen halides and halogens present in the emissions stream.

(ii) Gas stream volumetric flow rate and/or average flow rate shall be determined as specified in § 63.488(e).

(3) To determine compliance with the percent reduction specified in § 63.487(c)(1), the mass emissions for any hydrogen halides and halogens present at the inlet of the scrubber or other control device shall be summed together. The mass emissions of any hydrogen halides or halogens present at the outlet of the scrubber or other control device shall be summed together. Percent reduction shall be determined by subtracting the outlet mass emissions from the inlet mass emissions and then dividing the result by the inlet mass emissions.

(4) To determine compliance with the emission limit specified in § 63.487(c)(2), the annual mass emissions for any hydrogen halides and halogens present at the outlet of the control device and prior to any combustion device shall be summed together and compared to the emission limit specified in § 63.487(c)(2).

(5) The owner or operator may use any other method to demonstrate compliance if the method or data has been validated according to the applicable procedures of Method 301 of appendix A.

(e) *Aggregate batch vent stream testing for compliance with § 63.487(b)(2).* Owners or operators of aggregate batch vent streams complying with § 63.487(b)(2) shall conduct a performance test using the performance testing procedures for continuous front-end process vents in § 63.116(c) of subpart G. For the purposes of this subpart, when the provisions of § 63.116(c) specify that Method 18 shall be used, Method 18 or Method 25A may be used. The use of Method 25A shall comply with paragraphs (e)(1) and (e)(2) of this section.

(1) The organic HAP used as the calibration gas for Method 25A shall be the single organic HAP representing the largest percent by volume of the emissions.

(2) The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(f) *Batch cycle limitation.* The batch cycle limitation required by § 63.487(f)(1) and § 63.487(g)(1) shall be established as specified in paragraph (f)(1) of this section and shall include the elements specified in paragraph (f)(2) of this section.

(1) The batch cycle limitation shall be determined by the owner or operator such that annual emissions for the batch front-end process vent remain less than the level specified in § 63.488(d) when complying with § 63.487(g). Alternatively, when complying with § 63.487(f), the batch cycle limitation shall ensure that annual emissions remain at a level such that the batch front-end process vent remains a Group 2 batch front-end process vent, given the actual annual flow rate for that batch front-end process vent determined according to § 63.488(e)(3). The batch cycle limitation shall be determined using the same basis, as described in § 63.488(a)(1), used to make the group determination (i.e., expected mix of products or worst-case HAP emitting product). The establishment of the batch cycle limitation is not dependent upon any past production or activity level.

(i) If the expected mix of products serves as the basis for the batch cycle limitation, the batch cycle limitation shall be determined such that any foreseeable combination of products which the owner or operator desires the flexibility to manufacture shall be allowed. Combinations of products not accounted for in the documentation required by paragraph (f)(2)(iv) of this section shall not be allowed within the restrictions of the batch cycle limitation.

(ii) If, for a batch front-end process vent with more than one product, a single worst-case HAP emitting product serves as the basis for the batch cycle limitation, the batch cycle limitation shall be determined such that the maximum number of batch cycles the owner or operator desires the flexibility to accomplish, using the worst-case

HAP emitting product and ensuring that the batch front-end process vent remains a Group 2 batch front-end process vent or that emissions remain less than the level specified in § 63.488(d), shall be allowed. This value shall be the total number of batch cycles allowed within the restrictions of the batch cycle limitation regardless of which products are manufactured.

(2) Documentation supporting the establishment of the batch cycle limitation shall include the information specified in paragraphs (f)(2)(i) through (f)(2)(v) of this section, as appropriate.

(i) Identification that the purpose of the batch cycle limitation is to comply with § 63.487(f)(1) or (g)(1).

(ii) Identification that the batch cycle limitation is based on a single worst-case HAP emitting product or on the expected mix of products for the batch front-end process vent as allowed under § 63.488(a)(1).

(iii) Definition of the operating year, for the purposes of determining compliance with the batch cycle limitation.

(iv) If the batch cycle limitation is based on a single worst-case HAP emitting product, documentation specified in § 63.488(a)(1)(ii) describing how the single product meets the requirements for worst-case HAP emitting product, as specified in § 63.488(a)(1) and the number of batch cycles allowed under the batch cycle limitation for each product associated with the batch front-end process vent are required.

(v) If the batch cycle limitation is based on the expected mix of products, the owner or operator shall provide documentation that describes as many scenarios for differing mixes of products (i.e., how many of each type of product) that the owner or operator desires the flexibility to accomplish. Alternatively, the owner or operator shall provide a description of the relationship among the mix of products that will allow a determination of compliance with the batch cycle limitation under an infinite number of scenarios. For example, if a batch process vent has two products, each product has the same flow rate and emits for the same amount of time, and product No. 1 has twice the emissions as product No. 2, the relationship describing an infinite number of scenarios would be that the owner or operator can accomplish two batch cycles of product No. 2 for each batch cycle of product No. 1 within the restriction of the batch cycle limitation.

§ 63.491 Batch front-end process vents—recordkeeping requirements.

(a) *Group determination records for batch front-end process vents.* Except as provided in paragraphs (a)(7) through (a)(9) of this section, each owner or operator of an affected source shall maintain the records specified in paragraphs (a)(1) through (a)(6) of this section for each batch front-end process vent subject to the group determination procedures of § 63.488. Except for paragraph (a)(1) of this section, the records required to be maintained by this paragraph are limited to the information developed and used to make the group determination under § 63.488(b) through § 63.488(g), as appropriate. The information required by paragraph (a)(1) of this section is required for all batch front-end process vents subject to the group determination procedures of § 63.488. If an owner or operator did not need to develop certain information (e.g., annual average flow rate) to determine the group status, this paragraph does not require that additional information be developed.

(1) An identification of each unique product that has emissions from one or more batch emission episodes venting from the batch front-end process vent.

(2) A description of, and an emission estimate for, each batch emission episode, and the total emissions associated with one batch cycle for each unique product identified in paragraph (a)(1) of this section that was considered in making the group determination under § 63.488.

(3) Total annual uncontrolled TOC or organic HAP emissions, determined at the exit from the batch unit operation before any emission control, as determined in accordance with § 63.488(b).

(i) For Group 2 batch front-end process vents, emissions shall be determined at the batch cycle limitation.

(ii) For Group 1 batch front-end process vents, emissions shall be those used to determine the group status of the batch front-end process vent.

(4) The annual average flow rate for the batch front-end process vent as determined in accordance with § 63.488(e).

(5) The cutoff flow rate, determined in accordance with § 63.488(f).

(6) The results of the batch front-end process vent group determination, conducted in accordance with § 63.488(g).

(7) If a batch front-end process vent is in compliance with § 63.487(a) or § 63.487(b), and the control device is operating at all times when batch emission episodes are venting from the batch front-end process vent, none of the records in paragraphs (a)(1) through (a)(6) of this section are required.

(8) If a batch front-end process vent is in compliance with § 63.487(a) or § 63.487(b), but the control device is operated only during selected batch emission episodes, only the records in paragraphs (a)(1) through (a)(3) of this section are required.

(9) If the total annual emissions from the batch front-end process vent are less than the appropriate level specified in § 63.488(d), only the records in paragraphs (a)(1) through (a)(3) of this section are required.

(b) *Compliance demonstration records.* Each owner or operator of a batch front-end process vent or aggregate batch vent stream complying with § 63.487(a) or (b), shall keep the following records, as applicable, up-to-date and readily accessible:

(1) The annual mass emissions of halogen atoms in the batch front-end process vent or aggregate batch vent stream determined according to the procedures specified in § 63.488(h)(2).

(2) If a batch front-end process vent is in compliance with § 63.487(a)(2), records documenting the batch cycle percent reduction as specified in § 62.486–4(c)(2).

(3) When using a flare to comply with § 63.487(a)(1):

(i) The flare design (i.e., steam-assisted, air-assisted, or non-assisted);

(ii) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required by § 63.11(b) of subpart A; and

(iii) All periods during the compliance determination required by § 63.11(b) of subpart A when the pilot flame is absent.

(4) The following information when using a control device to achieve compliance with § 63.487(a)(2) or (b)(2):

(i) For an incinerator or non-combustion control device, the percent reduction of organic HAP or TOC achieved, as determined using the procedures specified in § 63.490(c) for batch front-end process vents and § 63.490(e) for aggregate batch vent streams;

(ii) For a boiler or process heater, a description of the location at which the vent stream is introduced into the boiler or process heater;

(iii) For a boiler or process heater with a design heat input capacity of less than 44 megawatts and where the process vent stream is introduced with combustion air or is used as a secondary fuel and is not mixed with the primary fuel, the percent reduction of organic HAP or TOC achieved, as determined

using the procedures specified in § 63.490(c) for batch front-end process vents and § 63.490(e) for aggregate batch vent streams; and

(iv) For a scrubber or other control device following a combustion device to control a halogenated batch front-end process vent or halogenated aggregate batch vent stream, the percent reduction of total hydrogen halides and halogens, as determined under § 63.490(d)(3) or the emission limit determined under § 63.490(d)(4).

(c) *Establishment of parameter monitoring level records.* For each parameter monitored according to § 63.489(b) and Table 6 of this subpart, or for alternate parameters and/or parameters for alternate control devices monitored according to § 63.492(e) as allowed under § 63.489(c), maintain documentation showing the establishment of the level that indicates proper operation of the control device as required by § 63.489(e) for parameters specified in § 63.489(b) and as required by § 63.506(f) for alternate parameters. This documentation shall include the parameter monitoring data used to establish the level.

(d) *Group 2 batch front-end process vent continuous compliance records.* The owner or operator of a Group 2 batch front-end process vent shall comply with either paragraph (d)(1) or (d)(2) of this section, as appropriate.

(1) The owner or operator of a Group 2 batch front-end process vent complying with § 63.487(g) shall keep the following records up-to-date and readily accessible:

(i) Records designating the established batch cycle limitation required by § 63.487(g)(1) and specified in § 63.490(f).

(ii) Records specifying the number and type of batch cycles accomplished.

(2) The owner or operator of a Group 2 batch front-end process vent complying with § 63.487(f) shall keep the following records up-to-date and readily accessible:

(i) Records designating the established batch cycle limitation required by § 63.487(f)(1) and specified in § 63.490(f).

(ii) Records specifying the number and type of batch cycles accomplished for each three month period.

(e) *Controlled batch front-end process vent continuous compliance records.* Each owner or operator of a batch front-end process vent that uses a control device to comply with § 63.487(a) shall keep the following records up-to-date and readily accessible:

(1) Continuous records of the equipment operating parameters specified to be monitored under § 63.489(b) as applicable, and listed in Table 6 of this subpart, or specified by the Administrator in accordance with § 63.492(e) as allowed under § 63.489(c). These records shall be kept as specified under § 63.506(d), except as specified in paragraphs (e)(1)(i) and (e)(1)(ii) of this section.

(i) For flares, the records specified in Table 6 of this subpart shall be kept rather than averages.

(ii) For carbon adsorbers, the records specified in Table 6 of this subpart shall be kept rather than averages.

(2) Records of the batch cycle daily average value of each continuously monitored parameter, except as provided in paragraphs (e)(2)(iii) of this section, as calculated using the procedures specified in paragraphs (e)(2)(i) through (e)(2)(ii) of this section.

(i) The batch cycle daily average shall be calculated as the average of all parameter values measured during those batch emission episodes, or portions thereof, in the batch cycle that the owner or operator has selected to control.

(ii) Monitoring data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments shall not be included in computing the batch cycle daily averages.

(iii) If all recorded values for a monitored parameter during an operating day are above the minimum or below the maximum level established in accordance with § 63.489(e), the owner or operator may record that all values were above the minimum or below the maximum level established, rather than calculating and recording a batch cycle daily average for that operating day.

(3) Hourly records of whether the flow indicator for bypass lines specified under § 63.489(d)(1) was operating and whether flow was detected at any time during the hour. Also, records of the times and durations of all periods when the vent is diverted from the control device, or the flow indicator specified in § 63.489(d)(1) is not operating.

(4) Where a seal or closure mechanism is used to comply with § 63.489(d)(2) or where computer monitoring of the position of the bypass damper or valve is used to comply with § 63.489(d)(3), hourly records of flow are not required.

(i) For compliance with § 63.489(d)(2), the owner or operator shall record whether the monthly visual inspection of the seals or closure mechanism has been done, and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type configuration has been checked out, and records of any car-seal that has been broken.

(ii) For compliance with § 63.489(d)(3), the owner or operator shall record the times of all periods when the bypass line valve position has changed.

(5) Records specifying the times and duration of periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high level adjustments. In addition, records specifying any other periods of process or control device operation when monitors are not operating.

(f) *Aggregate batch vent stream continuous compliance records.* In addition to the records specified in paragraphs (b) and (c) of this section, each owner or operator of an aggregate batch vent stream using a control device to comply with § 63.487(b) shall keep records in accordance with the requirements for continuous process vents in § 63.118(a) and § 63.118(b) of subpart G, as applicable and appropriate, except that when complying with § 63.118(b), owners or operators shall disregard statements concerning TRE index values for the purposes of this subpart.

§ 63.492 Batch front-end process vents—reporting requirements.

(a) The owner or operator of a batch front-end process vent at an affected source shall submit the information specified in paragraphs (a)(1) through (a)(4) of this section, as appropriate, as part of the Notification of Compliance Status specified in § 63.506(e)(5).

(1) For each batch front-end process vent complying with § 63.487(a) and each aggregate batch vent stream complying with § 63.487(b), the information specified in § 63.491(b) and § 63.491(c), as applicable.

(2) For each Group 2 batch front-end process vent with annual emissions less than the level specified in § 63.488(d), the information specified in § 63.491(d)(1)(i).

(3) For each Group 2 batch front-end process vent with annual emissions greater than or equal to the level specified in § 63.488(d), the information specified in § 63.491(d)(2)(i).

(4) For each batch process vent subject to the group determination procedures, the information specified in § 63.491(a), as appropriate.

(b) Whenever a process change, as defined in § 63.488(i)(1), is made that causes a Group 2 batch front-end process vent to become a Group 1 batch front-end process vent, the owner or operator shall submit a report within 180 operating days after the process

change is made or the information regarding the process change is known to the owner or operator. This report may be included in the next Periodic Report, as specified in § 63.506(e)(6)(iii)(D)(*2*). The following information shall be submitted:

(1) A description of the process change; and

(2) A schedule for compliance with the provisions of § 63.487(a) or § 63.487(b), as appropriate, as required under § 63.506(e)(6)(iii)(D)(*2*).

(c) Whenever a process change, as defined in § 63.488(i)(1), is made that causes a Group 2 batch front-end process vent with annual emissions less than the level specified in § 63.488(d) that is in compliance with § 63.487(g) to have annual emissions greater than or equal to the levels specified in § 63.488(d) but remains a Group 2 batch front-end process vent, the owner or operator shall submit a report within 180 operating days after the process change is made or the information regarding the process change is known to the owner or operator. This report may be included in the next Periodic Report, as specified in § 63.506(e)(6)(iii)(D)(*2*). The following information shall be submitted:

(1) A description of the process change;

(2) The results of the redetermination of the annual emissions, average flow rate, and cutoff flow rate required under § 63.488(f) and recorded under § 63.491 (a)(3) through (a)(5); and

(3) The batch cycle limitation determined in accordance with § 63.487(f)(1).

(d) The owner or operator is not required to submit a report of a process change if one of the conditions specified in paragraphs (d)(1) and (d)(2) of this section is met.

(1) The process change does not meet the description of a process change in § 63.488(i).

(2) The redetermined group status remains Group 2 for an individual batch front-end process vent with annual emissions greater than or equal to the level specified in § 63.488(d), or a Group 2 batch front-end process vent with annual emissions less than the level specified in § 63.488(d) complying with § 63.487(g) continues to have emissions less than the level specified in § 63.488(d).

(e) If an owner or operator uses a control device other than those specified in § 63.489(b) and listed in Table 6 of this subpart or requests approval to monitor a parameter other than those specified in § 63.489(c) and listed in Table 6 of this subpart, the owner or operator shall submit a description of planned reporting and recordkeeping procedures, as specified in § 63.506(f), as part of the Precompliance Report as required under § 63.506(e)(3). The Administrator will specify appropriate reporting and recordkeeping requirements as part of the review of the Precompliance Report.

(f) Owners or operators complying with § 63.489(d), shall comply with paragraph (f)(1) or (f)(2) of this section, as appropriate.

(1) Reports of the times of all periods recorded under § 63.491(e)(3) when the batch front-end process vent is diverted away from the control device through a bypass line.

(2) Reports of all occurrences recorded under § 63.491(e)(4) in which the seal mechanism is broken, the bypass line valve position has changed, or the key to unlock the bypass line valve was checked out.

§ 63.493 Back-end process provisions.

Owners and operators of new and existing affected sources shall comply with the requirements in § 63.494 through § 63.500. Owners and operators of affected sources that produce only latex products, liquid rubber products, or products in a gas-phased polymerization reaction are not subject to the provisions of these sections. Section 63.494 contains residual organic HAP limitations. Compliance with these residual organic HAP limitations may be achieved by using either stripping technology, or by using control or recovery devices. If compliance with these limitations is achieved using stripping technology, the procedures to determine compliance are specified in § 63.495. If compliance with these limitations is achieved using control or recovery devices, the procedures to determine compliance are specified in § 63.496, and associated monitoring requirements are specified in § 63.497. Recordkeeping requirements are contained in § 63.498, and reporting requirements in § 63.499. Section 63.500 contains a limitation on carbon disulfide emissions from affected sources that produce styrene butadiene rubber using an emulsion process. Table 8 contains a summary of compliance alternative requirements for these sections.

§ 63.494 Back-end process provisions—residual organic HAP limitations.

(a) The monthly weighted average residual organic HAP content of all grades of elastomer processed, measured immediately after the stripping operation [or the reactor(s) if the plant has no stripper(s)] is completed, shall not exceed the limits provided in paragraphs (a)(1) through (a)(4) of this section, as applicable. Owners or operators shall comply with the requirements of this paragraph using either stripping technology or control/recovery devices.

(1) For styrene butadiene rubber produced by the emulsion process:

(i) A monthly weighted average of 0.40 kg styrene per megagram (Mg) latex for existing sources; and

(ii) A monthly weighted average of 0.23 kg styrene per Mg latex for new sources;

(2) For polybutadiene rubber and styrene butadiene rubber produced by the solution process:

(i) A monthly weighted average of 10 kg total organic HAP per Mg crumb rubber (dry weight) for existing sources; and

(ii) A monthly weighted average of 6 kg total organic HAP per Mg crumb rubber (dry weight) for new sources.

(3) For ethylene-propylene rubber produced by the solution process:

(i) A monthly weighted average of 8 kg total organic HAP per Mg crumb rubber (dry weight) for existing sources; and

(ii) A monthly weighted average of 5 kg total organic HAP per Mg crumb rubber (dry weight) for new sources.

(4) There are no back-end process operation residual organic HAP limitations for neoprene, Hypalon™, nitrile butadiene rubber, butyl rubber, halobutyl rubber, epichlorohydrin elastomer, and polysulfide rubber.

(5) For EPPU that produce both an elastomer product with a residual organic HAP limitation listed in this section, and a product listed in paragraphs (a)(5) (i) through (iv) of this section, only the residual HAP content of the elastomer product with a residual organic HAP limitation shall be used in determining the monthly average residual organic HAP content.

(i) Resins;

(ii) Liquid rubber products;

(iii) Latexes from which crumb rubber is not coagulated; or

(iii) Elastomer products listed in paragraph (a)(4) of this section.

(b) If an owner or operator complies with the residual organic HAP limitations in paragraph (a) of this section using stripping technology, compliance shall be demonstrated in accordance with § 63.495. The owner or operator shall also comply with the recordkeeping provisions in § 63.498, and the reporting provisions in § 63.499.

(c) If an owner or operator complies with the residual organic HAP limitations in paragraph (a) of this section using control or recovery devices, compliance shall be

demonstrated using the procedures in § 63.496. The owner or operator shall also comply with the monitoring provisions in § 63.497, the recordkeeping provisions in § 63.498, and the reporting provisions in § 63.499.

§ 63.495 Back-end process provisions—procedures to determine compliance using stripping technology.

(a) If an owner or operator complies with the residual organic HAP limitations in § 63.494(a) using stripping technology, compliance shall be demonstrated using the periodic sampling procedures in paragraph (b) of this section, or using the stripper parameter monitoring procedures in paragraph (c) of this section. The owner or operator shall determine the monthly weighted average residual organic HAP content for each month in which any portion of the back-end of an elastomer production process is in operation. A single monthly weighted average shall be determined for all back-end process operations at the affected source.

(b) If the owner or operator is demonstrating compliance using periodic sampling, this demonstration shall be in accordance with paragraphs (b)(1) through (b)(5) of this section,

(1) The location of the sampling shall be in accordance with paragraph (d) of this section.

(2) The frequency of the sampling shall be in accordance with paragraphs (b)(2)(i) or (b)(2)(ii) of this section.

(i) If batch stripping is used, at least one representative sample is to be taken from every batch of elastomer produced, at the location specified in paragraph (d) of this section, and identified by elastomer type and by the date and time the batch is completed.

(ii) If continuous stripping is used, at least one representative sample is to be taken each operating day. The sample is to be taken at the location specified in paragraph (d) of this section, and identified by elastomer type and by the date and time the sample was taken.

(3) The residual organic HAP content in each sample is to be determined using specified methods.

(4) The quantity of material (weight of latex or dry crumb rubber) represented by each sample shall be recorded. Acceptable methods of determining this quantity are production records, measurement of stream characteristics, and engineering calculations.

(5) The monthly weighted average shall be determined using the equation in paragraph (f) of this section. All samples taken and analyzed during the month shall be used in the determination of the monthly weighted average.

(c) If the owner or operator is demonstrating compliance using stripper parameter monitoring, this demonstration shall be in accordance with paragraphs (c)(1) through (c)(4) of this section.

(1) The owner or operator shall establish stripper operating parameter levels for each grade in accordance with § 63.505(e).

(2) The owner or operator shall monitor the stripper operating parameters at all times the stripper is in operation. Readings of each parameter shall be made at intervals no greater than 15 minutes.

(3) The residual organic HAP content for each grade shall be determined in accordance with either paragraph (c)(3)(i) or (c)(3)(ii) of this section.

(i) If during the processing of a grade in the stripper, all hourly average parameter values are in accordance with operating parameter levels established in paragraph (c)(1) of this section, the owner or operator shall use the residual organic HAP content determined in accordance with § 63.505(e)(1).

(ii) If during the processing of a grade in the stripper, the hourly average of any stripper monitoring parameter is not in accordance with an established operating parameter level, the residual organic HAP content shall be determined using the procedures in paragraphs (b)(1) and (b)(3) of this section.

(4) The monthly weighted average shall be determined using the equation in paragraph (f) of this section.

(d) The location of the sampling shall be in accordance with paragraph (d)(1) or (d)(2) of this section.

(1) For styrene butadiene rubber produced by the emulsion process, the sample shall be a sample of the latex taken at the location specified in either paragraph (d)(1)(i), (d)(1)(ii), or (d)(1)(iii) of this section.

(i) When the latex is not blended with other materials or latexes, the sample shall be taken at a location meeting all of the following criteria:

(A) After the stripping operation,

(B) Prior to entering the coagulation operations, and

(C) Before the addition of carbon black or oil extenders.

(ii) When two or more latexes subject to this subpart are blended, samples may be taken in accordance with either paragraph (d)(1)(ii) (A) or (B) of this section, at a location meeting the requirements of paragraphs (d)(1)(i) (A) through (C) of this section.

(A) Individual samples may be taken of each latex prior to blending, or

(B) A sample of the blended latex may be taken.

(iii) When a latex subject to this subpart is blended with a latex or material not subject to this subpart, a sample shall be taken of the latex prior to blending at a location meeting the requirements of paragraphs (d)(1)(i) (A) through (C) of this section.

(2) For styrene butadiene rubber produced by the solution process, polybutadiene rubber produced by the solution process, and ethylene-propylene rubber produced by the solution process, the sample shall be a sample of crumb rubber taken as soon as safe and feasible after the stripping operation, but no later than the entry point for the first unit operation following the stripper (e.g., the dewatering screen).

(e) Reserved.

(f) The monthly weighted average residual organic HAP content shall be calculated using Equation 26.

$$HAPCONT_{avg,wk} = \frac{\sum_{i=1}^{n} (C_i)(P_i)}{P_{wk}} \quad \text{[Eq. 26]}$$

where:

$HAPCONT_{avg,wk}$ = Monthly weighted average organic HAP content for all rubber processed at the affected source, kg organic HAP per Mg latex or dry crumb rubber.

n = Number of samples in the month.

C_i = Residual organic HAP content of sample i, determined in accordance with (b)(3) or (c)(3) of this section, kg organic HAP per Mg latex or dry crumb rubber.

P_i = Weight of latex or dry crumb rubber represented by sample i.

P_{wk} = Weight of latex or dry crumb rubber (Mg) processed in the month.

§ 63.496 Back-end process provisions—procedures to determine compliance using control or recovery devices.

(a) If an owner or operator complies with the residual organic HAP limitations in § 63.494(a) using control or recovery devices, compliance shall be demonstrated using the procedures in paragraphs (b) and (c) of this section. Previous test results conducted in accordance with paragraphs (b)(1) through (b)(6) of this section may be used to determine compliance in accordance with paragraph (c) of this section.

(b) Compliance shall be demonstrated using the provisions in paragraphs (b)(1) through (b)(10) of this section, as applicable.

(1) A test shall be conducted, the duration of which shall be in accordance with either paragraph

(b)(1)(i) or (b)(1)(ii) of this section, as appropriate.

(i) If the back-end process operations are continuous, the test shall consist of three separate one hour runs.

(ii) If the back-end process operations are batch, the test shall consist of three separate one-hour runs, unless the duration of the batch cycle is less than one-hour, in which case the run length shall equal the complete duration of the back-end process batch cycle.

(2) The test shall be conducted when the grade of elastomer product with the highest residual organic HAP content leaving the stripper is processed in the back-end operations.

(3) The uncontrolled residual organic HAP content in the latex or dry crumb rubber shall be determined in accordance with § 63.495(b)(1) and (b)(3). A separate sample shall be taken and analyzed for each test run. The sample shall be representative of the material being processed in the back-end operation during the test, and does not need to be taken during the test.

(4) The quantity of material (weight of latex or dry crumb rubber) processed during the test run shall be recorded. Acceptable methods of determining this quantity are production records, measurement of stream characteristics, and engineering calculations.

(5) The inlet and outlet emissions from the control or recovery device shall be determined using the procedures in paragraphs (b)(5)(i) through (b)(5)(v) of this section, with the exceptions noted in paragraphs (b)(6) and (b)(7) of this section. The inlet and outlet emissions shall be determined when the material for which the uncontrolled residual organic HAP content is determined in accordance with paragraph (b)(3) of this section, is being processed in the equipment controlled by the control or recovery device.

(i) Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling sites. Sampling sites shall be located at the inlet of the control or recovery device as specified in paragraphs (b)(5)(i)(A) or (b)(5)(i)(B) of this section, and at the outlet of the control or recovery device.

(A) The inlet sampling site shall be located at the exit of the back-end process unit operation before any opportunity for emission to the atmosphere, and before any control or recovery device.

(B) If back-end process vent streams are combined prior to being routed to control or recovery devices, the inlet sampling site may be for the combined stream, as long as there is no opportunity for emission to the atmosphere from any of the streams prior to being combined.

(ii) The gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

(iii) To determine the inlet and outlet total organic HAP concentrations, the owner or operator shall use Method 18 or Method 25A of 40 CFR part 60, appendix A. Alternatively, any other method or data that has been validated according to the applicable procedures in Method 301 of appendix A may be used. The minimum sampling time for each run shall be in accordance with paragraph (b)(1) of this section, during which either an integrated sample or grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals during the run, with the time between samples no greater than 15 minutes.

(iv) The mass rate of total organic HAP shall be computed using Equations 27 and 28.

$$E_i = K_2\left(\sum_{j=1}^{n} C_{ij}M_{ij}\right)Q_i \qquad \text{[Eq. 27]}$$

$$E_o = K_2\left(\sum_{j=1}^{n} C_{oj}M_{oj}\right)Q_o \qquad \text{[Eq. 28]}$$

where:

C_{ij}, C_{oj}=Concentration of sample component j of the gas stream at the inlet and outlet of the control or recovery device, respectively, dry basis, ppmv.

E_i, E_o=Mass rate of total organic HAP at the inlet and outlet of the control or recovery device, respectively, dry basis, kg per hour (kg/hr).

M_{ij}, M_{oj}=Molecular weight of sample component j of the gas stream at the inlet and outlet of the control or recovery device, respectively, gm/gm-mole.

Q_i, Q_o=Flow rate of gas stream at the inlet and outlet of the control or recovery device, respectively, dry standard m^3/min.

K_2=Constant, 2.494×10^{-6} $(ppmv)^{-1}$ (gm-mole/scm) (kg/gm) (min/hr), where standard temperature is 20°C.

(v) Inlet and outlet organic HAP emissions for the run shall be calculated by multiplying the mass rate total inlet and outlet emissions determined in accordance with paragraph (b)(5)(iv) of this section by the duration of the run (in hours).

(6) If a back-end process vent stream is introduced with the combustion air, or as a secondary fuel into a boiler or process heater with a design capacity less than 44 megawatts, the inlet and outlet emissions shall be determined in accordance with paragraphs (b)(6)(i) through (b)(6)(iv) of this section.

(i) The inlet organic HAP emissions for the back-end process unit operation shall be determined in accordance with paragraph (b)(5) of this section.

(ii) The owner or operator shall also measure total organic HAP (or TOC, minus methane and ethane) emissions in all process vent streams and primary and secondary fuels introduced into the boiler or process heater, using the procedures in paragraph (b)(5) of this section, with the exceptions noted in paragraphs (b)(6)(ii)(A) through (b)(6)(ii)(C) of this section.

(A) Selection of the location of the inlet sampling sites shall ensure the measurement of total organic HAP concentrations in all process vent streams and primary and secondary fuels introduced into the boiler or process heater.

(B) Paragraph (b)(5)(iii) of this section is applicable, except that TOC (minus methane and ethane) may be measured instead of total organic HAP.

(C) The mass rates shall be calculated in accordance with paragraph (b)(5)(iv) of this section, except that C_j at the inlet and outlet of the control device shall be the sum of all total organic HAP (or TOC, minus methane and ethane) concentrations for all process vent streams and primary and secondary fuels introduced into the boiler or process heater.

(iii) The control efficiency of the boiler or process heater shall be calculated using Equation 29.

$$R = \frac{\sum_{i=1}^{n} E_{inlet_i} - \sum_{i=1}^{n} E_{outlet_i}}{\sum_{i=1}^{n} E_{inlet_i}}(100) \qquad \text{(Eq. 29)}$$

where:

R=Control efficiency of boiler or process heater, percent.

E_{inlet}=Mass rate of total organic HAP or TOC (minus methane and ethane) for all process vent streams and primary and secondary fuels at the inlet to the boiler or process heater, kg organic HAP/hr or kg TOC/hr.

E_{outlet}=Mass rate of total organic HAP or TOC (minus methane and ethane) for all process vent streams and primary and secondary fuels at the outlet to the boiler or process heater, kg organic HAP/hr or kg TOC/hr.

(iv) The outlet total organic HAP emissions associated with the back-end process unit operation shall be calculated using the equation in paragraph (b)(8) of this section.

(7) An owner or operator is not required to conduct a source test to determine the outlet organic HAP emissions if any control device specified in paragraphs (b)(7)(i) through (b)(7)(v) of this section is used. For these devices, the inlet emissions associated with the back-end process unit operation shall be determined in accordance with paragraph (b)(5) of this section, and the outlet emissions shall be calculated using the equation in paragraph (b)(8) of this section.

(i) A flare, provided the owner or operator complies with the flare provisions in § 63.11(b) of subpart A. The compliance determination required by § 63.6(h) of subpart A shall be conducted using Method 22 of 40 CFR part 60, appendix A, to determine visible emissions. Compliance determinations are not necessary for flares already deemed to be in compliance with the flare provisions in § 63.11(b) of subpart A.

(ii) A boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(iii) A boiler or process heater into which the process vent stream is introduced with the primary fuel or is used as the primary fuel.

(iv) A control device for which a performance test was conducted for determining compliance with an NSPS and the test was conducted using the same procedures specified in this section and no process changes have been made since the test.

(v) A boiler or process heater burning hazardous waste for which the owner or operator:

(A) Has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H, or

(B) Has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(8) If one of the control devices listed in paragraph (b)(6) or (b)(7) of this section is used, the outlet emissions shall be calculated using Equation 30.

$$E_o = E_i(1-R) \qquad [Eq. 30]$$

where:

E_o=Mass rate of total organic HAP at the outlet of the control or recovery device, respectively, dry basis, kg/hr.

E_i=Mass rate of total organic HAP at the inlet of the control or recovery device, respectively, dry basis, kg/hr, determined using the procedures in paragraph (b)(5)(iv) of this section.

R=Control efficiency of control device, as specified in paragraph (b)(8) (i), (ii), or (iii) of this section.

(i) If a back-end process vent stream is introduced with the combustion air, or as a secondary fuel into a boiler or process heater with a design capacity less than 44 megawatts, the control efficiency of the boiler or process heater shall be determined using the procedures in paragraph (b)(6)(iii) of this section.

(ii) If a back-end process vent is controlled using a control device specified in paragraph (b)(7) (i), (ii), (iii), or (v) of this section, the control device efficiency shall be assumed to be 98 percent.

(iii) If a back-end process vent is controlled using a control device specified in paragraph (b)(7)(iv) of this section, the control device efficiency shall be the efficiency determined in the previous performance test.

(c) Compliance shall be determined using the procedures in this paragraph.

(1) For each test run, the residual organic HAP content, adjusted for the control or recovery device emission reduction, shall be calculated using Equation 31.

Where:

$$HAPCONT_{run} = \frac{(C)(P) - (E_{i,run}) + (E_{o,run})}{(P)} \qquad [Eq. 31]$$

$HAPCONT_{run}$=Factor, kg organic HAP per kg elastomer (latex or dry crumb rubber).

C=Total uncontrolled organic HAP content, determined in accordance with paragraph (b)(3) of this section, kg organic HAP per kg latex or dry crumb rubber.

P=Weight of latex or dry crumb rubber processed during test run.

$E_{i,run}$=Mass rate of total organic HAP at the inlet of the control or recovery device, respectively, dry basis, kg per test run.

$E_{o,run}$=Mass rate of total organic HAP at the outlet of the control or recovery device, respectively, dry basis, kg per test run.

(2) A facility is in compliance if the average of the organic HAP contents calculated for all three test runs is below the residual organic HAP limitations in § 63.494(a).

(d) An owner or operator complying with the residual organic HAP limitations in § 63.494(a) using a control or recovery device, shall redetermine the compliance status through the requirements described in paragraph (b) of this section whenever process changes are made. The owner or operator shall report the results of the redetermination in accordance with § 63.499(d). For the purposes of this section, a process change is any action that would reasonably be expected to impair the performance of the control or recovery device. For the purposes of this section, the production of an elastomer with a residual organic HAP content greater than the residual organic HAP content of the elastomer used in the compliance demonstration constitutes a process change, unless the overall effect of the change is to reduce organic HAP emissions from the source as a whole. Other examples of process changes may include changes in production capacity or production rate, or removal or addition of equipment. For the purposes of this paragraph, process changes do not include: Process upsets; unintentional, temporary process changes; or changes that reduce the residual organic HAP content of the elastomer.

§ 63.497 Back-end process provisions—monitoring provisions for control and recovery devices.

(a) An owner or operator complying with the residual organic HAP limitations in § 63.494(a) using control

or recovery devices, or a combination of stripper technology and control or recovery devices, shall install the monitoring equipment specified in paragraphs (a)(1) through (a)(6) of this section, as appropriate.

(1) Where an incinerator is used, a temperature monitoring device equipped with a continuous recorder is required.

(i) Where an incinerator other than a catalytic incinerator is used, the temperature monitoring device shall be installed in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange occurs.

(ii) Where a catalytic incinerator is used, the temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) Where a flare is used, a device (including, but not limited to, a thermocouple, ultra-violet beam sensor, or infrared sensor) capable of continuously detecting the presence of a pilot flame is required.

(3) Where a boiler or process heater of less than 44 megawatts design heat input capacity is used, a temperature monitoring device in the firebox equipped with a continuous recorder is required. Any boiler or process heater in which all vent streams are introduced with primary fuel or are used as the primary fuel is exempt from this requirement.

(4) For an absorber, a scrubbing liquid temperature monitoring device and a specific gravity monitoring device are required, each equipped with a continuous recorder.

(5) For a condenser, a condenser exit (product side) temperature monitoring device equipped with a continuous recorder is required.

(6) For a carbon adsorber, an integrating regeneration stream flow monitoring device having an accuracy of at least ±10 percent, capable of recording the total regeneration stream flow for each regeneration cycle; and a carbon bed temperature monitoring device, capable of recording the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle are required.

(b) An owner or operator may request approval to monitor parameters other than those required by paragraph (a) of this section. The request shall be submitted according to the procedures specified in § 63.506(f) or (g). Approval shall be requested if the owner or operator:

(1) Uses a control or recovery device other than those listed in paragraph (a) of this section; or

(2) Uses one of the control or recovery devices listed in paragraph (a) of this section, but seeks to monitor a parameter other than those specified in paragraph (a) of this section.

(c) The owner or operator shall establish a level, defined as either a maximum or minimum operating parameter, that indicates proper operation of the control or recovery device for each parameter monitored under paragraphs (a)(1) through (a)(6) of this section. This level is determined in accordance with § 63.505. The established level, along with supporting documentation, shall be submitted in the Notification of Compliance Status or the operating permit application, as required in § 63.506 (e)(5) or (e)(8), respectively. The owner or operator shall operate control and recovery devices above or below the established level, as required, to ensure continued compliance with the standard.

(d) The owner or operator of a controlled back-end process vent using a vent system that contains bypass lines that could divert a vent stream away from the control or recovery device used to comply with § 63.494(a) shall comply with paragraph (d)(1), (d)(2), or (d)(3) of this section. Equipment such as low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and pressure relief valves needed for safety purposes are not subject to this paragraph.

(1) Properly install, maintain, and operate a flow indicator that takes a reading at least once every 15 minutes. Records shall be generated as specified in § 63.498(d)(5)(iii). The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream away from the control device to the atmosphere; or

(2) Secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the non-diverting position and the vent stream is not diverted through the bypass line.

(3) Continuously monitor the bypass line damper or valve position using computer monitoring and record any periods when the position of the bypass line valve has changes as specified in § 63.498(d)(5)(iv).

§ 63.498 Back-end process provisions—recordkeeping.

(a) Each owner or operator shall maintain the records specified in paragraphs (a)(1) through (a)(3) of this section for each back-end process operation at an affected source.

(1) The type of elastomer product processed in the back-end operation.

(2) The type of process (solution process, emulsion process, etc.)

(3) If the back-end process operation is subject to an emission limitation in § 63.494(a), whether compliance will be achieved by stripping technology, or by control or recovery devices.

(b) Each owner or operator of a back-end process operation using stripping technology to comply with an emission limitation in § 63.494(a), and demonstrating compliance using the periodic sampling procedures in § 63.495(b), shall maintain the records specified in paragraph (b)(1), and in paragraph (b)(2) or (b)(3) of this section, as appropriate.

(1) Records associated with each sample taken in accordance with § 63.495(b). These records shall include the following for each sample:

(i) Elastomer type,

(ii) The date and time the sample was collected,

(iii) The corresponding quantity of elastomer processed over the time period represented by the sample. Acceptable methods of determining this quantity are production records, measurement of stream characteristics, and engineering calculations.

(A) For emulsion processes, this quantity shall be the weight of the latex leaving the stripper.

(B) For solution processes, this quantity shall be the crumb rubber dry weight of the rubber leaving the stripper.

(iv) The organic HAP content of each sample.

(2) The monthly weighted average organic HAP content, calculated in accordance with § 63.495(f).

(3) If the organic HAP contents for all samples analyzed during a month are below the appropriate level in § 63.494(a), the owner or operator may record that all samples were in accordance with the residual organic HAP limitations in § 63.494(a), rather than calculating and recording a monthly weighted average.

(c) Each owner or operator of a back-end process operation using stripping technology to comply with an emission limitation in § 63.494(a), and demonstrating compliance using the stripper parameter monitoring procedures in § 63.495(c), shall maintain the records specified in paragraphs (c)(1) through (c)(3) of this section.

(1) Records associated with the initial, and subsequent, determinations of the organic HAP content of each grade of elastomer produced. These records shall include the following:

(i) An identification of the elastomer type and grade;

(ii) The results of the residual organic HAP analyses, conducted in accordance with § 63.505(e)(1);

(iii) The stripper monitoring parameters required to be established in § 63.495(c)(1).

(iv) If re-determinations are made of the organic HAP content, and re-establishment of the stripper monitoring parameters, records of the initial determination are no longer required to be maintained.

(2) Records associated with each grade or batch. These records shall include the following for each grade or batch:

(i) Elastomer type and grade;

(ii) The quantity of elastomer processed;

(A) For emulsion processes, this quantity shall be the weight of the latex leaving the stripper.

(B) For solution processes, this quantity shall be the crumb rubber dry weight of the crumb rubber leaving the stripper.

(iii) The hourly average of all stripper parameter results;

(iv) If one or more hourly average stripper monitoring parameters is not in accordance with the established levels, the results of the residual organic HAP analysis.

(3) The monthly weighted average organic HAP content, calculated in accordance with § 63.495(f).

(d) Each owner or operator of a back-end process operation using control or recovery devices to comply with an organic HAP emission limitation in § 63.494(a) shall maintain the records specified in paragraphs (d)(1) through (d)(5) of this section.

(1) Results of the testing required by § 63.496(b). These results shall include the following, for each of the three required test runs:

(i) The uncontrolled residual organic HAP content in the latex or dry crumb rubber, as required to be determined by § 63.496(b)(3), including the test results of the analysis;

(ii) The total quantity of material (weight of latex or dry crumb rubber) processed during the test run, recorded in accordance with § 63.496(b)(4),

(iii) The organic HAP emissions at the inlet and outlet of the control or recovery device, determined in accordance with § 63.496 (b)(5) through (b)(8), including all test results and calculations,

(iv) The residual organic HAP content, adjusted for the control or recovery device emission reduction, determined in accordance with § 63.496(c)(1).

(2) The operating parameter level established in accordance with § 63.497(c), along with supporting documentation.

(3) The following information when using a flare:

(i) The flare design (i.e., steam-assisted, air-assisted, or non-assisted);

(ii) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination; and

(iii) All periods during the compliance determination when the pilot flame is absent.

(4) When using a boiler or process heater, a description of the location at which the vent stream is introduced into the boiler or process heater.

(5) Each owner or operator using a control or recovery device shall keep the following records up-to-date and readily accessible:

(i) Continuous records of the equipment operating parameters specified to be monitored under § 63.497(a) or specified by the Administrator in accordance with § 63.497(b). For flares, the hourly records and records of pilot flame outages shall be maintained in place of continuous records.

(ii) Records of the daily average value of each continuously monitored parameter for each operating day, except as provided in paragraphs (d)(5)(ii)(D) and (d)(5)(ii)(E) of this section.

(A) The daily average shall be calculated as the average of all values for a monitored parameter recorded during the operating day, except as provided in paragraph (d)(5)(ii)(B) of this section. The average shall cover a 24-hour period if operation is continuous, or the number of hours of operation per operating day if operation is not continuous.

(B) Monitoring data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments shall not be included in computing the hourly or daily averages. Records shall be kept of the times and durations of all such periods and any other periods of process or control device operation when monitors are not operating.

(C) The operating day shall be the period defined in the operating permit or the Notification of Compliance Status in § 63.506(e)(8) or (e)(5). It may be from midnight to midnight or another 24-hour period.

(D) If all recorded values for a monitored parameter during an operating day are below the maximum, or above the minimum, level established in the Notification of Compliance Status in § 63.506(e)(5) or in the operating permit, the owner or operator may record that all values were below the maximum or above the minimum level, rather than calculating and recording a daily average for that operating day.

(E) For flares, records of the times and duration of all periods during which the pilot flame is absent shall be kept rather than daily averages. The records specified in this paragraph are not required during periods when emissions are not routed to the flare, or during startups, shutdowns, or malfunctions when the owner or operator complies with the applicable requirements of subpart A of this part, as directed by § 63.506(b)(1).

(iii) Hourly records of whether the flow indicator specified under § 63.497(d)(1) was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(iv) Where a seal mechanism is used to comply with § 63.497(d)(2), or where computer monitoring of the position of the bypass damper or valve is used to comply with § 63.497(d)(3), hourly records of flow are not required.

(A) For compliance with § 63.497(d)(2), the owner or operator shall record whether the monthly visual inspection of the seals or closure mechanisms has been done, and shall record instances when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type configuration has been checked out, and records of any car-seal that has broken.

(B) For compliance with § 63.497(d)(3), the owner or operator shall record the times of all periods when the bypass line damper or valve position has changed.

§ 63.499 Back-end process provisions—reporting.

(a) The owner or operator of an affected source with back-end process operations shall submit the information required in § 63.498(a) as part of the Notification of Compliance Status specified in § 63.506(e)(5).

(b) Each owner or operator of a back-end process operation using stripping to comply with an emission limitation in § 63.494(a), and demonstrating compliance by stripper parameter monitoring, shall submit reports as specified in paragraphs (b)(1) and (b)(2) of this section.

(1) As part of the Notification of Compliance Status specified in

§ 63.506(e)(5), the owner or operator shall submit the information specified in § 63.498(c)(1).

(2) For organic HAP content/stripping monitoring parameter re-determinations, and the addition of new grades, the information specified in § 63.498(c)(1) shall be submitted in the next periodic report specified in § 63.506(e)(6).

(c) Each owner or operator of a back-end process operation control or recovery devices that must comply with an emission limitation in § 63.494(a) shall submit the information specified in paragraphs (c)(1) through (c)(3) of this section as part of the Notification of Compliance Status specified in § 63.506(e)(5).

(1) The residual organic HAP content, adjusted for the control or recovery device emission reduction, determined in accordance with § 63.496(c)(1), for each test run in the compliance determination.

(2) The operating parameter level established in accordance with § 63.497(c), along with supporting documentation.

(3) The information specified in § 63.498(d)(3) regarding flares and § 63.498(d)(4) regarding boilers and process heaters, if applicable.

(d) Whenever a process change, as defined in § 63.496(d), is made that causes the redetermination of the compliance status for the back-end process operations, the owner or operator shall submit a report within 180 calendar days after the process change as specified in § 63.506(e)(7)(iii). The report shall include:

(1) A description of the process change;

(2) The results of the redetermination of the compliance status, determined in accordance with § 63.496(b), and recorded in accordance with § 63.498(d)(1), and

(3) Documentation of the re-establishment of a parameter level for the control or recovery device, defined as either a maximum or minimum operating parameter, that indicates proper operation of the control or recovery device, in accordance with § 63.497(c) and recorded in accordance with § 63.498(d)(2).

(e) If an owner or operator uses a control or recovery device other than those listed in § 63.497(a) or requests approval to monitor a parameter other than those specified in § 63.497(a), the owner or operator shall submit a description of planned reporting and recordkeeping procedures as required under § 63.506(e)(3) or (e)(8). The Administrator will specify appropriate reporting and recordkeeping requirements as part of the review of the Precompliance Report or Operating Permit application.

§ 63.500 Back-end process provisions—carbon disulfide limitations for styrene butadiene rubber by emulsion processes.

(a) Owners or operators of sources subject to this subpart producing styrene butadiene rubber using an emulsion process shall operate the process such that the carbon disulfide concentration in each crumb dryer exhausts shall not exceed 45 ppmv.

(1) The owner or operator shall develop standard operating procedures for the addition of sulfur containing shortstop agents to ensure that the limitation in paragraph (a) of this section is maintained. There shall be a standard operating procedure representing the production of every grade of styrene butadiene rubber produced at the affected source using a sulfur containing shortstop agent.

(2) A validation of each standard operating procedure shall be conducted in accordance with paragraph (c) of this section, except as provided in paragraph (b) of this section, to demonstrate compliance with the limitation in paragraph (a) of this section.

(3) The owner or operator shall operate the process in accordance with a validated standard operating procedure at all times when styrene butadiene rubber is being produced using a sulfur containing shortstop agent. If a standard operating procedure is changed, it must be re-validated.

(4) Records specified in paragraph (d) of this section shall be maintained.

(5) Reports shall be submitted in accordance with paragraph (e) of this section.

(b) Crumb dryers that are vented to a combustion device are not subject to the provisions in this section.

(c) The owner or operator shall validate each standard operating procedure to determine compliance with the limitation in paragraph (a) of this section using the testing procedures in paragraph (c)(1) of this section or engineering assessment, as described in paragraph (c)(2) of this section.

(1) The owner or operator shall conduct a performance test using the procedures in paragraphs (c)(1)(i) through (c)(1)(iii) of this section to demonstrate compliance with the carbon disulfide concentration limitation in paragraph (a) of this section. One test shall be conducted for each standard operating procedure.

(i) Method 1 or 1A of 40 CFR part 60, appendix A, as required, shall be used for selection of the sampling sites.

(ii) The gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as required.

(iii) To determine compliance with the carbon disulfide concentration limit in paragraph (a) of this section, the owner or operator shall use Method 18 or Method 25A of 40 CFR part 60, appendix A, to measure carbon disulfide. Alternatively, any other method or data that has been validated according to the applicable procedures in Method 301 of appendix A of this part may be used. The following procedures shall be used to calculate carbon disulfide concentration:

(A) The minimum sampling time for each run shall be 1 hour, in which either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

(B) The concentration of carbon disulfide shall be calculated using Equation 32.

$$C_{CS2} = \frac{\sum_{i=1}^{n}(C_{CS2i})}{n} \qquad \text{[Eq. 32]}$$

where:

C_{CS2}=Concentration of carbon disulfide, dry basis, ppmv.

C_{CS2i}=Concentration of carbon disulfide of sample i, dry basis, ppmv.

n=Number of samples in the sample run.

(2) The owner or operator shall use engineering assessment to demonstrate compliance with the carbon disulfide concentration limitation in paragraph (a) of this section. Engineering assessment includes, but is not limited to, the following:

(i) Previous test results, provided the tests are representative of current operating practices at the process unit.

(ii) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(iii) Flow rate and/or carbon disulfide emission rate specified or implied within an applicable permit limit.

(iv) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to:

(A) Use of material balances,

(B) Estimation of flow rate based on physical equipment design such as pump or blower capacities, and

(C) Estimation of carbon disulfide concentrations based on saturation conditions.

(v) All data, assumptions, and procedures used in the engineering assessment shall be documented.

(d) Owners and operators of sources subject to this section shall maintain the records specified in paragraphs (d)(1) and (d)(2) of this section.

(1) Documentation of the results of the testing required by paragraph (c) of this section.

(2) A description of the standard operating procedure used during the testing. This description shall include, at a minimum, an identification of the sulfur containing shortstop added to the styrene butadiene rubber prior to the dryers, an identification of the point and time in the process where the sulfur containing shortstop is added, and an identification of the amount of sulfur containing shortstop added per unit of latex.

(e) Owners and operators shall submit the reports as specified in paragraphs (e)(1) and (e)(2) of this section.

(1) As part of the Notification of Compliance Status specified in § 63.506(e)(5), documentation of the results of the testing required by paragraph (c) of this section.

(2) If changes are made in the standard operating procedure used during the compliance test and recorded in accordance with paragraph (d)(2) of this section, and if those changes have the potential for increasing the concentration of carbon disulfide in the crumb dryer exhaust to above the 45 ppmv limit, the owner or operator shall:

(i) Redetermine compliance using the test procedures in paragraph (c) of this section, and

(ii) Submit documentation of the testing results in the next periodic report required by § 63.506(e)(6).

§ 63.501 Wastewater provisions.

(a) For each process wastewater stream originating at an affected source, except those wastewater streams exempted by paragraph (c) of this section, the owner or operator shall comply with the requirements of §§ 63.131 through 63.148 of subpart G, with the differences noted in paragraphs (a)(1) through (a)(11) of this section, for the purposes of this subpart.

(1) When the determination of equivalence criteria in § 63.102(b) of subpart F is referred to in §§ 63.132, 63.133, and 63.137 of subpart G, the provisions in § 63.6(g) of subpart A shall apply for the purposes of this subpart.

(2) When the storage tank requirements contained in §§ 63.119 through 63.123 of subpart G are referred to in §§ 63.132 through 63.148 of subpart G, §§ 63.119 through 63.123 of subpart G are applicable, with the exception of the differences referred to in § 63.484, for the purposes of this subpart.

(3) When the Implementation Plan requirements contained in § 63.151 in subpart G are referred to in § 63.146 of subpart G, the owner or operator of an affected source subject to this subpart need not comply.

(4) When the Initial Notification Plan requirements in § 63.151(b) of subpart G are referred to in § 63.146 of subpart G, the owner or operator of an affected source subject to this subpart need not comply.

(5) When the owner or operator requests to use alternatives to the continuous operating parameter monitoring and recordkeeping provisions referred to in § 63.151(g) of subpart G, or the owner or operator submits an operating permit application instead of an Implementation Plan as specified in § 63.152(e) of subpart G, as referred to in § 63.146(a)(3) of subpart G, § 63.506(f) and § 63.506(e)(8), respectively, shall apply for the purposes of this subpart.

(6) When the Notification of Compliance Status requirements contained in § 63.152(b) of subpart G are referred to in §§ 63.146 and 63.147 of subpart G, the Notification of Compliance Status requirements contained in § 63.506(e)(5) shall apply for the purposes of this subpart.

(7) When the Periodic Report requirements contained in § 63.152(c) of subpart G are referred to in §§ 63.146 and 63.147 of subpart G, the Periodic Report requirements contained in § 63.506(e)(6) shall apply for the purposes of this subpart.

(8) When the term "range" is used in § 63.143(f) of subpart G, the term "level" shall be used instead, for the purposes of this subpart. This level shall be determined using the procedures specified in § 63.505.

(9) For the purposes of this subpart, owners or operators are not required to comply with the provisions of § 63.138(e)(2) of subpart G which specify that owners or operators shall demonstrate that 95 percent of the mass of HAP, as listed in Table 9 of subpart G, is removed from the wastewater stream or combination of wastewater streams by the procedure specified in § 63.145(i) of subpart G for a biological treatment unit.

(10) For the purposes of this subpart, owners or operators are not required to comply with the provisions of § 63.138(j)(3) of subpart G which specify that owners or operators shall use the procedures specified in Appendix C of subpart G to demonstrate compliance when using a biological treatment unit.

(11) When the provisions of § 63.139(c)(1)(ii) of subpart G or the provisions of § 63.145(e)(2)(ii)(B) specify that Method 18 shall be used, Method 18 or Method 25A may be used for the purposes of this subpart. The use of Method 25A shall comply with paragraphs (a)(11)(i) and (a)(11)(ii) of this section.

(i) The organic HAP used as the calibration gas for Method 25A shall be the single organic HAP representing the largest percent by volume of the emissions.

(ii) The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(b) Except for those streams exempted by paragraph (c) of this section, the owner or operator of each affected source shall comply with the requirements for maintenance wastewater in § 63.105 of subpart F, except that when § 63.105(a) refers to "organic HAPs," the definition of organic HAP in § 63.482 shall apply for the purposes of this subpart.

(c) The following wastewater streams are exempt from the requirements of paragraphs (a) and (b) of this section:

(1) Back-end wastewater streams originating from equipment that only produces latex products.

(2) Back-end wastewater streams at affected sources that are subject to a residual organic HAP limitation in § 63.494(a), and that are complying with these limitations through the use of stripping technology.

(d) The compliance date for the affected source subject to the provisions of this section is specified in § 63.481.

§ 63.502 Equipment leak provisions.

(a) The owner or operator of each affected source, shall comply with the requirements of subpart H of this part for all equipment in organic HAP service, with the exception noted in paragraphs (b) through (h) of this section.

(b) Surge control vessels and bottoms receivers described in paragraphs (b)(1) through (b)(6) of this section are exempt from the requirements contained in § 63.170 of subpart H.

(1) Surge control vessels and bottoms receivers containing styrene-butadiene latex;

(2) Surge control vessels and bottoms receivers containing other latex products and located downstream of the stripping operations;

(3) Surge control vessels and bottoms receivers containing high conversion latex products;

(4) Surge control vessels and bottoms receivers located downstream of the stripping operations at affected sources subject to the back-end residual organic HAP limitation located in § 63.494, that are complying through the use of stripping technology, as specified in § 63.495;

(5) Surge control vessels and bottoms receivers containing styrene;

(6) Surge control vessels and bottoms receivers containing acrylamide; and

(7) Surge control vessels and bottoms receivers containing epichlorohydrin.

(c) The compliance date for the equipment leak provisions in this section is provided in § 63.481.

(d) For an affected source producing polybutadiene rubber and styrene butadiene rubber by solution, the indications of liquids dripping, as defined in subpart H of this part, from bleed ports in pumps and agitator seals in light liquid service, shall not be considered a leak. For the purposes of this subpart, a "bleed port" is a technologically-required feature of the pump or seal whereby polymer fluid used to provide lubrication and/or cooling of the pump or agitator shaft exits the pump, thereby resulting in a visible dripping of fluid.

(e) Affected sources subject to subpart I of this part shall continue to comply with subpart I until the compliance date specified in § 63.481. After the compliance date for this section, the source shall be subject to subpart H of this part and shall no longer be subject to subpart I.

(f) The owner or operator of each affected source shall comply with the requirements of § 63.104 of subpart F for heat exchange systems.

(g) Owners and operators of an affected source subject to this subpart are not required to submit the Initial Notification required by § 63.182(a)(1) and § 63.182(b) of subpart H.

(h) The Notification of Compliance Status required by § 63.182(a)(2) and § 63.182(c) of subpart H shall be submitted within 150 days (rather than 90 days) of the applicable compliance date specified in § 63.481 for the equipment leak provisions. The notification can be submitted as part of the Notification of Compliance Status required by § 63.506(e)(5).

(i) The Periodic Reports required by § 63.182(a)(3) and § 63.182(d) of subpart H shall be submitted as part of the Periodic Reports required by § 63.506(e)(6).

§ 63.503 Emissions averaging provisions.

(a) This section applies to owners or operators of existing affected sources who seek to comply with § 63.483(b) by using emissions averaging rather than following the provisions of §§ 63.484, 63.485, 63.486, 63.494, and 64.488.

(1) The following emission point limitations apply to the use of these provisions:

(i) All emission points included in an emissions average shall be from the same affected source. There may be an emissions average for each individual affected source located at a plant site.

(ii)(A) If a plant site has only one affected source for which emissions averaging is being used to demonstrate compliance, the number of emission points allowed to be included in the emission average is limited to twenty. This number may be increased by up to five additional points if pollution prevention measures are used to control five or more of the emission points included in the emissions average.

(B) If a plant site has two or more affected sources for which emissions averaging is being used to demonstrate compliance, the number of emission points allowed in the emissions average for those affected sources is limited to twenty. This number may be increased by up to five additional emission points if pollution prevention measures are used to control five or more of the emission points included in the emissions averages.

(2) Compliance with the provisions of this section can be based on either organic HAP or TOC.

(3) For the purposes of these provisions, whenever Method 18 is specified within the paragraphs of this section or is specified by reference through provisions outside this section, Method 18 or Method 25A may be used. The use of Method 25A shall comply with paragraphs (a)(3)(i) and (a)(3)(ii) of this section.

(i) The organic HAP used as the calibration gas for Method 25A shall be the single organic HAP representing the largest percent by volume of the emissions.

(ii) The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(b) Unless an operating permit application has been submitted, the owner or operator shall develop and submit for approval an Emissions Averaging Plan containing all of the information required in § 63.506(e)(4) for all emission points to be included in an emissions average.

(c) Paragraphs (c)(1) through (c)(4) of this section describe the emission points that can be used to generate emissions averaging credits if control was applied after November 15, 1990 and if sufficient information is available to determine the appropriate value of credits for the emission point. Paragraph (c)(5) of this section discusses the use of pollution prevention in generating emissions averaging credits.

(1) Storage vessels, batch front-end process vents, aggregate batch vent streams, continuous front-end process vents, and process wastewater streams that are determined to be Group 2 emission points.

(2) Storage vessels, continuous front-end process vents, and process wastewater steams that are determined to be Group 1 emission points and that are controlled by a technology that the Administrator or permitting authority agrees has a higher nominal efficiency than the reference control technology. Information on the nominal efficiencies for such technologies must be submitted and approved as provided in paragraph (i) of this section.

(3) Batch front-end process vents and aggregate batch vent streams that are determined to be Group 1 emission points and that are controlled to a level more stringent than the applicable standard.

(4) Back-end process operations that are controlled such that organic HAP emissions from the back-end process operation are less than would be achieved by meeting the residual organic HAP limits in § 63.494. For the purposes of the emission averaging provisions in this section, all back-end process operations at an affected facility shall be considered a single emission point.

(5) The percent reduction for any storage vessel, batch front-end process vent, aggregate batch vent stream, continuous front-end process vent, and process wastewater stream shall be determined using the procedures specified in paragraph (j) of this section.

(i) For a Group 1 storage vessel, batch front-end process vent, aggregate batch vent stream, continuous front-end process vent, or process wastewater stream, the pollution prevention measure must reduce emissions more than if the reference control technology or standard had been applied to the emission point instead of the pollution prevention measure, except as provided in paragraph (c)(5)(ii) of this section.

(ii) If a pollution prevention measure is used in conjunction with other controls for a Group 1 storage vessel,

batch front-end process vent, aggregate batch vent stream, continuous front-end process vent, or process wastewater stream, the pollution prevention measure alone does not have to reduce emissions more than the reference control technology or standard, but the combination of the pollution prevention measure and other controls must reduce emissions more than if the applicable reference control technology or standard had been applied instead of the pollution prevention measure.

(d) The following emission points cannot be used to generate emissions averaging credits:

(1) Emission points already controlled on or before November 15, 1990 cannot be used to generate credits unless the level of control was increased after November 15, 1990. In this case, credit will be allowed only for the increase in control after November 15, 1990.

(2) Group 1 emission points, identified in paragraph (c)(2) of this section, that are controlled by a reference control technology cannot be used to generate credits unless the reference control technology has been approved for use in a different manner and a higher nominal efficiency has been assigned according to the procedures in paragraph (i) of this section.

(3) Emission points on nonoperating EPPU cannot be used to generate credits. EPPU that are shutdown cannot be used to generate credits or debits.

(4) Maintenance wastewater cannot be used to generate credits. Wastewater streams treated in biological treatment units cannot be used to generate credits. These two types of wastewater cannot be used to generate credits or debits. For the purposes of this section, the terms wastewater and wastewater stream are used to mean process wastewater.

(5) Emission points controlled to comply with a State or Federal rule other than this subpart cannot be used to generate credits, unless the level of control has been increased after November 15, 1990 to a level above what is required by the other State or Federal rule. Only the control above what is required by the other State or Federal rule will be credited. However, if an emission point has been used to generate emissions averaging credit in an approved emissions average, and the emission point is subsequently made subject to a State or Federal rule other than this subpart, the emission point can continue to generate emissions averaging credit for the purpose of complying with the previously approved emissions average.

(e) For all emission points included in an emissions average, the owner or operator shall perform the following tasks:

(1) Calculate and record monthly debits for all Group 1 emission points that are controlled to a level less stringent than the reference control technology or standard for those emission points. The Group 1 emission points are identified in paragraphs (c)(2) through (c)(4) of this section. Equations in paragraph (g) of this section shall be used to calculate debits.

(2) Calculate and record monthly credits for all Group 1 and Group 2 emission points that are overcontrolled to compensate for the debits. Equations in paragraph (h) of this section shall be used to calculate credits. Emission points and controls that meet the criteria of paragraph (c) of this section may be included in the credit calculation, whereas those described in paragraph (d) of this section shall not be included.

(3) Demonstrate that annual credits calculated according to paragraph (h) of this section are greater than or equal to debits calculated for the same annual compliance period according to paragraph (g) of this section.

(i) The owner or operator may choose to include more than the required number of credit-generating emission points in an emissions average in order to increase the likelihood of being in compliance.

(ii) The initial demonstration in the Emissions Averaging Plan or operating permit application that credit-generating emission points will be capable of generating sufficient credits to offset the debits from the debit-generating emission points must be made under representative operating conditions. After the compliance date, actual operating data will be used for all debit and credit calculations.

(4) Demonstrate that debits calculated for a quarterly (3-month) period according to paragraph (g) of this section are not more than 1.30 times the credits for the same period calculated according to paragraph (h) of this section. Compliance for the quarter shall be determined based on the ratio of credits and debits from that quarter, with 30 percent more debits than credits allowed on a quarterly basis.

(5) Record and report quarterly and annual credits and debits in the Periodic Reports as specified in § 63.506(e)(6). Every fourth Periodic Report shall include a certification of compliance with the emissions averaging provisions as required by § 63.506(e)(6)(vi)(D)(*2*).

(f) Debits and credits shall be calculated in accordance with the methods and procedures specified in paragraphs (g) and (h) of this section, respectively, and shall not include emissions during the following periods:

(1) Emissions during periods of startup, shutdown, and malfunction as described in the Startup, Shutdown, and Malfunction Plan.

(2) Emissions during periods of monitoring excursions, as defined in § 63.505 (g) or (h). For these periods, the calculation of monthly credits and debits shall be adjusted as specified in paragraphs (f)(2)(i) through (f)(2)(iii) of this section.

(i) No credits would be assigned to the credit-generating emission point.

(ii) Maximum debits would be assigned to the debit-generating emission point.

(iii) The owner or operator may demonstrate to the Administrator that full or partial credits or debits should be assigned using the procedures in paragraph (l) of this section.

(g) Debits are generated by the difference between the actual emissions from a Group 1 emission point that is uncontrolled or is controlled to a level less stringent than the applicable reference control technology or standard and the emissions allowed for the Group 1 emission point. Debits shall be calculated as follows:

(1) Source-wide debits shall be calculated using Equation 33. Debits and all terms of the equation are in units of megagrams per month (Mg/month).

$$\text{Debits} = \sum_{i=1}^{n}\left(\text{ECFEPV}_{i\text{ACTUAL}} - (0.02)\text{ECFEPV}_{iu}\right) + \sum_{i=1}^{n}\left(\text{ES}_{i\text{ACTUAL}} - (0.05)\text{ES}_{iu}\right) + \left(\text{EBEP}_{\text{ACTUAL}} - \text{EBEP}_{c}\right) + \sum_{i=1}^{n}\left(\text{EWW}_{i\text{ACTUAL}} - \text{EWW}_{ic}\right) + \sum_{i=1}^{n}\left(\text{EBFEPV}_{i\text{ACTUAL}} - (0.1)\text{EBFEPV}_{iu}\right) + \sum_{i=1}^{n}\left(\text{EABV}_{i\text{ACTUAL}} - (0.1)\text{EABV}_{iu}\right) \quad \text{[Eq. 33]}$$

where:

$ECFEPV_{iACTUAL}$=Emissions from each Group 1 continuous front-end process vent i that is uncontrolled or is controlled to a level less stringent than the applicable reference control technology. $ECFEPV_{iACTUAL}$ is calculated according to paragraph (g)(2)(iii) of this section.

$(0.02)ECFEPV_{iu}$=Emissions from each Group 1 continuous front-end process vent i if the applicable reference control technology had been applied to the uncontrolled emissions. $ECFEPV_{iu}$ is calculated according to paragraph (g)(2)(ii) of this section.

$ES_{iACTUAL}$=Emissions from each Group 1 storage vessel i that is uncontrolled or is controlled to a level less stringent than the applicable reference control technology or standard. $ES_{iACTUAL}$ is calculated according to paragraph (g)(3) of this section.

$(0.05)ES_{iu}$=Emissions from each Group 1 storage vessel i if the applicable reference control technology or standard had been applied to the uncontrolled emissions. ES_{iu} is calculated according to paragraph (g)(3) of this section.

$EBEP_{ACTUAL}$=Emissions from back-end process operations that do not meet the residual organic HAP limits in § 63.494. $EBEP_{ACTUAL}$ is calculated according to paragraph (g)(4)(i) of this section.

$EBEP_c$=Emissions from back-end process operations if the residual organic HAP limits in § 63.494(a) were met. $EBEP_c$ is calculated according to paragraph (g)(4)(ii) of this section.

$EWW_{iACTUAL}$=Emissions from each Group 1 wastewater stream i that is uncontrolled or is controlled to a level less stringent than the applicable reference control technology. $EWW_{2iACTUAL}$ is calculated according to paragraph (g)(5) of this section.

EWW_{ic}=Emissions from each Group 1 wastewater stream i if the reference control technology had been applied to the uncontrolled emissions. EWW_{ic} is calculated according to paragraph (g)(5) of this section.

$EBFEPV_{iACTUAL}$=Emissions from each Group 1 batch front-end process vent stream i that is uncontrolled or is controlled to a level less stringent than the reference control technology. $EBFEPV_{iACTUAL}$ is calculated according to paragraph (g)(6)(ii) of this section.

$(0.1)EBFEPV_{iu}$=Emissions from each Group 1 batch front-end process vent i if the applicable reference control technology or standard had been applied to the uncontrolled emissions. $EBFEPV_{iu}$ is calculated according to paragraph (g)(6)(i) of this section.

$EABV_{iACTUAL}$=Emissions from each Group 1 aggregate batch vent stream i that is uncontrolled or is controlled to a level less stringent than the applicable reference control technology. $EABV_{iACTUAL}$ is calculated according to paragraph (g)(7)(iii) of this section.

$(0.1)EABV_{iu}$=Emissions from each Group 1 aggregate batch vent stream i if the applicable reference control technology had been applied to the uncontrolled emissions. $EABV_{iu}$ is calculated according to paragraph (g)(7)(ii) of this section.

n=The number of emission points being included in the emissions average.

(2) Emissions from continuous front-end process vents shall be calculated as follows:

(i) For purposes of determining continuous front-end process vent stream flow rate, organic HAP concentrations, and temperature, the sampling site shall be after the final product recovery device, if any recovery devices are present; before any control device (for continuous front-end process vents, recovery devices shall not be considered control devices); and before discharge to the atmosphere. Method 1 or 1A of 40 CFR part 60, appendix A, shall be used for selection of the sampling site.

(ii) $ECFEPV_{iu}$ for each continuous front-end process vent i shall be calculated using Equation 34.

$$\text{ECFEPV}_{iu} = \left(2.494 \times 10^{-9}\right) Qh \left(\sum_{j=1}^{n} C_j M_j\right) \quad \text{[Eq. 34]}$$

where:

$ECFEPV_{iu}$=Uncontrolled continuous front-end process vent emission rate from continuous front-end process vent i, Mg/month.

Q=Vent stream flow rate, dry standard m^3/min, measured using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

h=Monthly hours of operation during which positive flow is present in the continuous front-end process vent, hr/month.

C_j=Concentration, ppmv, dry basis, of organic HAP j as measured by Method 18 or Method 25A of 40 CFR part 60, appendix A.

M_j=Molecular weight of organic HAP j, gram per gram-mole.
n=Number of organic HAP in stream.

(A) The values of Q and C_j shall be determined during a performance test conducted under representative operating conditions. The values of Q and C_j shall be established in the Notification of Compliance Status and must be updated as provided in paragraph (g)(2)(ii)(B) of this section.

(B) If there is a change in capacity utilization other than a change in monthly operating hours, or if any other change is made to the process or product recovery equipment or operation such that the previously measured values of Q and C_j are no longer representative, a new performance test shall be conducted to determine new representative values of Q and C_j. These new values shall be used to calculate debits and credits from the time of the change forward, and the new values shall be reported in the next Periodic Report.

(iii) The following procedures and equations shall be used to calculate $ECFEPV_{iACTUAL}$:

(A) If the continuous front-end process vent is not controlled by a control device or pollution prevention measure, $ECFEPV_{iACTUAL} = ECFEPV_{iu}$, where $ECFEPV_{iu}$ is calculated according to the procedures contained in paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(B) If the continuous front-end process vent is controlled using a control device or a pollution prevention measure achieving less than 98-percent reduction, $ECFEPV_{iACTUAL}$ is calculated using Equation 35.

$$ECFEPV_{iACTUAL} = ECFEPV_{iu} \times \left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [\text{Eq. } 35]$$

Where:

$ECFEPV_{iACTUAL}$ = Emissions from each Group 1 continuous front-end process vent i that is uncontrolled or is controlled to a level less stringent than the reference control technology.

$ECFEPV_{iu}$ = Uncontrolled continuous front-end process vent emission rate from continuous front-end process vent i, Mg/month.

(*1*) The percent reduction shall be measured according to the procedures in § 63.116 of subpart G if a combustion control device is used. For a flare meeting the criteria in § 63.116(a) of subpart G, or a boiler or process heater meeting the criteria in § 63.116(b) of subpart G, the percent reduction shall be 98 percent. If a noncombustion control device is used, percent reduction shall be demonstrated by a performance test at the inlet and outlet of the device, or, if testing is not feasible, by a control design evaluation and documented engineering calculations.

(*2*) For determining debits from Group 1 continuous front-end process vents, product recovery devices shall not be considered control devices and cannot be assigned a percent reduction in calculating $ECFEPV_{iACTUAL}$. The sampling site for measurement of uncontrolled emissions is after the final product recovery device. However, as provided in § 63.113(a)(3) of subpart G, a Group 1 continuous front-end process vent may add sufficient product recovery to raise the TRE index value above 1.0, thereby becoming a Group 2 continuous front-end process vent. Such a continuous front-end process vent would not be a Group 1 continuous front-end process vent and would, therefore, not be included in determining debits under this paragraph.

(*3*) Procedures for calculating the percent reduction of pollution prevention measures are specified in paragraph (j) of this section.

(3) Emissions from storage vessels shall be calculated using the procedures specified in § 63.150(g)(3) of subpart G.

(4) Emissions from back-end process operations shall be calculated as follows:

(i) Equation 36 shall be used to calculate $EBEP_{ACTUAL}$:

$$EBEP_{ACTUAL} = (1{,}000)\sum_{i=1}^{n}(C_i)(P_i) \quad [\text{Eq. } 36]$$

where:

$EBEP_{ACTUAL}$ = Actual emissions from back-end process operations, Mg/month.

C_i = Residual organic HAP content of sample i, kg organic HAP per Mg latex or dry crumb rubber.

P_i = Weight of latex or dry crumb rubber leaving the stripper represented by sample i, Mg.

(ii) Equation 37 shall be used to calculate $EBEP_c$:

$$EBEP_C = (1{,}000)(HAP_{limit})(P_{month}) \quad [\text{Eq. } 37]$$

where:

$EBEP_c$ = Emissions from back-end process operations if the residual organic HAP limits in § 63.494(a) were met, Mg/month.

HAP_{limit} = Residual organic HAP limits in § 63.494 of this subpart, kg organic HAP per Mg latex or dry crumb rubber.

P_{month}=Weight of latex or dry crumb rubber leaving the stripper in the month, Mg.

(5) Emissions from wastewater shall be calculated using the procedures specified in § 63.150(g)(5) of subpart G.

(6) Emissions from batch front-end process vents shall be calculated as follows:

(i) $EBFEPV_{iu}$ for each batch front-end process vent i shall be calculated using the procedures specified in § 63.488(b).

(ii) The following procedures and equations shall be used to determine $EBFEPV_{iACTUAL}$:

(A) If the batch front-end process vent is not controlled by a control device or pollution prevention measure,

$EBFEPV_{iACTUAL}=EBFEPV_{iu}$, where $EBFEPV_{iu}$ is calculated according to the procedures in § 63.488(b).

(B) If the batch front-end process vent is controlled using a control device or a pollution prevention measure achieving less than 90 percent reduction for the batch cycle, calculate $EBFEPV_{iACTUAL}$ using Equation 38, where percent reduction is for the batch cycle.

$$EBFEPV_{iACTUAL} = EBFEPV_{iu} \times \left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad \text{[Eq. 38]}$$

(*1*) The percent reduction for the batch cycle shall be measured according to the procedures in § 63.490(c)(2).

(*2*) The percent reduction for control devices shall be calculated according to the procedures in § 63.490 (c)(2)(i) through (c)(2)(iii).

(*3*) The percent reduction of pollution prevention measures shall be calculated using the procedures specified in paragraph (j) of this section.

(*7*) Emissions from aggregate batch vents shall be calculated as follows:

(i) For purposes of determining aggregate batch vent stream flow rate, organic HAP concentrations, and temperature, the sampling site shall be before any control device and before discharge to the atmosphere. Method 1 or 1A of 40 CFR part 60, appendix A, shall be used for selection of the sampling site.

(ii) $EABV_{iu}$ for each aggregate batch vent i shall be calculated using Equation 39.

$$EABV_{iu} = \left(2.494 \times 10^{-9}\right) Qh \left(\sum_{j=1}^{n} C_j M_j\right) \quad \text{[Eq. 39]}$$

where:

$EABV_{iu}$=Uncontrolled aggregate batch vent emission rate from aggregate batch vent i, Mg/month.

Q=Vent stream flow rate, dry standard cubic meters per minute, measured using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

h=Monthly hours of operation during which positive flow is present from the aggregate batch vent stream, hr/month.

C_j=Concentration, ppmv, dry basis, of organic HAP j as measured by Method 18 of 40 CFR part 60, appendix A.

M_j=Molecular weight of organic HAP j, gram per gram-mole.

n=Number of organic HAP in the stream.

(A) The values of Q and C_j shall be determined during a performance test conducted under representative operating conditions. The values of Q and C_j shall be established in the Notification of Compliance Status and must be updated as provided in paragraph (g)(7)(ii)(B) of this section.

(B) If there is a change in capacity utilization other than a change in monthly operating hours, or if any other change is made to the process or product recovery equipment or operation such that the previously measured values of Q and C_j are no longer representative, a new performance test shall be conducted to determine new representative values of Q and C_j. These new values shall be used to calculate debits and credits from the time of the change forward, and the new values shall be reported in the next Periodic Report.

(iii) The following procedures and equations shall be used to calculate $EABV_{iACTUAL}$:

(A) If the aggregate batch vent is not controlled by a control device or pollution prevention measure, $EABV_{iACTUAL} = EABV_{iu}$, where $EABV_{iu}$ is calculated according to the procedures in paragraphs (g)(7)(i) and (g)(7)(ii) of this section.

(B) If the aggregate batch vent stream is controlled using a control device or a pollution prevention measure achieving less than 90 percent reduction, calculate $EABV_{iACTUAL}$ using Equation 40.

$$EABV_{iACTUAL} = EABV_{iu} \times \left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad \text{[Eq. 40]}$$

(*1*) The percent reduction for control devices shall be determined according to the procedures in § 63.490(e).

(*2*) The percent reduction of pollution prevention measures shall be calculated according to the procedures specified in paragraph (j) of this section.

(h) Credits are generated by the difference between emissions that are allowed for each Group 1 and Group 2 emission point and the actual emissions from that Group 1 or Group 2 emission point that has been controlled after November 15, 1990 to a level more stringent than what is required by this subpart or any other State or Federal rule or statute. Credits shall be calculated as follows:

(1) Source-wide credits shall be calculated using Equation 41. Credits and all terms of the equation are in units of Mg/month, and the baseline date is November 15, 1990.

$$\text{Credits} = D\sum_{i=1}^{n}\left((0.02)\text{ECFEPV1}_{iu} - \text{ECFEPV1}_{i\text{ACTUAL}}\right) + D\sum_{i=1}^{m}\left(\text{ECFEPV2}_{i\text{BASE}} - \text{ECFEPV2}_{i\text{ACTUAL}}\right)$$

$$+D\sum_{i=1}^{n}\left((0.05)\text{ES1}_{iu} - \text{ES1}_{i\text{ACTUAL}}\right) + D\sum_{i=1}^{m}\left(\text{ES2}_{i\text{BASE}} - \text{ES2}_{i\text{ACTUAL}}\right) + D\left(\text{EBEP}_{c} - \text{EBEP}_{\text{ACTUAL}}\right)$$

$$+D\sum_{i=1}^{n}\left(\text{EWW1}_{ic} - \text{EWW1}_{i\text{ACTUAL}}\right) + D\sum_{i=1}^{m}\left(\text{EWW2}_{i\text{BASE}} - \text{EWW2}_{i\text{ACTUAL}}\right) \qquad \text{[Eq. 41]}$$

$$+D\sum_{i=1}^{n}\left((0.1)\text{EBFEPV1}_{iu} - \text{EBFEPV1}_{i\text{ACTUAL}}\right) + D\sum_{i=1}^{n}\left((0.1)\text{EABV1}_{iu} - \text{EABV1}_{i\text{ACTUAL}}\right)$$

$$+D\sum_{i=1}^{m}\left(\text{EBFEPV2}_{i\text{BASE}} - \text{EBFEPV2}_{i\text{ACTUAL}}\right) + D\sum_{i=1}^{m}\left(\text{EABV2}_{i\text{BASE}} - \text{EABV2}_{i\text{ACTUAL}}\right)$$

where:

D = Discount factor = 0.9 for all credit generating emission points, except those controlled by a pollution prevention measure; discount factor = 1.0 for each credit generating emission point controlled by a pollution prevention measure (i.e., no discount provided).

$ECFEPV1_{iACTUAL}$ = Emissions for each Group 1 continuous front-end process vent i that is controlled to a level more stringent than the reference control technology. $ECFEPV1_{iACTUAL}$ is calculated according to paragraph (h)(2)(ii) of this section.

$(0.02)ECFEPV1_{iu}$ = Emissions from each Group 1 continuous front-end process vent i if the reference control technology had been applied to the uncontrolled emissions. $ECFEPV1_{iu}$ is calculated according to paragraph (h)(2)(i) of this section.

$ECFEPV2_{iACTUAL}$ = Emissions from each Group 2 continuous front-end process vent i that is controlled. $ECFEPV2_{iACTUAL}$ is calculated according to paragraph (h)(2)(iii) of this section.

$ECFEPV2_{iBASE}$ = Emissions from each Group 2 continuous front-end process vent i at the baseline date. $ECFEPV1_{iBASE}$ is calculated in paragraph (h)(2)(iv) of this section.

$ES1_{iACTUAL}$ = Emissions from each Group 1 storage vessel i that is controlled to a level more stringent than the reference control technology or standard. $ES1_{iACTUAL}$ is calculated according to paragraph (h)(3) of this section.

$(0.05)\ ES1_{iu}$ = Emissions from each Group 1 storage vessel i if the reference control technology had been applied to the uncontrolled emissions. $ES1_{iu}$ is calculated according to paragraph (h)(3) of this section.

$ES2_{iACTUAL}$ = Emissions from each Group 2 storage vessel i that is controlled. $ES2_{iACTUAL}$ is calculated according to paragraph (h)(3) of this section.

$ES2_{iBASE}$ = Emissions from each Group 2 storage vessel i at the baseline date. $ES2_{iBASE}$ is calculated in paragraph (h)(3) of this section.

$EBEP_{ACTUAL}$ = Actual emissions from back-end process operations, Mg/month. $EBEP_{ACTUAL}$ is calculated in paragraph (h)(4)(i) of this section.

$EBEP_{c}$ = Emissions from back-end process operations if the residual organic HAP limits in § 63.494(a) were met, Mg/month. $EBEP_{c}$ is calculated in paragraph (h)(4)(ii) of this section.

$EWW1_{iACTUAL}$ = Emissions from each Group 1 wastewater stream i that is controlled to a level more stringent than the reference control technology. $EWW1_{iACTUAL}$ is calculated according to paragraph (h)(5) of this section.

$EWW1_{ic}$ = Emissions from each Group 1 wastewater stream i if the reference control technology had been applied to the uncontrolled emissions. $EWW1_{ic}$ is calculated according to paragraph (h)(5) of this section.

$EWW2_{iACTUAL}$ = Emissions from each Group 2 wastewater stream i that is controlled. $EWW2_{iACTUAL}$ is calculated according to paragraph (h)(5) of this section.

$EWW2_{iBASE}$ = Emissions from each Group 2 wastewater stream i at the baseline date. $EWW2_{iBASE}$ is calculated according to paragraph (h)(5) of this section.

$(0.1)\ EBFEPV1_{iu}$ = Emissions from each Group 1 batch front-end process vent i if the applicable reference control technology had been applied to the uncontrolled emissions. $EBFEPV_{iu}$ is calculated according to paragraph (h)(6)(i) of this section.

$EBFEPV1_{iACTUAL}$ = Emissions from each Group 1 batch front-end process vent i that is controlled to a level more stringent than the reference control technology. $EBFEPV1_{iACTUAL}$ is calculated according to paragraph (h)(6)(ii) of this section.

$(0.1)EABV1_{iu}$ = Emissions from each Group 1 aggregate batch vent stream i if the applicable reference control technology had been applied to the uncontrolled emissions. $EABV1_{iu}$ is calculated according to paragraph (h)(7)(i) of this section.

$EABV1_{iACTUAL}$ = Emissions from each Group 1 aggregate batch vent stream i that is controlled to a level more stringent than the reference control technology or standard. $EABV1_{iACTUAL}$ is calculated according to paragraph (h)(7)(ii) of this section.

$EBFEPV2_{iBASE}$ = Emissions from each Group 2 batch front-end process vent i at the baseline date. $EBFEPV2_{iBASE}$ is calculated according to paragraph (h)(6)(iv) of this section.

$EBFEPV2_{iACTUAL}$ = Emissions from each Group 2 batch front-end process vent i that is controlled. $EBFEPV2_{iACTUAL}$ is calculated according to paragraph (h)(6)(iii) of this section.

$EABV2_{iBASE}$ = Emissions from each Group 2 aggregate batch vent stream i at the baseline date. $EABV2_{iBASE}$ is calculated according to paragraph (g)(7)(iv) of this section.

$EABV2_{iACTUAL}$ = Emissions from each Group 2 aggregate batch vent stream i that is controlled. $EABV2_{iACTUAL}$ is calculated according to paragraph (g)(7)(iii) of this section.

n = Number of Group 1 emission points included in the emissions average. The value of n is not necessarily the same for continuous front-end process vents, batch front-end process vents, aggregate batch vent streams, storage vessels, wastewater streams, or the collection of process sections within the affected source.

m = Number of Group 2 emission points included in the emissions average. The value of m is not necessarily the same for continuous front-end process vents, batch front-end process vents, aggregate batch vent streams, storage vessels, wastewater streams, or the collection of process sections within the affected source.

(i) Except as specified in paragraph (h)(1)(iv) of this section, for an emission point controlled using a reference control technology, the percent reduction for calculating credits shall be no greater than the nominal efficiency associated with the reference control technology, unless a higher nominal efficiency is assigned as specified in paragraph (h)(1)(ii) of this section.

(ii) For an emission point controlled to a level more stringent than the reference control technology, the nominal efficiency for calculating credits shall be assigned as described in paragraph (i) of this section. A reference control technology may be approved for use in a different manner and assigned a higher nominal efficiency according to the procedures in paragraph (i) of this section. A reference control technology may be approved for use in a different manner and assigned a higher nominal efficiency according to the procedure in paragraph (i) of this section.

(iii) For an emission point controlled using a pollution prevention measure, except for back-end process operation emissions, the nominal efficiency for calculating credits shall be as determined as described in paragraph (j) of this section. Emissions for back-end process operations shall be determined as described in paragraph (h)(4) of this section.

(iv) For Group 1 and Group 2 batch front-end process vents and Group 1 and Group 2 aggregate batch vent streams, the percent reduction for calculating credits shall be the percent reduction determined according to the procedures in paragraphs (h)(6)(ii) and (h)(6)(iii) of this section for batch front-end process vents and paragraphs (h)(7)(ii) and (h)(7)(iii) of this section for aggregate batch vent streams.

(2) Emissions from continuous front-end process vents shall be determined as follows:

(i) Uncontrolled emissions from Group 1 continuous front-end process vents, $ECFEPV1_{iu}$, shall be calculated according to the procedures and equation for $ECFEPV_{iu}$ in paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(ii) Actual emissions from Group 1 continuous front-end process vents controlled using a technology with an approved nominal efficiency greater than 98 percent or a pollution prevention measure achieving greater than 98 percent emission reduction, $ECFEPV1_{iACTUAL}$, shall be calculated using Equation 42.

$$ECFEPV1_{iACTUAL} = ECFEPV1_{iu}\left(1 - \frac{\text{Nominal efficiency \%}}{100\%}\right) \quad [\text{Eq. } 42]$$

Where:

$ECFEPV1_{iACTUAL}$ = Emissions for each Group 1 continuous front-end process vent i that is controlled to a level more stringent than the reference control technology.

$ECFEPV1_{iu}$ = Emissions from each Group 1 continuous front-end process vent i if the reference control technology had been applied to the uncontrolled emissions.

(iii) The following procedures shall be used to calculate actual emissions from Group 2 continuous front-end process vents, $ECFEPV2_{iACTUAL}$:

(A) For a Group 2 continuous front-end process vent controlled by a control device, a recovery device applied as a pollution prevention project, or a pollution prevention measure, where the control achieves a percent reduction less than or equal to 98 percent reduction, Equation 43 shall be used.

$$ECFEPV2_{iACTUAL} = ECFEPV2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [\text{Eq. } 43]$$

Where:

$ECFEPV2_{iACTUAL}$=Emissions from each Group 2 continuous front-end process vent i that is controlled.

$ECFEPV2_{iu}$=Emissions from each Group 2 continuous front-end process vent i if the reference control technology had been applied to the uncontrolled emissions.

(*1*) $ECFEPV2_{iu}$ shall be calculated according to the equations and procedures for $ECFEPV_{iu}$ in paragraphs (g)(2)(i) and (g)(2)(ii) of this section, except as provided in paragraph (h)(2)(iii)(A)(*3*) of this section.

(*2*) The percent reduction shall be calculated according to the procedures in paragraphs (g)(2)(iii)(B)(*1*) through (g)(2)(iii)(B)(*3*) of this section, except as provided in paragraph (h)(2)(iii)(A)(*4*) of this section.

(*3*) If a recovery device was added as part of a pollution prevention project, $ECFEPV2_{iu}$ shall be calculated prior to that recovery device. The equation for $ECFEPV_{iu}$ in paragraph (g)(2)(ii) of this section shall be used to calculate $ECFEPV2_{iu}$; however, the sampling site for measurement of vent stream flow rate and organic HAP concentration shall be at the inlet of the recovery device.

(*4*) If a recovery device was added as part of a pollution prevention project, the percent reduction shall be demonstrated by conducting a performance test at the inlet and outlet of that recovery device.

(B) For a Group 2 continuous front-end process vent controlled using a technology with an approved nominal efficiency greater than 98 percent or a pollution prevention measure achieving greater than 98 percent reduction, Equation 44 shall be used.

$$ECFEPV2_{iACTUAL} = ECFEPV2_{iu}\left(1 - \frac{\text{Nominal efficiency \%}}{100\%}\right) \quad [Eq. 44]$$

Where:

$ECFEPV2_{iACTUAL}$=Emissions from each Group 2 continuous front-end process vent i that is controlled.

$ECFEPV2_{iu}$=Emissions from each Group 2 continuous front-end process vent i if the reference control technology had been applied to the uncontrolled emissions.

(iv) Emissions from Group 2 continuous front-end process vents at baseline, $ECFEPV2_{iBASE}$, shall be calculated as follows:

(A) If the continuous front-end process vent was uncontrolled on November 15, 1990, $ECFEPV2_{iBASE}$=$ECFEPV2_{iu}$ and shall be calculated according to the procedures and equation for $ECFEPV_{iu}$ in paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(B) If the continuous front-end process vent was controlled on November 15, 1990, Equation 45 shall be used.

$$ECFEPV2_{iBASE} = ECFEPV2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [Eq. 45]$$

(*1*) $ECFEPV2_{iu}$ is calculated according to the procedures and equation for $ECFEPV_{iu}$ in paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(*2*) The percent reduction shall be calculated according to the procedures specified in paragraphs (g)(2)(iii)(B)(*1*) through (g)(2)(iii)(B)(*3*) of this section.

(C) If a recovery device was added as part of a pollution prevention project initiated after November 15, 1990, $ECFEPV2_{iBASE}$=$ECFEPV2_{iu}$, where $ECFEPV2_{iu}$ is calculated according to paragraph (h)(2)(iii)(A)(*3*) of this section.

(3) Emissions from storage vessels shall be calculated using the procedures specified in § 63.150(h)(3) of subpart G.

(4) Emissions from back-end process operations shall be calculated as follows:

(i) $EBEP_{ACTUAL}$ shall be calculated according to the equation for $EBEP_{ACTUAL}$ contained in paragraph (g)(4)(i) of this section.

(ii) $EBEP_c$ shall be calculated according to the equation for $EBEP_c$ contained in paragraph (g)(4)(ii) of this section.

(5) Emissions from wastewater streams shall be calculated using the procedures specified in § 63.150(h)(5) of subpart G.

(6) Emissions from batch front-end process vents shall be determined as follows:

(i) Uncontrolled emissions from Group 1 batch front-end process vents ($EBFEPV1_{iu}$) shall be calculated according using the procedures specified in § 63.488(b).

(ii) Actual emissions from Group 1 batch front-end process vents controlled to a level more stringent than the reference control technology ($EBFEPV1_{iACTUAL}$) shall be calculated using Equation 46, where percent reduction is for the batch cycle.

$$EBFEPV1_{iACTUAL} = EBFEPV1_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [Eq. 46]$$

(A) The percent reduction for the batch cycle shall be calculated according to the procedures in § 63.490(c)(2).

(B) The percent reduction for control devices shall be determined according to the procedures in § 63.490(c)(2)(i) through (c)(2)(iii).

(C) The percent reduction of pollution prevention measures shall be calculated using the procedures specified in paragraph (j) of this section.

(iii) Actual emissions from Group 2 batch front-end process vents ($EBFEPV2_{iACTUAL}$) shall be calculated using Equation 47 and the procedures in paragraphs (h)(6)(ii)(A) through (h)(6)(ii)(C) of this section. $EBFEPV2_{iu}$ shall be calculated using the procedures specified in § 63.488(b).

$$EBFEPV2_{iACTUAL} = EBFEPV2_{iu} \times \left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [Eq. 47]$$

(iv) Emissions from Group 2 batch front-end process vents at baseline shall be calculated as follows:

(A) If the batch front-end process vent was uncontrolled on November 15, 1990, $EBFEPV2_{iBASE}$=$EBFEPV2_{iu}$ and shall be calculated according to the procedures using the procedures specified in § 63.488(b).

(B) If the batch front-end process vent was controlled on November 15, 1990, use Equation 48 and the procedures in paragraphs (h)(6)(ii)(A) through (h)(6)(ii)(C) of this section. $EBFEPV2_{iu}$ shall be calculated using the procedures specified in § 63.488(b).

$$EBFEPV2_{iBASE} = EBFEPV2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [Eq. 48]$$

(7) Emissions from aggregate batch vent streams shall be determined as follows:

(i) Uncontrolled emissions from Group 1 aggregate batch vent streams ($EABV1_{iu}$) shall be calculated according to the procedures and equation for $EABV_{iu}$ in paragraphs (g)(7)(i) and (g)(7)(ii) of this section.

(ii) Actual emissions from Group 1 aggregate batch vent streams controlled to a level more stringent than the reference control technology ($EABV1_{iACTUAL}$) shall be calculated using Equation 49.

$$EABV1_{iACTUAL} = EABV1_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [\text{Eq. } 49]$$

(A) The percent reduction for control devices shall be determined according to the procedures in § 63.490(e).

(B) The percent reduction of pollution prevention measures shall be calculated using the procedures specified in paragraph (j) of this section.

(iii) Actual emissions from Group 2 aggregate batch vents streams ($EABV2_{iACTUAL}$) shall be calculated using Equation 50 and the procedures in paragraphs (h)(7)(ii)(A) through (h)(7)(ii)(B) of this section. $EABV2_{iu}$ shall be calculated according to the equations and procedures for $EABV_{iu}$ in paragraphs (g)(7)(i) and (g)(7)(ii) of this section.

$$EABV2_{iACTUAL} = EABV2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [\text{Eq. } 50]$$

(iv) Emissions from Group 2 aggregate batch vent streams at baseline shall be calculated as follows:

(A) If the aggregate batch vent stream was uncontrolled on November 15, 1990, $EABV2_{iBASE}=EABV2_{iu}$ and shall be calculated according to the procedures and equation for $EABV_{iu}$ in paragraph (g)(7)(i) and (g)(7)(ii) of this section.

(B) If the aggregate batch vent stream was controlled on November 15, 1990, use Equation 51 and the procedures in paragraphs (h)(7)(ii)(A) through (h)(7)(ii)(B) of this section. $EABV2_{iu}$ shall be calculated according to the equations and procedures for $EABV_{iu}$ in paragraphs (g)(7)(i) and (g)(7)(ii) of this section.

$$EABV2_{iBASE} = EABV2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right) \quad [\text{Eq. } 51]$$

(i) The following procedures shall be followed to establish nominal efficiencies for emission controls for storage vessels, continuous front-end process vents, and process wastewater streams. The procedures in paragraphs (i)(1) through (i)(6) of this section shall be followed for control technologies that are different in use or design from the reference control technologies and achieve greater percent reductions than the percent efficiencies assigned to the reference control technologies in § 63.111 of subpart G.

(1) In those cases where the owner or operator is seeking permission to take credit for use of a control technology that is different in use or design from the reference control technology, and the different control technology will be used in more than three applications at a single plant-site, the owner or operator shall submit the information specified in paragraphs (i)(1)(i) through (i)(1)(iv) of this section to the Director of the EPA Office of Air Quality Planning and Standards, in writing.

(i) Emission stream characteristics of each emission point to which the control technology is or will be applied, including the kind of emission point, flow, organic HAP concentration, and all other stream characteristics necessary to design the control technology or determine its performance.

(ii) Description of the control technology, including design specifications.

(iii) Documentation demonstrating to the Administrator's satisfaction the control efficiency of the control technology. This may include performance test data collected using an appropriate EPA Method or any other method validated according to Method 301 of appendix A. If it is infeasible to obtain test data, documentation may include a design evaluation and calculations. The engineering basis of the calculation procedures and all inputs and assumptions made in the calculations shall be documented.

(iv) A description of the parameter or parameters to be monitored to ensure that the control technology will be operated in conformance with its design and an explanation of the criteria used for selection of that parameter (or parameters).

(2) The Administrator shall determine within 120 operating days whether an application presents sufficient information to determine nominal efficiency. The Administrator reserves the right to request specific data in addition to the items listed in paragraph (i)(1) of this section.

(3) The Administrator shall determine within 120 operating days of the submittal of sufficient data whether a control technology shall have a nominal efficiency and the level of that nominal efficiency. If, in the Administrator's judgment, the control technology achieves a level of emission reduction greater than the reference control technology for a particular kind of emission point, the Administrator will publish a **Federal Register** notice establishing a nominal efficiency for the control technology.

(4) The Administrator may grant permission to take emission credits for use of the control technology. The Administrator may also impose requirements that may be necessary to ensure operation and maintenance to achieve the specified nominal efficiency.

(5) In those cases where the owner or operator is seeking permission to take credit for use of a control technology that is different in use or design from the reference control technology and the different control technology will be used in no more than three applications at a single plant site, the information listed in paragraph (i)(1)(i) can be submitted to the permitting authority for the affected source for approval instead of the Administrator.

(i) In these instances, use and conditions for use of the control technology can be approved by the permitting authority as part of an operating permit application or modification. The permitting authority shall follow the procedures specified in paragraphs (i)(2) through (i)(4) of this section except that, in these instances, a **Federal Register** notice is not required to establish the nominal efficiency for the different technology.

(ii) If, in reviewing the application, the permitting authority believes the control technology has broad applicability for use by other sources, the permitting authority shall submit the information provided in the application to the Director of the EPA Office of Air Quality Planning and Standards. The Administrator shall review the technology for broad applicability and may publish a **Federal Register** notice; however, this review shall not affect the permitting authority's approval of the nominal efficiency of the control technology for the specific application.

(6) If, in reviewing an application for a control technology for an emission point, the Administrator or permitting authority determines that the control technology is not different in use or design from the reference control technology, the Administrator or permitting authority shall deny the application.

(j) The following procedures shall be used for calculating the efficiency (percent reduction) of pollution prevention measures for storage vessels, continuous front-end process vents, batch front-end process vents, aggregate batch vent streams, and wastewater streams:

(1) A pollution prevention measure is any practice which meets the criteria of paragraphs (j)(1)(i) and (j)(1)(ii) of this section.

(i) A pollution prevention measure is any practice that results in a lesser quantity of organic HAP emissions per unit of product released to the atmosphere prior to out-of-process recycling, treatment, or control of emissions, while the same product is produced.

(ii) Pollution prevention measures may include substitution of feedstocks that reduce organic HAP emissions; alterations to the production process to reduce the volume of materials released to the environment; equipment modifications; housekeeping measures; and in-process recycling that returns waste materials directly to production as raw materials. Production cutbacks do not qualify as pollution prevention.

(2) The emission reduction efficiency of pollution prevention measures implemented after November 15, 1990, can be used in calculating the actual emissions from an emission point in the debit and credit equations in paragraphs (g) and (h) of this section.

(i) For pollution prevention measures, the percent reduction is used in the equations in paragraphs (g)(2) through (g)(7) of this section and paragraphs (h)(2) through (h)(7) of this section is the percent difference between the monthly organic HAP emissions for each emission point after the pollution prevention measure for the most recent month versus monthly emissions from the same emission point before the pollution prevention measure, adjusted by the volume of product produced during the two monthly periods.

(ii) Equation 52 shall be used to calculate the percent reduction of a pollution prevention measure for each emission point.

$$\text{Percent reduction} = E_B - \frac{\frac{(E_{pp} \times P_B)}{P_{pp}}}{E_B} \times 100 \qquad [\text{Eq. 52}]$$

where:

Percent reduction=Efficiency of pollution prevention measure (percent organic HAP reduction).

E_B=Monthly emissions before the pollution prevention measure, Mg/month, determined as specified in paragraphs (j)(2)(ii)(A), (j)(2)(ii)(B), and (j)(2)(ii)(C) of this section.

E_{pp}=Monthly emissions after the pollution prevention measure, Mg/month, as determined for the most recent month, determined as specified in either paragraphs (j)(2)(ii)(D) or (j)(2)(ii)(E) of this section.

P_B=Monthly production before the pollution prevention measure, Mg/month, during the same period over which E_B is calculated.

P_{pp}=Monthly production after the pollution prevention measure, Mg/month, as determined for the most recent month.

(A) The monthly emissions before the pollution prevention measure, E_B, shall be determined in a manner consistent with the equations and procedures in paragraph (g)(2) of this section for continuous front-end process vents, paragraph (g)(3) of this section for storage vessels, paragraph (g)(6) of this section for batch front-end process vents, and paragraph (g)(7) of this section for aggregate batch vent streams.

(B) For wastewater, E_B shall be calculated according to § 63.150(j)(2)(ii)(B) of subpart G.

(C) If the pollution prevention measure was implemented prior to September 5, 1996, records may be used to determine E_B.

(D) The monthly emissions after the pollution prevention measure, E_{pp}, may be determined during a performance test or by a design evaluation and documented engineering calculations. Once an emissions-to-production ratio has been established, the ratio can be used to estimate monthly emissions from monthly production records.

(E) For wastewater, E_{pp} shall be calculated according to § 63.150(j)(2)(ii)(E) of subpart G.

(iii) All equations, calculations, test procedures, test results, and other information used to determine the percent reduction achieved by a pollution prevention measure for each emission point shall be fully documented.

(iv) The same pollution prevention measure may reduce emissions from multiple emission points. In such cases, the percent reduction in emissions for each emission point must be calculated.

(v) For the purposes of the equations in paragraphs (h)(2) through (h)(7) of this section, used to calculate credits for emission points controlled more stringently than the reference control technology, the nominal efficiency of a pollution prevention measure is equivalent to the percent reduction of the pollution prevention measure. When a pollution prevention measure is used, the owner or operator of an affected source is not required to apply to the Administrator for a nominal efficiency and is not subject to paragraph (i) of this section.

(k) The owner or operator must demonstrate that the emissions from the emission points proposed to be included in the emissions average will not result in greater hazard, or at the option of the Administrator, greater risk to human health or the environment than if the emission points were controlled according to the provisions in §§ 63.484, 63.485, 63.486, 63.493, and 63.501.

(1) This demonstration of hazard or risk equivalency shall be made to the satisfaction of the Administrator.

(i) The Administrator may require owners and operators to use specific methodologies and procedures for making a hazard or risk determination.

(ii) The demonstration and approval of hazard or risk equivalency shall be made according to any guidance that the Administrator makes available for use.

(2) Owners and operators shall provide documentation demonstrating the hazard or risk equivalency of their proposed emissions average in their operating permit application or in their Emissions Averaging Plan if an operating permit application has not yet been submitted.

(3) An Emissions Averaging Plan that does not demonstrate hazard or risk equivalency to the satisfaction of the Administrator shall not be approved. The Administrator may require such adjustments to the Emissions Averaging Plan as are necessary in order to ensure that the emissions average will not result in greater hazard or risk to human health or the environment than would result if the emission points were controlled according to §§ 63.484, 63.485, 63.486, 63.493, and 63.501.

(4) A hazard or risk equivalency demonstration must:

(i) Be a quantitative, bona fide chemical hazard or risk assessment;

(ii) Account for differences in chemical hazard or risk to human health or the environment; and

(iii) Meet any requirements set by the Administrator for such demonstrations.

(l) For periods of monitoring excursions, an owner or operator may request that the provisions of paragraphs (l)(1) through (l)(4) of this section be followed instead of the procedures in paragraphs (f)(2)(i) and (f)(2)(ii) of this section.

(1) The owner or operator shall notify the Administrator of monitoring excursions in the Periodic Reports as required in § 63.506(e)(6).

(2) The owner or operator shall demonstrate that other types of monitoring data or engineering calculations are appropriate to establish that the control device for the emission point was operating in such a fashion to warrant assigning full or partial credits and debits. This demonstration shall be made to the Administrator's satisfaction, and the Administrator may establish procedures for demonstrating compliance that are acceptable.

(3) The owner or operator shall provide documentation of the excursion and the other types of monitoring data or engineering calculations to be used to demonstrate that the control device for the emission point was operating in such a fashion to warrant assigning full or partial credits and debits.

(4) The Administrator may assign full or partial credit and debits upon review of the information provided.

(m) For each emission point included in an emissions average, the owner or operator shall perform testing, monitoring, recordkeeping, and reporting equivalent to that required for Group 1 emission points complying with §§ 63.484, 63.485, 63.486, 63.493, and 63.501, as applicable. If back-end process operations are included in an emissions average, the owner or operator shall perform testing, monitoring, recordkeeping, and reporting equivalent to that required for back-end process operations complying with § 63.493. The specific requirements for continuous front-end process vents, batch front-end process vents, aggregate batch vent streams, storage vessels, back-end process operations, and wastewater are identified in paragraphs (m)(1) through (m)(6) of this section.

(1) For each continuous front-end process vent equipped with a flare, incinerator, boiler, or process heater, as appropriate to the control technique:

(i) Determine whether the continuous front-end process vent is Group 1 or Group 2 according to the procedures specified in § 63.115 of subpart G and as required by § 63.485;

(ii) Conduct initial performance tests to determine percent reduction as specified in § 63.116 of subpart G and as required by § 63.485; and

(iii) Monitor the operating parameters, keep records, and submit reports as specified in § 63.114, § 63.117(a), and § 63.118(a), (f), and (g) of subpart G, as required, for the specific control device as required by § 63.485.

(2) For each continuous front-end process vent equipped with a carbon adsorber, absorber, or condenser but not equipped with a control device, as appropriate to the control technique:

(i) Determine the flow rate, organic HAP concentration, and TRE index value according to the procedures specified in § 63.115 of subpart G; and

(ii) Monitor the operating parameters, keep records, and submit reports according to the procedures specified in § 63.114, § 63.117(a), and § 63.118 (b), (f), and (g) of subpart G, as required, for the specific recovery device, and as required by § 63.485.

(3) For each storage vessel controlled with an internal floating roof, external roof, or a closed vent system with a control device, as appropriate to the control technique:

(i) Perform the monitoring or inspection procedures according to the procedures specified in § 63.120 of subpart G, and as required by § 63.484;

(ii) Perform the reporting and recordkeeping procedures according to the procedures specified in §§ 63.122 and 63.123 of subpart G, and as required by § 63.484; and

(iii) For closed vent systems with control devices, conduct an initial design evaluation and submit an operating plan according to the procedures specified in § 63.120(d) and § 63.122(a)(2) and (b) of subpart G, and as required by § 63.484.

(4) For back-end process operations included in an emissions average:

(i) If stripping technology, and no control or recovery device, is used to reduce back-end process operation emissions, the owner or operator shall implement the following portions of this subpart:

(A) Paragraphs (b)(1), (b)(2), and (b)(3) of § 63.495, paragraph (b) of § 63.498, and the applicable provisions of § 63.499, or

(B) Paragraphs (c) (1), (2), and (3) of § 63.495, paragraph (c) of § 63.498, and the applicable provisions of § 63.499;

(ii) If a control or recovery device is used to reduce back-end process operation emissions, the owner or operator shall comply with §§ 63.496, 63.497, 63.498(d), and the applicable provisions of 63.499, and shall

implement the provisions of these sections.

(5) For wastewater emission points, as appropriate to the control techniques:

(i) For wastewater treatment processes, conduct tests according to the procedures specified in § 63.138(i) and (j) of subpart G, and as required by § 63.501;

(ii) Conduct inspections and monitoring according to the procedures specified in § 63.143 of subpart G, and as required by § 63.501;

(iii) Implement a recordkeeping program according to the procedures specified in § 63.147 of subpart G, and as required by § 63.501; and

(iv) Implement a reporting program according to the procedures specified in § 63.146 of subpart G, and as required by § 63.501.

(6) For each batch front-end process vent and aggregate batch vent stream equipped with a control device, as appropriate to the control technique:

(i) Determine whether the batch front-end process vent or aggregate batch vent stream is Group 1 or Group 2 according to the procedures specified in § 63.488;

(ii) Conduct performance tests according to the procedures specified in § 63.490;

(iii) Conduct monitoring according to the procedures specified in § 63.489; and

(iv) Perform the recordkeeping and reporting procedures according to the procedures specified in §§ 63.491 and 63.492.

(7) If an emission point in an emissions average is controlled using a pollution prevention measure or a device or technique for which no monitoring parameters or inspection procedures are required by §§ 63.484, 63.485, 63.486, 63.493, or § 63.501, the owner or operator shall submit the information specified in § 63.506(f) for alternate monitoring parameters or inspection procedures in the Emissions Averaging Plan or operating permit application.

(n) Records of all information required to calculate emission debits and credits shall be retained for 5 years.

(o) Precompliance Reports, Emission Averaging Plans, Notifications of Compliance Status, Periodic Reports, and other reports shall be submitted as required by § 63.506.

§ 63.504 Additional test methods and procedures.

(a) Performance testing shall be conducted in accordance with § 63.7 (a)(3), (d), (e), (g), and (h) of subpart A, with the exceptions specified in paragraphs (a)(1) through (a)(4) of this section and the additions specified in paragraph (b) of this section. Sections 63.484 through 63.501 also contain specific testing requirements.

(1) Performance tests shall be conducted according to the provisions of § 63.7(e) of subpart A, except that performance tests shall be conducted at maximum representative operating conditions for the process.

(2) References in § 63.7(g) of subpart A to the Notification of Compliance Status requirements in § 63.9(h) shall refer to the requirements in § 63.506(e)(5).

(3) Because the site-specific test plans in § 63.7(c)(3) of subpart A are not required, § 63.7(h)(4)(ii) is not applicable.

(4) The owner or operator shall notify the Administrator of the intention to conduct a performance test at least 30 calendar days before the performance test is scheduled, to allow the Administrator the opportunity to have an observer present during the test.

(b) Data shall be reduced in accordance with the EPA approved methods specified in the applicable subpart or, if other test methods are used, the data and methods shall be validated according to the protocol in Method 301 of appendix A of this part.

§ 63.505 Parameter monitoring levels and excursions.

(a) *Establishment of parameter monitoring levels.* The owner or operator of a control or recovery device that has one or more parameter monitoring level requirements specified under this subpart shall establish a maximum or minimum level for each measured parameter using the procedures specified in paragraph (b), (c), or (d) of this section. The procedures specified in paragraph (b) have been approved by the Administrator. The procedures in paragraphs (c) and (d) of this section have not been approved by the Administrator, and determination of the parameter monitoring level using the procedures in paragraphs (c) or (d) of this section and is subject to review and approval by the Administrator. The determination and supporting documentation shall be included in the Precompliance Report.

(1) The owner or operator shall operate control and recovery devices such that monitored parameters remain above the minimum established level or below the maximum established level.

(2) As specified in § 63.506(e)(5) and § 63.506(e)(8), all established levels, along with their supporting documentation and the definition of an operating day, shall be approved as part of and incorporated into the Notification of Compliance Status or operating permit, respectively.

(3) Nothing in this section shall be construed to allow a monitoring parameter excursion caused by an activity that violates other applicable provisions of subparts A, F, or G of this part.

(b) *Establishment of parameter monitoring levels based on performance tests.* The procedures specified in paragraphs (b)(1) through (b)(3) of this section shall be used, as applicable, in establishing parameter monitoring levels. Level(s) established under this paragraph shall be based on the parameter values measured during the performance test.

(1) *Storage tanks and wastewater.* The maximum and/or minimum monitoring levels shall be based on the parameter values measured during the performance test, supplemented, if desired, by engineering assessments and/or manufacturer's recommendations.

(2) *Continuous front-end process vents and back-end process operations complying using control or recovery devices.* During initial compliance testing, the appropriate parameter shall be continuously monitored during the required 1-hour runs. The monitoring level(s) shall then be established as the average of the maximum (or minimum) point values from the three test runs. The average of the maximum values shall be used when establishing a maximum level, and the average of the minimum values shall be used when establishing a minimum level.

(3) *Batch front-end process vents.* The monitoring level(s) shall be established using the procedures specified in paragraphs (b)(3)(i) through (b)(3)(iii) of this section, as appropriate. The procedures specified in this paragraph may only be used if the batch emission episodes, or portions thereof, selected to be controlled were tested, and monitoring data were collected, during the entire period in which emissions were vented to the control device, as specified in § 63.490(c)(1)(i). If the owner or operator chose to test only a portion of the batch emission episode, or portion thereof, selected to be controlled, as specified in § 63.490(c)(1)(i)(A), the procedures in paragraph (c) of this section must be used.

(i) If more than one batch emission episode or more than one portion of a batch emission episode has been selected to be controlled, a single level for the batch cycle shall be calculated as follows:

(A) During initial compliance testing, the appropriate parameter shall be

monitored continuously at all times when batch emission episodes, or portions thereof, selected to be controlled are vented to the control device.

(B) The average monitored parameter value shall be calculated for each batch emission episode, or portion thereof, in the batch cycle selected to be controlled. The average shall be based on all values measured during the required performance test.

(C) If the level to be established is a maximum operating parameter, the level shall be defined as the minimum of the average parameter values of the batch emission episodes, or portions thereof, in the batch cycle selected to be controlled.

(D) If the level to be established is a minimum operating parameter, the level shall be defined as the maximum of the average parameter values of the batch emission episodes, or portions thereof, in the batch cycle selected to be controlled.

(E) Alternatively, an average monitored parameter value shall be calculated for the entire batch cycle based on all values measured during each batch emission episode, or portion thereof, selected to be controlled.

(ii) Instead of establishing a single level for the batch cycle, as described in paragraph (b)(3)(i) of this section, an owner or operator may establish separate levels for each batch emission episode, or portion thereof, selected to be controlled. Each level shall be determined as specified in paragraphs (b)(3)(i)(A) and (b)(3)(i)(B) of this section.

(iii) The batch cycle shall be defined in the Notification of Compliance Status, as specified in § 63.506(e)(5). The definition shall include an identification of each batch emission episode and the information required to determine parameter monitoring compliance for partial batch cycles (i.e., when part of a batch cycle is accomplished during two different operating days).

(4) *Aggregate batch vent streams.* For aggregate batch vent streams, the monitoring level shall be established in accordance with paragraph (b)(2) of this section.

(c) *Establishment of parameter monitoring levels based on performance tests, engineering assessments, and/or manufacturer's recommendations.* As required in paragraph (a) of this section, the information specified in paragraphs (c)(2) and (c)(3) of this section shall be provided in the Precompliance Report.

(1) Parameter monitoring levels established under this paragraph shall be based on the parameter values measured during the performance test supplemented by engineering assessments and manufacturer's recommendations. Performance testing is not required to be conducted over the entire range of expected parameter values.

(2) The specific level of the monitored parameter(s) for each emission point.

(3) The rationale for the specific level for each parameter for each emission point, including any data and calculations used to develop the level and a description of why the level indicates proper operation of the control or recovery device.

(d) *Establishment of parameter monitoring based on engineering assessments and/or manufacturer's recommendations.* If a performance test is not required by this subpart for a control or recovery device, the maximum or minimum level may be based solely on engineering assessments and/or manufacturer's recommendations. As required in paragraph (a) of this section, the determined level and all supporting documentation shall be provided in the Precompliance Report.

(e) *Demonstration of compliance with back-end process provisions using stripper parameter monitoring.* If the owner or operator is demonstrating compliance with § 63.495 using stripper parameter monitoring, stripper parameter levels shall be established for each grade in accordance with paragraphs (e)(1) and (e)(2) of this section. A single set of stripper parameter levels can be representative of multiple grades.

(1) For each grade, the owner or operator shall calculate the residual organic HAP content using the procedures in paragraphs (e)(1)(i) and (e)(1)(ii) of this section.

(i) The location of the sampling shall be in accordance with § 63.495(d).

(ii) The residual organic HAP content in each sample is to be determined using specified methods.

(2) For each grade, the owner or operator shall establish stripper operating parameter levels that represent stripper operation during the residual organic HAP content determination in paragraph (e)(1) of this section. The stripper operating parameters shall include, at a minimum, temperature, pressure, steaming rates (for steam strippers), and some parameter that is indicative of residence time.

(3) After the initial determinations, an owner or operator can add a grade, with corresponding stripper parameter levels, using the procedures in paragraphs (e)(1) and (e)(2) of this section. The results of this determination shall be submitted in the next periodic report.

(4) An owner or operator complying with the residual organic HAP limitations in paragraph (a) of § 63.494 using stripping, and demonstrating compliance by stripper parameter monitoring, shall redetermine the residual organic HAP content for all affected grades whenever process changes are made. For the purposes of this section, a process change is any action that would reasonably be expected to impair the performance of the stripping operation. For the purposes of this section, examples of process changes may include changes in production capacity or production rate, or removal or addition of equipment. For purposes of this paragraph, process changes do not include: Process upsets; unintentional, temporary process changes; or changes that reduce the residual organic HAP content of the elastomer.

(f) *Compliance determinations.* The provisions of this paragraph apply only to emission points and control or recovery devices for which continuous monitoring is required under this subpart.

(1) The parameter monitoring data for storage vessels, front-end process vents, back-end process operations complying through the use of control or recovery devices, process wastewater streams, and emission points included in emissions averages that are required to perform continuous monitoring shall be used to determine compliance for the monitored control or recovery devices.

(2) Except as provided in paragraph (f)(3) and (i) of this section, for each excursion, as defined in paragraphs (g) and (h) of this section, the owner or operator shall be deemed out of compliance with the provisions of this subpart.

(3) If the daily average value of a monitored parameter is above the maximum level or below the minimum level established, or if monitoring data cannot be collected during monitoring device calibration check or monitoring device malfunction, but the affected source is operated during the periods of startup, shutdown, or malfunction in accordance with the affected source's Startup, Shutdown, and Malfunction Plan, then the event shall not be considered a monitoring parameter excursion.

(g) *Parameter monitoring excursion definitions.* (1) For storage vessels, continuous front-end process vents, aggregate batch vent streams, back-end process operations complying through the use of control or recovery devices, and wastewater streams, an excursion

means any of the three cases listed in paragraphs (g)(1)(i) through (g)(1)(iii) of this section. For a control or recovery device where multiple parameters are monitored, if one or more of the parameters meets the excursion criteria in paragraphs (g)(1)(i) through (g)(1)(iii) of this section, this is considered a single excursion for the control or recovery device.

(i) When the daily average value of one or more monitored parameters is above the maximum level or below the minimum level established for the given parameters.

(ii) When the period of control or recovery device operation is 4 hours or greater in an operating day and monitoring data are insufficient, as defined in paragraph (g)(1)(iv) of this section, to constitute a valid hour of data for at least 75 percent of the operating hours.

(iii) When the period of control or recovery device operation is less than 4 hours in an operating day and more than two of the hours during the period of operation do not constitute a valid hour of data due to insufficient monitoring data, as defined in paragraph (g)(1)(iv) of this section.

(iv) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (g)(1)(ii) and (g)(1)(iii) of this section, if measured values are unavailable for any of the 15-minute periods within the hour. For data compression systems approved under § 63.506(g)(3), monitoring data are insufficient to calculate a valid hour of data if there are less than four data measurements made during the hour.

(2) For batch front-end process vents, an excursion means one of the two cases listed in paragraphs (g)(2)(i) and (g)(2)(ii) of this section. For a control device where multiple parameters are monitored, if one or more of the parameters meets the excursion criteria in either paragraph (g)(2)(i) or (g)(2)(ii) of this section, this is considered a single excursion for the control device.

(i) When the batch cycle daily average value of one or more monitored parameters is above the maximum or below the minimum established level for the given parameters.

(ii) When monitoring data are insufficient. Monitoring data shall be considered insufficient when measured values are not available for at least 75 percent of the 15-minute periods when batch emission episodes, or portions thereof, selected to be controlled are being vented to the control device during the operating day.

(h) *Excursion definitions for back-end operations complying through stripping.* (1) For back-end process operations complying through the use of stripping technology, and demonstrating compliance by sampling, an excursion means one of the two cases listed in paragraphs (h)(1)(i) and (h)(1)(ii) of this section.

(i) When the monthly weighted average residual organic HAP content is above the applicable residual organic HAP limitation in § 63.494; or

(ii) When less than 75 percent of the samples required in 1 month are taken and analyzed in accordance with the provisions of § 63.495(b).

(2) For back-end process operations complying through the use of stripping technology, and demonstrating compliance by stripper parameter monitoring, an excursion means one of the three cases listed in paragraphs (h)(2)(i), (h)(2)(ii), and (h)(2)(iii) of this section.

(i) When the monthly weighted average residual organic HAP content is above the applicable residual organic HAP limitation in § 63.494;

(ii) When an owner or operator fails to sample and analyze the organic HAP content of a sample for a grade with an hourly average stripper operating parameter value not in accordance with the established monitoring parameter levels for that parameter; or

(iii) When an owner or operator does not collect sufficient monitoring data for at least 75 percent of the grades or batches processed during a month. Stripper monitoring data are considered insufficient if monitoring parameters are obtained for less than 75 percent of the 15-minute periods during the processing of a grade, and a sample of that grade or batch is not taken and analyzed to determine the residual organic HAP content.

(i) *Excused excursions.* A number of excused excursions shall be allowed for each control or recovery device for each semiannual period. The number of excused excursions for each semiannual period is specified in paragraphs (i)(1) through (i)(6) of this section. This paragraph applies to affected sources required to submit Periodic Reports semiannually or quarterly. The first semiannual period is the 6-month period starting the date the Notification of Compliance Status is due.

(1) For the first semiannual period—six excused excursions.

(2) For the second semiannual period—five excused excursions.

(3) For the third semiannual period—four excused excursions.

(4) For the fourth semiannual period—three excused excursions.

(5) For the fifth semiannual period—two excused excursions.

(6) For the sixth and all subsequent semiannual periods—one excused excursion.

§ 63.506 General recordkeeping and reporting provisions.

(a) *Data retention.* Each owner or operator of an affected source shall keep copies of all applicable records and reports required by this subpart for at least 5 years, unless otherwise specified in this subpart.

(b) *Subpart A requirements.* The owner or operator of an affected source shall comply with the applicable recordkeeping and reporting requirements in 40 CFR part 63, subpart A as specified in Table 1 of this subpart. These requirements include, but are not limited to, the requirements specified in paragraphs (b)(1) and (b)(2) of this section.

(1) *Startup, shutdown, and malfunction plan.* The owner or operator of an affected source shall develop and implement a written startup, shutdown, and malfunction plan as specified in § 63.6(e)(3) of subpart A. This plan shall describe, in detail, procedures for operating and maintaining the affected source during periods of startup, shutdown, and malfunction and a program for corrective action for malfunctioning process and air pollution control equipment used to comply with this subpart. The affected source shall keep this plan onsite and shall incorporate it by reference into their operating permit. Records associated with the plan shall be kept as specified in paragraphs (b)(1)(i)(A) through (b)(1)(i)(D) of this section. Reports related to the plan shall be submitted as specified in paragraph (b)(1)(ii) of this section.

(i) *Records of startup, shutdown, and malfunction.* The owner or operator shall keep the records specified in paragraphs (b)(1)(i)(A) through (b)(1)(i)(D) of this section.

(A) Records of the occurrence and duration of each malfunction of air pollution control equipment or continuous monitoring systems used to comply with this subpart.

(B) For each startup, shutdown, or malfunction, a statement that the procedures specified in the affected source's startup, shutdown, and malfunction plan were followed; alternatively, documentation of any actions taken that are not consistent with the plan.

(C) For continuous monitoring systems used to comply with this subpart, records documenting the completion of calibration checks and maintenance of continuous monitoring

systems that are specified in the manufacturer's instructions.

(D) Records specified in paragraphs (b)(1)(i)(B) and (b)(1)(i)(C) of this section are not required if they pertain solely to Group 2 emission points that are not included in an emissions average.

(ii) *Reports of startup, shutdown, and malfunction.* For the purposes of this subpart, the semiannual startup, shutdown, and malfunction reports shall be submitted on the same schedule as the Periodic Reports required under paragraph (e)(6) of this section instead of the schedule specified in § 63.10(d)(5)(i) of subpart A. The reports shall include the information specified in paragraphs (b)(1)(i)(A) through (b)(1)(i)(C) of this section and shall contain the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy.

(2) *Application for approval of construction or reconstruction.* For new affected sources, each owner or operator shall comply with the provisions in § 63.5 of subpart A regarding construction and reconstruction, excluding the provisions specified in § 63.5(d)(1)(ii)(H), (d)(1)(iii), (d)(2), and (d)(3)(ii) of subpart A.

(c) *Subpart H requirements.* Owners or operators of affected sources shall comply with the reporting and recordkeeping requirements in subpart H, except as specified in § 63.502(g) through § 63.502(i).

(d) *Recordkeeping and documentation.* Owners or operators required to keep continuous records shall keep records as specified in paragraphs (d)(1) through (d)(8) of this section, unless an alternative recordkeeping system has been requested and approved as specified in paragraph (f), (g), or (h) of this section. Documentation requirements are specified in paragraphs (d)(9) and (d)(10) of this section.

(1) The monitoring system shall measure data values at least once every 15 minutes.

(2) The owner or operator shall record either:

(i) Each measured data value; or

(ii) Block average values for 1 hour or shorter periods calculated from all measured data values during each period. If values are measured more frequently than once per minute, a single value for each minute may be used to calculate the hourly (or shorter period) block average instead of all measured values; or

(iii) For batch front-end process vents, each batch cycle average or batch emission episode average, as appropriate, in addition to each measured data value recorded as required in paragraph (d)(2)(i) of this section.

(3) Daily average (or batch cycle daily average) values of each continuously monitored parameter shall be calculated for each operating day as specified in paragraphs (d)(3)(i) through (d)(3)(ii) of this section, except as specified in paragraph (d)(6) of this section.

(i) The daily average value or batch cycle daily average shall be calculated as the average of all parameter values recorded during the operating day. As specified in § 63.491(e)(2)(i), only parameter values measured during those batch emission episodes, or portions thereof, in the batch cycle that the owner or operator has chosen to control shall be used to calculate the average. The calculated average shall cover a 24-hour period if operation is continuous, or the number of hours of operation per operating day if operation is not continuous.

(ii) The operating day shall be the period that the owner or operator specifies in the operating permit or the Notification of Compliance Status. It may be from midnight to midnight or another 24-hour period.

(4) *Records required when out of compliance.* If the daily average (or batch cycle daily average) value of a monitored parameter for a given operating day is below the minimum level or above the maximum level established in the Notification of Compliance Status or operating permit, the owner or operator shall retain the data recorded that operating day under paragraph (d)(2) of this section.

(5) *Records required when in compliance for daily average value or batch cycle daily average value.* If the daily average (or batch cycle daily average) value of a monitored parameter for a given operating day is above the minimum level or below the maximum level established in the Notification of Compliance Status or operating permit, the owner or operator shall either:

(i) Retain block average values for 1 hour or shorter periods for that operating day; or

(ii) Retain the data recorded in paragraphs (d)(2)(i) and (d)(2)(iii) of this section.

(6) *Records required when all recorded values are in compliance.* If all recorded values for a monitored parameter during an operating day are above the minimum level or below the maximum level established in the Notification of Compliance Status or operating permit, the owner or operator may record that all values were above the minimum level or below the maximum level rather than calculating and recording a daily average (or batch cycle daily average) for that operating day. For these operating days, the records required in paragraph (d)(5) of this section are required.

(7) Monitoring data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods.

(8) In addition to the periods specified in paragraph (d)(7) of this section, records shall be kept of the times and durations of any other periods during process operation or control device operation when monitors are not operating. For batch front-end process vents, this paragraph only applies during batch emission episodes, or portions thereof, that the owner or operator has selected for control.

(9) For each EPPU that is not part of the affected source because it does not use any organic HAP, the owner or operator shall maintain the documentation specified in § 63.480(b)(1).

(10) For each flexible operation unit in which the primary product is determined to be something other than an elastomer product, the owner or operator shall maintain the documentation specified in § 63.480(f)(6).

(e) *Reporting and notification.* (1) In addition to the reports and notifications required by subparts A and H, as specified in this subpart, the owner or operator of an affected source shall prepare and submit the reports listed in paragraphs (e)(3) through (e)(8) of this section, as applicable.

(2) All reports required under this subpart shall be sent to the Administrator at the addresses listed in § 63.13 of subpart A of this part. If acceptable to both the Administrator and the owner or operator of a source, reports may be submitted on electronic media.

(3) *Precompliance Report.* Affected sources requesting an extension for compliance, or requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls, shall submit a Precompliance Report according to the schedule described in paragraph (e)(3)(i) of this section. The Precompliance Report shall contain the information specified in paragraphs (e)(3)(ii) through (e)(3)(vi) of this section, as appropriate.

(i) *Submittal dates.* The Precompliance Report shall be submitted to the Administrator no later

than 12 months prior to the compliance date. For new sources, the Precompliance Report shall be submitted to the Administrator with the application for approval of construction or reconstruction required in paragraph (b)(2) of this section.

(ii) A request for an extension for compliance must be submitted in the Precompliance Report, if it has not been submitted to the operating permit authority as part of the operating permit application. The request for a compliance extension will include the data outlined in § 63.6(i)(6)(i)(A), (B), and (D) of subpart A, as required in § 63.481(e)(1).

(iii) The alternative monitoring parameter information required in paragraph (f) of this section shall be submitted if, for any emission point, the owner or operator of an affected source seeks to comply through the use of a control technique other than those for which monitoring parameters are specified in this subpart or in subpart G of this part, or seeks to comply by monitoring a different parameter than those specified in this subpart or in subpart G of this part.

(iv) If the affected source seeks to comply using alternative continuous monitoring and recordkeeping as specified in paragraph (g) of this section, the information requested in paragraph (e)(3)(iv)(A) or (e)(3)(iv)(B) of this section must be submitted in the Precompliance Report.

(A) The owner or operator must submit notification of the intent to use the provisions specified in paragraph (h) of this section; or

(B) The owner or operator must submit a request for approval to use alternative continuous monitoring and recordkeeping provisions as specified in paragraph (g) of this section.

(v) The owner or operator shall report the intent to use alternative controls to comply with the provisions of this subpart. Alternative controls must be deemed by the Administrator to be equivalent to the controls required by the standard, under the procedures outlined in § 63.6(g) of subpart A.

(4) *Emissions Averaging Plan.* For all existing affected sources using emissions averaging, an Emissions Averaging Plan shall be submitted for approval according to the schedule and procedures described in paragraph (e)(4)(i) of this section. The Emissions Averaging Plan shall contain the information specified in paragraph (e)(4)(ii) of this section, unless the information required in paragraph (e)(4)(ii) of this section is submitted with an operating permit application. An owner or operator of an affected source who submits an operating permit application instead of an Emissions Averaging Plan shall submit the information specified in paragraph (e)(8) of this section. In addition, a supplement to the Emissions Averaging Plan, as required under paragraph (e)(4)(iii) of this section, is to be submitted whenever alternative controls or operating scenarios may be used to comply with this subpart. Updates to the Emissions Averaging Plan shall be submitted in accordance with paragraph (e)(4)(iv) of this section.

(i) *Submittal and approval.* The Emissions Averaging Plan shall be submitted no later than 18 months prior to the compliance date, and is subject to Administrator approval. The Administrator shall determine within 120 operating days whether the Emissions Averaging Plan submitted presents sufficient information. The Administrator shall either approve the Emissions Averaging Plan, request changes, or request that the owner or operator submit additional information. Once the Administrator receives sufficient information, the Administrator shall approve, disapprove, or request changes to the plan within 120 operating days.

(ii) *Information required.* The Emissions Averaging Plan shall contain the information listed in paragraphs (e)(4)(ii)(A) through (e)(4)(ii)(M) of this section for all emission points included in an emissions average.

(A) The required information shall include the identification of all emission points and process back-end operations in the planned emissions average and, where applicable, notation of whether each storage vessel, continuous front-end process vent, batch front-end process vent, aggregate batch vents stream, and process wastewater stream is a Group 1 or Group 2 emission point, as defined in § 63.482 or as designated under § 63.503(c)(2).

(B) The required information shall include the projected emission debits and credits for each emission point and the sum for the emission points involved in the average calculated according to § 63.503. The projected credits must be greater than or equal to the projected debits, as required under § 63.503(e)(3).

(C) The required information shall include the specific control technology or pollution prevention measure that will be used for each emission point included in the average and date of application or expected date of application.

(D) The required information shall include the specific identification of each emission point affected by a pollution prevention measure. To be considered a pollution prevention measure, the criteria in § 63.503(j)(1) must be met. If the same pollution prevention measure reduces or eliminates emissions from multiple emission points in the average, the owner or operator must identify each of these emission points.

(E) The required information shall include a statement that the compliance demonstration, monitoring, inspection, recordkeeping, and reporting provisions in § 63.503(m), (n), and (o) that are applicable to each emission point in the emissions average will be implemented beginning on or before the date of compliance.

(F) The required information shall include documentation of the data listed in paragraphs (e)(4)(ii)(F)(*1*) through (e)(4)(ii)(F)(*5*) of this section for each storage vessel and continuous front-end process vent included in the average.

(*1*) The required documentation shall include the values of the parameters used to determine whether the emission point is Group 1 or Group 2. Where a TRE index value is used for continuous front-end process vent group determination, the estimated or measured values of the parameters used in the TRE equation in § 63.115(d) of subpart G and the resulting TRE index value shall be submitted.

(*2*) The required documentation shall include the estimated values of all parameters needed for input to the emission debit and credit calculations in § 63.503 (g) and (h). These parameter values shall be specified in the affected source's Emissions Averaging Plan (or operating permit) as enforceable operating conditions. Changes to these parameters must be reported in an update to the Emissions Averaging Plan, as required by paragraph (e)(4)(iv)(B)(*2*) of this section.

(*3*) The required documentation shall include the estimated percent reduction if a control technology achieving a lower percent reduction than the efficiency of the applicable reference control technology or standard is or will be applied to the emission point.

(*4*) The required documentation shall include the anticipated nominal efficiency if a control technology achieving a greater percent emission reduction than the efficiency of the reference control technology is or will be applied to the emission point. The procedures in § 63.503(i) shall be followed to apply for a nominal efficiency.

(*5*) The required documentation shall include the information specified in § 63.120(d)(2)(i) and in either

§ 63.120(d)(2)(ii) or (d)(2)(iii) of subpart G for each storage vessel controlled with a closed-vent system using a control device other than a flare.

(G) The information specified in paragraph (f) of this section shall be included in the Emissions Averaging Plan for:

(*1*) Each continuous front-end process vent controlled by a pollution prevention measure or control technique for which monitoring parameters or inspection procedures are not specified in § 63.114 of subpart G, and

(*2*) Each storage vessel controlled by pollution prevention or a control technique other than an internal or external floating roof or a closed vent system with a control device.

(H) The required information shall include documentation of the data listed in paragraphs (e)(4)(ii)(H)(*1*) through (e)(4)(ii)(H)(*4*) of this section for each process wastewater stream included in the average.

(*1*) The required documentation shall include the data used to determine whether the wastewater stream is a Group 1 or Group 2 wastewater stream and the information specified in table 14b of subpart G of this part for wastewater streams at new and existing sources.

(*2*) The required documentation shall include the estimated values of all parameters needed for input to the wastewater emission credit and debit calculations in § 63.503(g)(5) and (h)(5). These parameter values shall be specified in the affected source's Emissions Averaging Plan (or operating permit) as enforceable operating conditions. Changes to these parameters must be reported as required by paragraph (e)(4)(iv)(B)(*2*) of this section.

(*3*) The required documentation shall include the estimated percent reduction if:

(*i*) A control technology that achieves an emission reduction less than or equal to the emission reduction that would otherwise have been achieved by a steam stripper designed to the specifications found in § 63.138(g) of subpart G is or will be applied to the wastewater stream, or external floating roof or a closed vent system with a control device.

(*ii*) A control technology achieving less than or equal to 95 percent emission reduction is or will be applied to the vapor stream(s) vented and collected from the treatment processes, or

(*iii*) A pollution prevention measure is or will be applied.

(*4*) The required documentation shall include the anticipated nominal efficiency if the owner or operator plans to apply for a nominal efficiency under § 63.503(i). A nominal efficiency shall be applied for if:

(*i*) A control technology that achieves an emission reduction greater than the emission reduction that would have been achieved by a steam stripper designed to the specifications found in § 63.138(g) of subpart G, is or will be applied to the wastewater stream; or

(*ii*) A control technology achieving greater than 95 percent emission reduction is or will be applied to the vapor stream(s) vented and collected from the treatment processes.

(I) For each pollution prevention measure, treatment process, or control device used to reduce air emissions of organic HAP from wastewater and for which no monitoring parameters or inspection procedures are specified in § 63.143 of subpart G, the information specified in paragraph (f) of this section (Alternative Monitoring Parameters) shall be included in the Emissions Averaging Plan.

(J) The required information shall include documentation of the data required by estimated values of all parameters needed for input to the emission debit and credit calculations in § 63.503 (g) and (h) for each process back-end operation included in an emissions average. These values shall be specified in the affected source's Emissions Averaging Plan (or operating permit) as enforceable operating conditions. Changes to these parameters must be reported as required by paragraph (e)(4)(iv)(B)(*2*) of this section.

(K) The required information shall include documentation of the information required by § 63.503(k). The documentation must demonstrate that the emissions from the emission points proposed to be included in the average will not result in greater hazard or, at the option of the Administrator, greater risk to human health or the environment than if the emission points were not included in an emissions average.

(L) The required information shall include documentation of the data listed in paragraphs (e)(4)(ii)(L)(*1*) through (e)(4)(ii)(L)(*3*) of this section for each batch front-end process vent and aggregate batch vent stream included in the average.

(*1*) The required documentation shall include the values of the parameters used to determine whether the emission point is Group 1 or Group 2.

(*2*) The required information shall include the estimated values of all parameters needed for input to the emission debit and credit calculations in § 63.503(g) and (h). These parameter values shall be specified in the affected source's Emissions Averaging Plan (or operating permit) as enforceable operating conditions. Changes to these parameters must be reported as required by paragraph (e)(4)(iv) of this section.

(*3*) For batch front-end process vents, the required documentation shall include the estimated percent reduction for the batch cycle. For aggregate batch vent streams, the required documentation shall include the estimated percent reduction achieved on a continuous basis.

(M) For each pollution prevention measure or control device used to reduce air emissions of organic HAP from batch front-end process vents or batch vent streams and for which no monitoring parameters or inspection procedures are specified in § 63.489, the information specified in paragraph (f) of this section, Alternative Monitoring Parameters, shall be included in the Emissions Averaging Plan.

(iii) *Supplement to Emissions Averaging Plan.* The owner or operator required to prepare an Emissions Averaging Plan under paragraph (e)(4) of this section shall also prepare a supplement to the Emissions Averaging Plan for any alternative controls or operating scenarios that may be used to achieve compliance.

(iv) *Updates to Emissions Averaging Plan.* The owner or operator of an affected source required to submit an Emissions Averaging Plan under paragraph (e)(4) of this section shall also submit written updates of the Emissions Averaging Plan to the Administrator for approval under the circumstances described in paragraphs (e)(4)(iv)(A) and (e)(4)(iv)(B) of this section unless the relevant information has been included and submitted in an operating permit application or amendment.

(A) The owner or operator who plans to make a change listed in either paragraph (e)(4)(iv)(A)(*1*) or (e)(4)(iv)(A)(*2*) of this section shall submit an Emissions Averaging Plan update at least 120 operating days prior to making the change.

(*1*) An Emissions Averaging Plan update shall be submitted whenever an owner or operator elects to achieve compliance with the emissions averaging provisions in § 63.503 by using a control technique other than that specified in the Emissions Averaging Plan, or plans to monitor a different parameter or operate a control device in a manner other than that specified in the Emissions Averaging Plan.

(*2*) An Emissions Averaging Plan update shall be submitted whenever an emission point or an EPPU is added to an existing affected source and is

planned to be included in an emissions average, or whenever an emission point not included in the emissions average described in the Emissions Averaging Plan is to be added to an emissions average. The information in paragraph (e)(4) of this section shall be updated to include the additional emission point.

(B) The owner or operator who has made a change as defined in paragraph (e)(4)(iv)(B)(*1*) or (e)(4)(iv)(B)(*2*) of this section shall submit an Emissions Averaging Plan update within 90 operating days after the information regarding the change is known to the affected source. The update may be submitted in the next quarterly periodic report if the change is made after the date the Notification of Compliance Status is due.

(*1*) An Emissions Averaging Plan update shall be submitted whenever a process change is made such that the group status of any emission point in an emissions average changes.

(*2*) An Emissions Averaging Plan update shall be submitted whenever a value of a parameter in the emission credit or debit equations in § 63.503(g) or (h) changes such that it is below the minimum or above the maximum established level specified in the Emissions Averaging Plan and causes a decrease in the projected credits or an increase in the projected debits.

(C) The Administrator shall approve or request changes to the Emissions Averaging Plan update within 120 operating days of receipt of sufficient information regarding the change for emission points included in emissions averages.

(5) *Notification of Compliance Status.* For existing and new affected sources, a Notification of Compliance Status shall be submitted within 150 operating days after the compliance dates specified in § 63.481. The notification shall contain the information listed in paragraphs (e)(5)(i) through (e)(5)(vii) of this section.

(i) The results of any emission point group determinations, process section applicability determinations, performance tests, inspections, continuous monitoring system performance evaluations, any other information used to demonstrate compliance, values of monitored parameters established during performance tests, and any other information required to be included in the Notification of Compliance Status under § 63.122 of subpart G for storage vessels, § 63.117 of subpart G for continuous front-end process vents, § 63.492 for batch front-end process vents, § 63.499 for back-end process operations, § 63.146 of subpart G for process wastewater, and § 63.503 for emission points included in an emissions average. In addition, each owner or operator shall comply with paragraphs (e)(5)(i)(A) and (e)(5)(i)(B) of this section.

(A) For performance tests, and group determinations, and process section applicability determinations that are based on measurements, the Notification of Compliance Status shall include one complete test report, as described in paragraph (e)(5)(i)(B) of this section, for each test method used for a particular kind of emission point. For additional tests performed for the same kind of emission point using the same method, the results and any other required information shall be submitted, but a complete test report is not required.

(B) A complete test report shall include a brief process description, sampling site description, description of sampling and analysis procedures and any modifications to standard procedures, quality assurance procedures, record of operating conditions during the test, record of preparation of standards, record of calibrations, raw data sheets for field sampling, raw data sheets for field and laboratory analyses, documentation of calculations, and any other information required by the test method.

(ii) For each monitored parameter for which a maximum or minimum level is required to be established under § 63.120(d)(3) of subpart G for storage vessels, § 63.485(k) for continuous front-end process vents, § 63.489 for batch front-end process vents and aggregate batch vent streams, § 63.497 for back-end process operations, § 63.143(f) of subpart G for process wastewater, § 63.503(m) for emission points in emissions averages, paragraph (e)(8) of this section, or paragraph (f) of this section, the information specified in paragraphs (e)(5)(ii)(A) through (e)(5)(ii)(E) of this section, unless this information has been established and provided in the operating permit.

(A) The required information shall include the specific maximum or minimum level of the monitored parameter(s) for each emission point.

(B) The required information shall include the rationale for the specific maximum or minimum level for each parameter for each emission point, including any data and calculations used to develop the level and a description of why the level indicates proper operation of the control device.

(C) The required information shall include a definition of the affected source's operating day, as specified in paragraph (d)(3)(ii) of this section, for purposes of determining daily average values of monitored parameters.

(D) For batch front-end process vents, the required information shall include a definition of each batch cycle that requires the control of one or more batch emission episodes during the cycle, as specified in § 63.490(c)(2) and 63.505(b)(3)(ii).

(E) The required information shall include a definition of the affected source's operating month for the purposes of determining monthly average values of residual organic HAP.

(iii) For emission points included in an emissions average, the values of all parameters needed for input to the emission credit and debit equations in § 63.503 (g) and (h), calculated or measured according to the procedures in § 63.503 (g) and (h), and the resulting calculation of credits and debits for the first quarter of the year. The first quarter begins on the compliance date specified.

(iv) For batch front-end process vents required to establish a batch cycle limitation under § 63.490(f), the owner or operator must define the 12-month period over which that source's "year" will be said to occur, as required by the definition of "year" in § 63.482.

(v) The determination of applicability for flexible operation units as specified in § 63.480(f)(6).

(vi) The parameter monitoring levels for flexible operation units, and the basis on which these levels were selected, or a demonstration that these levels are appropriate at all times, as specified in § 63.480(f)(7).

(vii) The results for each predominant use determination for storage vessels belonging to an affected source subject to this subpart that is made under § 63.480(g)(6).

(viii) The results for each predominant use determination for recovery operation equipment belonging to an affected source subject to this subpart that is made under § 63.480(h)(6).

(ix) For owners and operators of Group 2 batch front-end process vents establishing a batch cycle limitation, as specified in § 63.490(f), the affected source's operating year for purposes of determining compliance with the batch cycle limitation.

(6) *Periodic Reports.* For existing and new affected sources, each owner or operator shall submit Periodic Reports as specified in paragraphs (e)(6)(i) through (e)(6)(xi) of this section.

(i) Except as specified in paragraphs (e)(6)(x) and (e)(6)(xi) of this section, a report containing the information in paragraph (e)(6)(ii) of this section or paragraphs (e)(6)(iii) through (e)(6)(ix) of this section, as appropriate, shall be

submitted semiannually no later than 60 operating days after the end of each 180 day period. The first report shall be submitted no later than 240 days after the date the Notification of Compliance Status is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status is due. Subsequent reports shall cover each preceding 6-month period.

(ii) If none of the compliance exceptions in paragraphs (e)(6)(iii) through (e)(6)(ix) of this section occurred during the 6-month period, the Periodic Report required by paragraph (e)(6)(i) of this section shall be a statement that the affected source was in compliance for the preceding 6-month period and that none of the activities specified in paragraphs (e)(6)(iii) through (e)(6)(ix) of this section occurred.

(iii) For an owner or operator of an affected source complying with the provisions of §§ 63.484 through 63.501 for any emission point, Periodic Reports shall include:

(A) All information specified in § 63.122(a)(4) of subpart G for storage vessels, §§ 63.117(a)(3) and 63.118(f) of subpart G for continuous front-end process vents, § 63.492 for batch front-end process vents and aggregate batch vent streams, § 63.499 for back-end process operations, § 63.104(b)(4) of subpart F for heat exchange systems, and § 63.146(c) through § 63.146(f) of subpart G for process wastewater.

(B) The daily average values or batch cycle daily average values of monitored parameters for all excursions, as defined in § 63.505(g) and § 63.505(h).

(C) The periods when monitoring data were not collected shall be specified; and

(D) The information in paragraphs (e)(6)(iii)(D)(*1*) through (e)(6)(iii)(D)(*3*) of this section, as applicable:

(*1*) Any supplements to the Emissions Averaging Plan, as required in paragraph (e)(4)(iii) of this section;

(*2*) Notification if a process change is made such that the group status of any emission point changes. The information submitted shall include a compliance schedule, as specified in paragraphs (e)(6)(iii)(D)(*2*)(*i*) and (e)(6)(iii)(D)(*2*)(*ii*) of this section, for emission points that change from Group 2 to Group 1, or for continuous front-end process vents under the conditions listed in § 63.485(l)(1) through § 63.485(l)(4), or for batch front-end process vents under the conditions listed in § 63.492 (b) or (c).

(*i*) The owner of operator shall submit to the Administrator for approval a compliance schedule and a justification for the schedule.

(*ii*) The Administrator shall approve the compliance schedule or request changes within 120 operating days of receipt of the compliance schedule and justification.

(*3*) Notification if one or more emission points or one or more EPPU is added to an affected source. The owner or operator shall submit the information contained in paragraphs (e)(6)(iii)(D)(*3*)(*i*) through (e)(6)(iii)(D)(*3*)(*iii*) of this section.

(*i*) A description of the addition to the affected source;

(*ii*) Notification of the group status of the additional emission point or all emission points in the EPPU;

(*iii*) A compliance schedule, as required under paragraph (e)(6)(iii)(D)(*2*) of this section.

(*4*) Notification if a standard operating procedure, as defined in § 63.500(l), is changed. This shall also include test results of the carbon disulfide concentration resulting from the new standard operating procedure.

(E) The information in paragraph (b)(1)(ii) of this section for reports of startup, shutdown, and malfunction.

(iv) For each batch front-end process vent with a batch cycle limitation, the owner or operator shall include the number of batch cycles accomplished during the preceding 12-month period once per year in a Periodic Report.

(v) If any performance tests are reported in a Periodic Report, the following information shall be included:

(A) One complete test report shall be submitted for each test method used for a particular kind of emission point tested. A complete test report shall contain the information specified in paragraph (e)(5)(i)(B) of this section.

(B) For additional tests performed for the same kind of emission point using the same method, results and any other information required shall be submitted, but a complete test report is not required.

(vi) The results for each change made to a primary product determination for an elastomer product made under § 63.480(f)(6).

(vii) The results for each change made to a predominant use determination for a storage vessel belonging to an affected source subject to this subpart that is made under § 63.480(g)(6).

(viii) The results for each change made to a predominant use determination for recovery operation equipment belonging to an affected source subject to this subpart that is made under § 63.480(h)(6).

(ix) The Periodic Report required by § 63.502(i) shall be submitted as part of the Periodic Report required by paragraph (e)(6) of this section.

(x) The owner or operator of an affected source shall submit quarterly reports for all emission points included in an emissions average.

(A) The quarterly reports shall be submitted no later than 60 operating days after the end of each quarter. The first report shall be submitted with the Notification of Compliance Status no later than 150 days after the compliance date.

(B) The quarterly reports shall include the information specified in paragraphs (e)(6)(x)(B)(*1*) through (e)(6)(x)(B)(*7*) of this section for all emission points included in an emissions average.

(*1*) The credits and debits calculated each month during the quarter;

(*2*) A demonstration that debits calculated for the quarter are not more than 1.30 times the credits calculated for the quarter, as required under § 63.503(e)(4);

(*3*) The values of any inputs to the debit and credit equations in § 63.503(g) and (h) that change from month to month during the quarter or that have changed since the previous quarter;

(*4*) Results of any performance tests conducted during the reporting period including one complete report for each test method used for a particular kind of emission point as described in paragraph (e)(6)(v) of this section;

(*5*) Reports of daily average values or batch cycle daily averages of monitored parameters for excursions as defined in § 63.505(g) or (h);

(*6*) For excursions caused by lack of monitoring data, the duration of periods when monitoring data were not collected shall be specified; and

(*7*) Any other information the affected source is required to report under the operating permit or Emissions Averaging Plan for the affected source.

(C) § 63.505 shall govern the use of monitoring data to determine compliance for Group 1 and Group 2 emission points included in emissions averages.

(D) Every fourth quarterly report shall include the following:

(*1*) A demonstration that annual credits are greater than or equal to annual debits as required by § 63.503(e)(3); and

(*2*) A certification of compliance with all the emissions averaging provisions in § 63.503.

(xi) The owner or operator of an affected source shall submit quarterly reports for particular emission points and process sections not included in an emissions average as specified in paragraphs (e)(6)(xi)(A) through (e)(6)(xi)(E) of this section.

(A) If requested by the Administrator, the owner or operator of an affected

source shall submit quarterly reports for a period of 1 year for an emission point or process section that is not included in an emissions average if either the conditions in paragraph (e)(6)(xi)(A)(*1*) or (e)(6)(xi)(A)(*2*) of this section are met.

(*1*) An emission point has any excursions, as defined in § 63.505(g) or § 63.505(h) for a semiannual reporting period.

(*2*) The process section is out of compliance with its applicable standard.

(B) The quarterly reports shall include all information specified in paragraphs (e)(6)(iii) and (e)(6)(ix) of this section, as applicable to the emission point or process section for which quarterly reporting is required under paragraph (e)(6)(ix)(A) of this section. Information applicable to other emission points within the affected source shall be submitted in the semiannual reports required under paragraph (e)(6)(i) of this section.

(C) Quarterly reports shall be submitted no later than 60 operating days after the end of each quarter.

(D) After quarterly reports have been submitted for an emission point for 1 year, the owner or operator may return to semiannual reporting for the emission point or process section unless the Administrator requests the owner or operator to continue to submit quarterly reports.

(E) § 63.505 shall govern the use of monitoring data to determine compliance for Group 1 emission points.

(7) *Other reports.* Other reports shall be submitted as specified in paragraphs (e)(7)(i) and (e)(7)(ii) of this section.

(i) For storage vessels, the notifications of inspections required by § 63.484 shall be submitted, as specified in § 63.122(h)(1) and (h)(2) of subpart G.

(ii) For owners or operators of affected sources required to request approval for a nominal control efficiency for use in calculating credits for an emissions average, the information specified in § 63.503(i) shall be submitted.

(iii) For back-end process operations complying using control or recovery devices, the recompliance determination report required by § 63.499(d) shall be submitted within 180 days after the process change.

(8) *Operating Permit.* An owner or operator who submits an operating permit application instead of an Emissions Averaging Plan or a Precompliance Report shall submit the following information with the operating permit application:

(i) The information specified in paragraph (e)(4) of this section for points included in an emissions average; and

(ii) The information specified in paragraph (e)(3) of this section, Precompliance Report, as applicable.

(f) *Alternative monitoring parameters.* The owner or operator who has been directed by any section of this subpart to set unique monitoring parameters, or who requests approval to monitor a different parameter than those listed in § 63.484 for storage vessels, § 63.114 of subpart G for continuous front-end process vents, § 63.489 for batch front-end process vents and aggregate batch vent streams, § 63.497 for back-end process operations, or § 63.143 of subpart G for process wastewater shall submit the information specified in paragraphs (f)(1) through (f)(3) of this section in the Precompliance Report, as required by paragraph (e)(3) of this section. The owner or operator shall retain for a period of 5 years each record required by paragraphs (f)(1) through (f)(3) of this section.

(1) The required information shall include a description of the parameter(s) to be monitored to ensure the recovery device, control device, or pollution prevention measure is operated in conformance with its design and achieves the specified emission limit, percent reduction, or nominal efficiency, and an explanation of the criteria used to select the parameter(s).

(2) The required information shall include a description of the methods and procedures that will be used to demonstrate that the parameter indicates proper operation, the schedule for this demonstration, and a statement that the owner or operator will establish a level for the monitored parameter as part of the Notification of Compliance Status report required in paragraph (e)(5) of this section, unless this information has already been included in the operating permit application.

(3) The required information shall include a description of the proposed monitoring, recordkeeping, and recording system, to include the frequency and content of monitoring, recordkeeping, and reporting. Further, the rationale for the proposed monitoring, recordkeeping, and reporting system shall be included if either condition in paragraph (f)(3)(i) or (f)(3)(ii) of this section are met:

(i) If monitoring and recordkeeping is not continuous, or

(ii) If reports of daily average values will not be included in Periodic Reports when the monitored parameter value is above the maximum level or below the minimum level as established in the operating permit or the Notification of Compliance Status.

(g) *Alternative continuous monitoring and recordkeeping.* An owner or operator choosing not to implement the continuous parameter operating and recordkeeping provisions listed in § 63.485 for continuous front-end process vents, § 63.486 for batch front-end process vents and aggregate batch vent streams, § 63.493 for back-end process operations, and § 63.501 for wastewater, may instead request approval to use alternative continuous monitoring and recordkeeping provisions according to the procedures specified in paragraphs (g)(1) through (g)(4) of this section. Requests shall be submitted in the Precompliance Report as specified in paragraph (e)(3)(iv) of this section, if not already included in the operating permit application, and shall contain the information specified in paragraphs (g)(2)(ii) and (g)(3)(ii) of this section, as applicable.

(1) The provisions in § 63.8(f)(5)(i) of subpart A shall govern the review and approval of requests.

(2) An owner or operator of an affected source that does not have an automated monitoring and recording system capable of measuring parameter values at least once every 15 minutes and that does not generate continuous records may request approval to use a nonautomated system with less frequent monitoring, in accordance with paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(i) The requested system shall include manual reading and recording of the value of the relevant operating parameter no less frequently than once per hour. Daily average or batch cycle daily average values shall be calculated from these hourly values and recorded.

(ii) The request shall contain:

(A) A description of the planned monitoring and recordkeeping system;

(B) Documentation that the affected source does not have an automated monitoring and recording system;

(C) Justification for requesting an alternative monitoring and recordkeeping system; and

(D) Demonstration to the Administrator's satisfaction that the proposed monitoring frequency is sufficient to represent control device operating conditions, considering typical variability of the specific process and control device operating parameter being monitored.

(3) An owner or operator may request approval to use an automated data compression recording system that does not record monitored operating parameter values at a set frequency (for example, once every 15 minutes), but that records all values that meet set criteria for variation from previously

recorded values, in accordance with paragraphs (g)(3)(i) and (g)(3)(ii) of this section.

(i) The requested system shall be designed to:

(A) Measure the operating parameter value at least once every 15 minutes;

(B) Except for the monitoring of batch front-end process vents, record at least four values each hour during periods of operation;

(C) Record the date and time when monitors are turned off or on;

(D) Recognize unchanging data that may indicate the monitor is not functioning properly, alert the operator, and record the incident;

(E) Calculate daily average or batch cycle daily average values of the monitored operating parameter based on all measured data; and

(F) If the daily average is not an excursion, as defined in § 63.505 (g) or (h), the data for that operating day may be converted to hourly average values and the four or more individual records for each hour in the operating day may be discarded.

(ii) The request shall contain:

(A) A description of the monitoring system and data compression recording system, including the criteria used to determine which monitored values are recorded and retained;

(B) The method for calculating daily averages and batch cycle daily averages; and

(C) A demonstration that the system meets all criteria in paragraph (g)(3)(i) of this section.

(4) An owner or operator may request approval to use other alternative monitoring systems according to the procedures specified in § 63.8(f)(4) of subpart A.

(h) *Reduced recordkeeping program.* For any parameter with respect to any item of equipment, the owner or operator may implement the recordkeeping requirements in paragraph (h)(1) or (h)(2) of this section as alternatives to the continuous operating parameter monitoring and recordkeeping provisions listed in § 63.484 for storage vessels, § 63.485 for continuous front-end process vents, § 63.486 for batch front-end process vents and aggregate batch vent streams, § 63.493 for back-end processes, and § 63.501 for wastewater. The owner or operator shall retain for a period of 5 years each record required by paragraph (h)(1) or (h)(2) of this section.

(1) The owner or operator may retain only the daily average or the batch cycle daily average value, and is not required to retain more frequent monitored operating parameter values, for a monitored parameter with respect to an item of equipment, if the requirements of paragraphs (h)(1)(i) through (h)(1)(iv) of this section are met. An owner or operator electing to comply with the requirements of paragraph (h)(1) of this section shall notify the Administrator in the Notification of Compliance Status or, if the Notification of Compliance Status has already been submitted, in the Periodic Report immediately preceding implementation of the requirements of paragraph (h)(1) of this section.

(i) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation other than startups, shutdowns or malfunctions (e.g., a temperature reading of −200°C on a boiler), and will alert the operator by alarm or other means. The owner or operator shall record the occurrence. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(ii) The monitoring system generates, updated at least hourly throughout each operating day, a running average of the monitoring values that have been obtained during that operating day, and the capability to observe this running average is readily available to the Administrator on-site during the operating day. The owner or operator shall record the occurrence of any period meeting the criteria in paragraphs (h)(1)(ii)(A) through (h)(1)(ii)(C) of this section. All instances in an operating day constitute a single occurrence.

(A) The running average is above the maximum or below the minimum established limits;

(B) The running average is based on at least six one-hour periods; and

(C) The running average reflects a period of operation other than a startup, shutdown, or malfunction.

(iii) The monitoring system is capable of detecting unchanging data during periods of operation other than startups, shutdowns or malfunctions, except in circumstances where the presence of unchanging data is the expected operating condition based on past experience (e.g., pH in some scrubbers), and will alert the operator by alarm or other means. The owner or operator shall record the occurrence. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(iv) The monitoring system will alert the owner or operator by an alarm, if the running average parameter value calculated under paragraph (h)(1)(ii) of this section reaches a set point that is appropriately related to the established limit for the parameter that is being monitored.

(v) The owner or operator shall verify the proper functioning of the monitoring system, including its ability to comply with the requirements of paragraph (h)(1) of this section, at the times specified in paragraphs (h)(1)(v)(A) through (h)(1)(v)(C) of this section. The owner or operator shall document that the required verifications occurred.

(A) Upon initial installation.

(B) Annually after initial installation.

(C) After any change to the programming or equipment constituting the monitoring system, which might reasonably be expected to alter the monitoring system's ability to comply with the requirements of this section.

(vi) The owner or operator shall retain the records identified in paragraphs (h)(1)(vi)(A) through (h)(1)(vi)(C) of this section.

(A) Identification of each parameter, for each item of equipment, for which the owner or operator has elected to comply with the requirements of paragraph (h) of this section.

(B) A description of the applicable monitoring system(s), and how compliance will be achieved with each requirement of paragraphs (h)(1)(i) through (h)(1)(v) of this section. The description shall identify the location and format (e.g., on-line storage, log entries) for each required record. If the description changes, the owner or operator shall retain both the current and the most recent superseded description.

(C) A description, and the date, of any change to the monitoring system that would reasonably be expected to affect its ability to comply with the requirements of paragraph (h)(1) of this section.

(2) If an owner or operator has elected to implement the requirements of paragraph (h)(1) of this section for a monitored parameter with respect to an item of equipment and a period of 6 consecutive months has passed without an excursion as defined in paragraph (h)(2)(iv) of this section, the owner or operator is no longer required to record the daily average or batch cycle daily average value, for any operating day when the daily average or batch cycle daily average value is less than the maximum, or greater than the minimum established limit. With approval by the Administrator, monitoring data generated prior to the compliance date of this subpart shall be credited toward the period of 6 consecutive months, if the parameter limit and the monitoring accomplished during the period prior to the compliance date was required and/or approved by the Administrator.

(i) If the owner or operator elects not to retain the daily average or batch cycle

daily average values, the owner or operator shall notify the Administrator in the next Periodic Report. The notification shall identify the parameter and unit of equipment.

(ii) If, on any operating day after the owner or operator has ceased recording daily average or batch cycle daily average values as provided in paragraph (h)(2) of this section, there is an excursion as defined in paragraph (h)(2)(iv) of this section, the owner or operator shall immediately resume retaining the daily average or batch cycle daily average value for each operating day and shall notify the Administrator in the next Periodic Report. The owner or operator shall continue to retain each daily average or batch cycle daily average value until another period of 6 consecutive months has passed without an excursion as defined in paragraph (h)(2)(iv) of this section.

(iii) The owner or operator shall retain the records specified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iv) of this section, for the duration specified in paragraph (h) of this section. For any calendar month, if compliance with paragraphs (h)(1)(i) through (h)(1)(iv) of this section does not result in retention of a record of at least one occurrence or measured parameter value, the owner or operator shall record and retain at least one parameter value during a period of operation other than a startup, shutdown, or malfunction.

(iv) For the purposes of paragraph (h) of this section, an excursion means that the daily average or batch cycle daily average value of monitoring data for a parameter is greater than the maximum, or less than the minimum established value, except as provided in paragraphs (h)(2)(iv)(A) and (h)(2)(iv)(B) of this section.

(A) The daily average or batch cycle daily average value during any startup, shutdown, or malfunction shall not be considered an excursion for purposes of paragraph (h)(2) of this section, if the owner or operator follows the applicable provisions of the startup, shutdown, and malfunction plan required by § 63.6(e)(3) of subpart A.

(B) An excused excursion, as described in § 63.505(i), shall not be considered an excursion for the purposes of paragraph (h)(2) of this section.

TABLE 1.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART U AFFECTED SOURCES

Reference	Applies to subpart U	Comment
63.1(a)(1)	Yes	§ 63.482 of Subpart U specifies definitions in addition to or that supersede definitions in § 63.2.
63.1(a)(2)–63.1(a)(3)	Yes	
63.1(a)(4)	Yes	Subpart U (this table) specifies the applicability of each paragraph in subpart A to subpart U.
63.1(a)(5)	No	Reserved.
63.1(a)(6)–63.1(a)(8)	Yes	
63.1(a)(9)	No	Reserved.
63.1(a)(10)	No	Subpart U and other cross-referenced subparts specify calendar or operating day.
63.1(a)(11)	Yes	
63.1(a)(12)–63.1(a)(14)	Yes	
63.1(b)(1)	Yes	§ 63.480(a) contains specific applicability criteria.
63.1(b)(2)	Yes	
63.1(b)(3)	No	§ 63.480(b) of subpart U provides documentation requirements for EPPUs not considered affected sources.
63.1(c)(1)	Yes	Subpart U (this table) specifies the applicability of each paragraph in subpart A to subpart U.
63.1(c)(2)	No	Area sources are not subject to subpart U.
63.1(c)(3)	No	Reserved.
63.1(c)(4)	Yes	
63.1(c)(5)	Yes	Except that affected sources are not required to submit notifications overridden by this table.
63.1(d)	No	Reserved.
63.1(e)	Yes	
63.2	Yes	§ 63.482 of subpart U specifies those subpart A definitions that apply to subpart U.
63.3	Yes	
63.4(a)(1)–63.4(a)(3)	Yes	
63.4(a)(4)	No	Reserved.
63.4(a)(5)	Yes	
63.4(b)	Yes	
63.4(c)	Yes	
63.5(a)	Yes	
63.5(b)(1)	Yes	
63.5(b)(2)	No	Reserved.
63.5(b)(3)	Yes	
63.5(b)(4)	Yes	
63.5(b)(5)	Yes	
63.5(b)(6)	No	§ 63.480(i) of subpart U specifies requirements.
63.5(c)	No	Reserved.
63.5(d)(1)(i)	Yes	
63.5(d)(1)(ii)	Yes	Except that for affected sources subject to subpart U, emission estimates specified in § 63.5(d)(1)(ii)(H) are not required.
63.5(d)(1)(iii)	No	§ 63.506(e)(5) of subpart U specifies Notification of Compliance Status requirements.
63.5(d)(2)	xlNo.	
63.5(d)(3)	Yes	Except § 63.5(d)(3)(ii) does not apply.
63.5(d)(4)	Yes	
63.5(e)	Yes	
63.5(f)(1)	Yes	
63.5(f)(2)	Yes	Except that where § 63.5(d)(1) is referred to, § 63.5(d)(1)(i) does not apply.
63.6(a)	Yes	
63.6(b)(1)	Yes	

TABLE 1.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART U AFFECTED SOURCES—Continued

Reference	Applies to subpart U	Comment
63.6(b)(2)	Yes	
63.6(b)(3)	Yes	
63.6(b)(4)	Yes	
63.6(b)(5)	Yes	
63.6(b)(6)	No	Reserved.
63.6(b)(7)	Yes	
63.6(c)(1)	Yes	§ 63.481 of subpart U specifies the compliance date.
63.6(c)(2)	Yes	
63.6(c)(3)	No	Reserved.
63.6(c)(4)	No	Reserved.
63.6(c)(5)	Yes	
63.6(d)	No	Reserved.
63.6(e)	Yes	Except the plan, and any records or reports of startup, shutdown and malfunction do not apply to Group 2 emission points, unless they are included in an emissions average.
63.6(f)(1)	Yes	
63.6(f)(2)	Yes	Except that in § 63.6(f)(2)(iii)(D), paragraph 63.7(c) does not apply.
63.6(f)(3)	Yes	Except that § 63.6(f)(2)(iii)(D) is not applicable.
63.6(g)	Yes	
63.6(h)	No	Subpart U does not require opacity and visible emission standards.
63.6(i)	Yes	Except for § 63.6(i)(15), which is reserved, and except that the requests for extension shall be submitted no later than the date on which the Precompliance Report is required to be submitted in § 63.506(e)(3)(i).
63.6(j)	Yes	
63.7(a)(1)	Yes	
63.7(a)(2)	No	§ 63.506(e)(5) of subpart U specifies submittal dates.
63.7(a)(3)	Yes	
63.7(b)	No	§ 63.504(a)(4) of subpart U specifies notification requirements.
63.7(c)	No	Except if the owner or operator chooses to submit an alternative nonopacity emission standard for approval under § 63.6(g).
63.7(d)	Yes	
63.7(e)	Yes	Except that performance tests must be conducted at maximum representative operating conditions. In addition, some of the testing requirements specified in subpart U are not consistent with § 63.7(e)(3).
63.7(f)	No	Subpart U specifies applicable test methods and provides alternatives.
63.7(g)	Yes	Except that references to the Notification of Compliance Status report in 63.9(h) of subpart A are replaced with the requirements in § 63.506(e)(5) of subpart U.
63.7(h)	Yes	Except § 63.7(h)(4)(ii) is not applicable, since the site-specific test plans in § 63.7(c)(3) are not required.
63.8(a)(1)	Yes	
63.8(a)(2)	No	
63.8(a)(3)	No	Reserved.
63.8(a)(4)	Yes	
63.8(b)(1)	Yes	
63.8(b)(2)	No	Subpart U specifies locations to conduct monitoring.
63.8(b)(3)		
63.8(c)(1)(i)	Yes	
63.8(c)(1)(ii)	No	
63.8(c)(1)(iii)	Yes	
63.8(c)(2)	Yes	
63.8(c)(3)	Yes	
63.8(c)(4)	No	§ 63.505 of subpart U specifies monitoring frequency.
63.8(c)(5)–63.8(c)(8)	No	
63.8(d)	No	
63.8(e)	No	
63.8(f)(1)–63.8(f)(3)	Yes	
63.8(f)(4)(i)	No	Timeframe for submitting request is specified in § 63.506(f) of subpart U.
63.8(f)(4)(ii)	No	
63.8(f)(4)(iii)	No	
63.8(f)(5)(i)	Yes	
63.8(f)(5)(ii)	No	
63.8(f)(5)(iii)	Yes	
63.8(f)(6)	No	Subpart U does not require CEM's.
63.8(g)	No	Data reduction procedures specified in § 63.506(d) of subpart U.
63.9(a)	Yes	
63.9(b)	No	Subpart U does not require an initial notification.
63.9(c)	Yes	
63.9(d)	Yes	
63.9(e)	No	
63.9(f)	No	Subpart U does not require opacity and visible emission standards.
63.9(g)	No	
63.9(h)	No	§ 63.506(e)(5) of subpart U specifies Notification of Compliance Status requirements.

TABLE 1.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART U AFFECTED SOURCES—Continued

Reference	Applies to subpart U	Comment
63.9(i)	Yes	
63.9(j)	No	
63.10(a)	Yes	
63.10(b)(1)	Yes	
63.10(b)(2)	Yes	
63.10(b)(3)	No	§63.480(b) of subpart U requires documentation of sources that are not affected sources.
63.10(c)	No	§63.506 of subpart U specifies recordkeeping requirements.
63.10(d)(1)	Yes	
63.10(d)(2)	No	
63.10(d)(3)	No	Subpart U does not require opacity and visible emission standards.
63.10(d)(4)	Yes	
63.10(d)(5)	Yes	Except that reports required by §63.10(d)(5)(i) shall be submitted at the same time as Periodic Reports specified in §63.506(e)(6) of subpart U. The startup, shutdown, and malfunction plan, and any records or reports of startup, shutdown, and malfunction do not apply to Group 2 emission points unless they are included in an emissions average.
63.10(e)	No	
63.10(f)	Yes	
63.10(d)(4)	Yes	
63.11	Yes	
63.12	Yes	
63.13	Yes	
63.14	Yes	
63.15	Yes	

TABLE 2. APPLICABILITY OF SUBPARTS F, G, & H TO SUBPART U AFFECTED SOURCES

Reference	Applies To subpart U	Comment	Applicable section of subpart U
Subpart F			
63.100	No		
63.101	Yes	Several definitions from 63.101 are incorporated by reference into 63.482	63.482
63.102–63.109	No		
Subpart G			
63.110	No		
63.111	Yes	Several definitions from 63.111 are incorporated by reference into 63.482	63.482
63.112	No		
63.113–63.118	Yes	With the differences noted in 63.485(b) through 63.485(k)	63.485
63.119–63.123	Yes	With the differences noted in 63.484(c) through 63.484(q)	63.484
63.124–63.125	No	Reserved	
63.126–63.130	No		
63.131–63.147	Yes	With the differences noted in 63.501(a)(1) through 63.501(a)(8)	63.501
63.148	Yes	With the differences noted in 63.484(c) through 63.484(q) and 63.501(a)(1) through 63.501(a)(8).	63.484 and 63.501
63.149	No	Reserved	
63.150(a) through 63.150(f).	No		
63.150(g)(1) and 63.150(g)(2).	No		
63.150(g)(3)	Yes		63.503(g)(3)
63.150(g)(4)	No		
63.150(g)(5)	Yes		63.503(g)(5)
63.150(h)(1) and 63.150(h)(2).	No		
63.150(h)(3)	Yes		63.503(h)(3)
63.150(h)(4)	No		
63.150(h)(5)	Yes		63.503(h)(5)
63.150(i) through 63.150(o).	No		
63.151–63.152	No		
Subpart H			
63.160–63.193	Yes	Subpart U affected sources must comply with all requirements of subpart H	63.502

TABLE 3.—GROUP 1 STORAGE VESSELS AT EXISTING AFFECTED SOURCES

Vessel capacity (cubic meters)	Vapor pressure[a] (kilopascals)
75 ≤ capacity < 151	≥13.1
151 ≤ capacity	≥5.2

[a] Maximum true vapor pressure of total organic HAP at storage temperature.

TABLE 4.—GROUP 1 STORAGE VESSELS AT NEW SOURCES

Vessel capacity (cubic meters)	Vapor Pressure[a] (kilopascals)
38 ≤ capacity < 151	≥ 13.1
151 ≤ capacity	≥ 0.7

[a] Maximum true vapor pressure of total organic HAP at storage temperature.

TABLE 5.—KNOWN ORGANIC HAP FROM ELASTOMER PRODUCTS

Organic HAP/chemical name (CAS No.)	Elastomer Product/Subcategory											
	BR	EPI	EPR	HBR	HYP	NEO	NBL	NBR	PBR/SBRS	PSR	SBL	SBRE
Acrylonitrile (107131)							✔	✔				
1,3 Butadiene (106990)							✔	✔	✔		✔	✔
Carbon Tetrachloride (56235)					✔							
Chlorobenzene (108907)					✔							
Chloroform (67663)					✔							
Chloroprene (126998)						✔						
Epichlorohydrin (106898)		✔										
Ethylbenzene (100414)	✔										✔	
Ethylene Dichloride (75343)												
Ethylene Oxide (75218)		✔								✔		
Formaldehyde (50000)										✔		
Hexane (100543)	✔		✔						✔		✔	✔
Methanol (67561)	✔								✔			
Methyl Chloride (74873)	✔				✔							
Propylene Oxide (75569)		✔										
Styrene (100425)									✔		✔	✔
Toluene (108883)		✔	✔			✔			✔		✔	✔
Xylenes (1330207)	✔										✔	

AAAACAS No. = Chemical Abstract Service Number.
BR = Butyl Rubber.
EPI = Epichlorohydrin Rubber.
EPR = Ethylene Propylene Rubber.
HBR = Halobutyl Rubber.
HYP = Hypalon™.
NEO = Neoprene.
NBL = Nitrile Butadiene Latex.
NBR = Nitrile Butadiene Rubber.
PBR/SBRS = Polybutadiene and Styrene Butadiene Rubber by Solution.
PSR = Polysulfide Rubber.
SBL = Styrene Butadiene Latex.
SBR = Styrene Butadiene Rubber by Emulsion or Solution.
[a] Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R-(OCH_2CH_2)_n-OR'$ where:
n=1,2, or 3;
R=alkyl or aryl groups; and
R'=R, H, or groups which, when removed, yield glycol ethers with the structure:
$R-(OCH_2CH_2)_n-OH$

TABLE 6.—GROUP 1 BATCH FRONT-END PROCESS VENTS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS

Control/recovery device	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Thermal Incinerator	Firebox temperature[a]	1. Continuous records as specified in §63.491(e)(1)[b]. 2. Record and report the average firebox temperature measured during the performance test—NCS.[c]

TABLE 6.—GROUP 1 BATCH FRONT-END PROCESS VENTS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control/recovery device	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
		3. Record the batch cycle daily average firebox temperature as specified in §63.491(e)(2). 4. Report all batch cycle daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.[d,e]
Catalytic Incinerator	Temperature upstream and downstream of the catalyst bed.	1. Continuous records as specified in §63.491(e)(1).[b] 2. Record and report the average upstream and downstream temperatures and the average temperature difference across the catalyst bed measured during the performance test—NCS.[c] 3. Record the batch cycle daily average upstream temperature and temperature difference across catalyst bed as specified in §63.491(e)(2). 4. Report all batch cycle daily average upstream temperatures that are below the minimum upstream temperature established in the NCS or operating permit—PR.[d,e] 5. Report all batch cycle daily average temperature differences across the catalyst bed that are below the minimum difference established in the NCS or operating permit—PR.[d,e] 6. Report all instances when monitoring data are not collected.[e]
Boiler or Process Heater with a design heat input capacity less than 44 megawatts and where the batch front-end process vents or aggregate batch vent streams are *not* introduced with or used as the primary fuel.	Firebox temperature[a]	1. Continuous records as specified in §63.491(e)(1).[b] 2. Record and report the average firebox temperature measured during the performance test—NCS.[c] 3. Record the batch cycle daily average firebox temperature as specified in §63.491(e)(2).[d] 4. Report all batch cycle daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.[d,e]
Flare	Presence of a flame at the pilot light	1. Hourly records of whether the monitor was continuously operating during batch emission episodes selected for control and whether the pilot flame was continuously present during each hour. 2. Record and report the presence of a flame at the pilot light over the full period of the compliance determination—NCS.[c] 3. Record the times and durations of all periods during batch emission episodes when a pilot flame is absent or the monitor is not operating. 4. Report the times and durations of all periods during batch emission episodes selected for control when all pilot flames of a flare are absent—PR.[d]

TABLE 6.—GROUP 1 BATCH FRONT-END PROCESS VENTS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control/recovery device	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Scrubber for halogenated batch front-end process vents or aggregate batch vent streams (Note: Controlled by a combustion device other than a flare).	pH of scrubber effluent, and	1. Continuous records as specified in §63.491(e)(1).[b] 2. Record and report the average pH of the scrubber effluent measured during the performance test—NCS.[c] 3. Record the batch cycle daily average pH of the scrubber effluent as specified in §63.491(e)(2). 4. Report all batch cycle daily average pH values of the scrubber effluent that are below the minimum operating pH established in the NCS or operating permit and all instances when insufficient monitoring data are collected—PR.[d e]
	Scrubber liquid flow rate	1. Continuous records as specified in §63.491(e)(1).[b] 2. Record and report the scrubber liquid flow rate measured during the performance test—NCS.[c] 3. Record the batch cycle daily average scrubber liquid flow rate as specified in §63.491(e)(2). 4. Report all batch cycle daily average scrubber liquid flow rates that are below the minimum flow rate established in the NCS or operating permit and all instances when insufficient monitoring data are collected—PR.[d e]
Absorber[g]	Exit temperature of the absorbing liquid, and	1. Continuous records as specified in §63.491(e)(1).[b] 2. Record and report the average exit temperature of the absorbing liquid measured during the performance test—NCS.[c] 3. Record the batch cycle daily average exit temperature of the absorbing liquid as specified in §63.491(e)(2) for each batch cycle. 4. Report all the batch cycle daily average exit temperatures of the absorbing liquid that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.[d e]
Absorber[f]	Exit specific gravity for the absorbing liquid	1. Continuous records as specified in §63.491(e)(1).[b] 2. Record and report the average exit specific gravity measured during the performance test—NCS. 3. Record the batch cycle daily average exit specific gravity as specified in §63.491(e)(2). 4. Report all batch cycle daily average exit specific gravity values that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.[d e]
Condenser[f]	Exit (product side) temperature	1. Continuous records as specified in §63.491(e)(1).[b] 2. Record and report the average exit temperature measured during the performance test—NCS. 3. Record the batch cycle daily average exit temperature as specified in §63.491(e)(2). 4. Report all batch cycle daily average exit temperatures that are above the maximum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.[d,e]

TABLE 6.—GROUP 1 BATCH FRONT-END PROCESS VENTS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control/recovery device	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Carbon Adsorber[f]	Total regeneration stream mass flow during carbon bed regeneration cycle(s), and.	1. Record of total regeneration stream mass flow for each carbon bed regeneration cycle. 2. Record and report the total regeneration stream mass flow during each carbon bed regeneration cycle during the performance test—NCS.[c] 3. Report all carbon bed regeneration cycles when the total regeneration stream mass flow is above the maximum mass flow rate established in the NCS or operating permit—PR.[d e]
Carbon Adsorber[g]	Temperature of the carbon bed after regeneration and within 15 minutes of completing any cooling cycle(s).	1. Record the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s). 2. Record and report the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s) measured during the performance test—NCS.[c] 3. Report all carbon bed regeneration cycles when the temperature of the carbon bed after regeneration, or within 15 minutes of completing any cooling cycle(s), is above the maximum temperature established in the NCS or operating permit—PR.[d,e]
All Control Devices	Presence of flow diverted to the atmosphere from the control device *or*.	1. Hourly records of whether the flow indicator was operating during batch emission episodes selected for control and whether flow was detected at any time during the hour, as specified in § 63.491(e)(3). 2. Record and report the times and durations of all periods during batch emission episodes selected for control when emissions are diverted through a bypass line or the flow indicator is not operating—PD.[d]
All Control Devices	Monthly inspections of sealed valves	1. Records that monthly inspections were performed as specified in § 63.491(e)(4)(i). 2. Record and report all monthly inspections that show the valves are not closed or the seal has been changed—PR.[d]
Absorber, Condenser, and Carbon Adsorber (as an alternative to the above).	Concentration level or reading indicated by an organic monitoring device at the outlet of the recovery device.	1. Continuous records as specified in § 63.491(e)(1).[b] 2. Record and report the average concentration level or reading measured during the performance test—NCS. 3. Record the batch cycle daily average concentration level or reading as specified in § 63.491(e)(2). 4. Report all batch cycle daily average concentration levels or readings that are above the maximum concentration or reading established in the NCS or operating permit and all instances when monitoring data are not collected—PR.[d,e]

[a] Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.
[b] "Continuous records" is defined in § 63.111 of subpart G.
[c] NCS = Notification of Compliance Status described in § 63.506(e)(5).
[d] PR = Periodic Reports described in § 63.506(e)(6) of this subpart.
[e] The periodic reports shall include the duration of periods when monitoring data are not collected as specified in § 63.506(e)(6)(iii)(C) of this subpart.
[f] Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table.

TABLE 7.—OPERATING PARAMETERS FOR WHICH MONITORING LEVELS ARE REQUIRED TO BE ESTABLISHED FOR CONTINUOUS AND BATCH FRONT-END PROCESS VENTS AND AGGREGATE BATCH VENT STREAMS

Control/Recovery device	Parameters to be monitored	Established operating parameter(s)
Thermal incinerator	Firebox temperature	Minimum temperature.

TABLE 7.—OPERATING PARAMETERS FOR WHICH MONITORING LEVELS ARE REQUIRED TO BE ESTABLISHED FOR CONTINUOUS AND BATCH FRONT-END PROCESS VENTS AND AGGREGATE BATCH VENT STREAMS—Continued

Control/Recovery device	Parameters to be monitored	Established operating parameter(s)
Catalytic incinerator	Temperature upstream and downstream of the catalyst bed.	Minimum upstream temperature; and minimum temperature difference across the catalyst bed.
Boiler or process heater	Firebox temperature	Minimum temperature.
Scrubber for halogenated vents	Ph of scrubber effluent; and scrubber liquid flow rate.	Minimum pH; and minimum flow rate.
Absorber	Exit temperature of the absorbing liquid; and exit specific gravity of the absorbing liquid.	Minimum temperature; and minimum specific gravity.
Condenser	Exit temperature	Maximum temperature.
Carbon absorber	Total regeneration stream mass flow during carbon bed regeneration cycle; and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)).	Maximum mass flow; and maximum temperature.
Other devices (or as an alternate to the above)[a].	HAP concentration level or reading at outlet of device.	Maximum HAP concentration or reading.

[a] Concentration is measured instead of an operating parameter.

TABLE 8.—SUMMARY OF COMPLIANCE ALTERNATIVE REQUIREMENTS FOR THE BACK-END PROCESS PROVISIONS

Compliance alternative	Parameter to be monitored	Requirements
Compliance Using Stripping Technology, Demonstrated through Periodic Sampling [§ 63.495(b)].	Residual organic HAP content in each sample of crumb or latex.	(1) If batch stripping is used, at least one representative sample is to be taken from every batch. (2) If continuous stripping is used, at least one representative sample is to be taken each operating day.
	Quantity of Material (weight of latex or dry crumb rubber) represented by each sample.	(1) Acceptable methods of determining this quantity are production records, measurement of stream characteristics, and engineering calculations.
Compliance Using Stripping Technology, Demonstrated through Stripper Parameter Monitoring [§ 63.495(c)].	At a minimum, temperature, pressure, steaming rates (for steam strippers), and some parameter that is indicative of residence time..	(1) Establish stripper operating parameter levels for each grade in accordance with § 63.505(e). (2) Continuously monitor stripper operating parameters. (3) If hourly average parameters are outside of the established operating parameter levels, a crumb or latex sample shall be taken in accordance with § 63.495(c)(3)(ii).
Determining Compliance Using Control or Recovery Devices [§ 63.496].	Parameters to be monitored are described in Table 3 of subpart G..	Comply with requirements listed in Table 3 of subpart G, except for the requirements for halogenated vent stream scrubbers.

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Part III

Department of Labor

Employment and Training Administration
20 CFR Part 655
Wage and Hour Division
29 CFR Part 506

Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AB03

Wage and Hour Division

29 CFR Part 506

RIN 1215–AA90

Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports

AGENCIES: Employment and Training Administration and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration (ETA) and the Employment Standards Administration (ESA) of the Department of Labor (DOL or Department) are promulgating regulations to implement amendments to existing regulations governing the filing and enforcement of attestations by employers seeking to use alien crewmembers to perform longshore work in the U.S. The amendments relate to employers' use of alien crewmembers to perform longshore work at locations in the State of Alaska. Under the Immigration and Nationality Act, employers, in certain circumstances, are required to submit attestations to DOL in order to be allowed by the Immigration and Naturalization Service (INS) to use alien crewmembers to perform specified longshore activities at locations in the State of Alaska. The attestation process is administered by ETA, while complaints and investigations regarding the attestations are handled by ESA.

DATES: *Effective Date:* The final rule promulgated in this document is effective on October 7, 1996.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart F, and 29 CFR part 506, subpart F, contact Flora T. Richardson, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 219–5263 (this is not a toll-free number).

On 20 CFR part 655, subpart G, and 29 CFR part 506, subpart G, contact R. Thomas Shierling, Immigration Team, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 501–3884 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements of the Form ETA 9033–A under the Alaska exception and contained in this rule have been submitted to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control No. 1205–0352. The information collection requirements of the Form ETA 9033 under the prevailing practice exception, assigned OMB Control No. 1205–0309, remain unchanged by this rulemaking. The Form ETA 9033–A was published in the **Federal Register** with the interim final rule to implement the Alaska exception on January 19, 1995 (60 FR 3950). The Form ETA 9033 was published in the **Federal Register** with the final rule to implement the prevailing practice exception on September 8, 1992 (57 FR 40966).

The Employment and Training Administration estimates that employers will be submitting up to 350 attestations per year under the Alaska exception. The public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing information/data sources, gathering and maintaining the information/data needed, and completing and reviewing the attestation. It is likely that the burden will be considerably less in the second and subsequent years in which an employer submits an attestation.

II. Background

The Coast Guard Authorization Act of 1993, Pub. L. 103–206, 107 Stat. 2419 (Coast Guard Act), was enacted on December 20, 1993. Among other things, the Coast Guard Act amended section 258 of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) which places limitations on the performance of longshore work by alien crewmembers in U.S. ports.

The loading and unloading of vessels in U.S. ports had traditionally been performed by U.S. longshore workers. However, until passage of the Immigration Act of 1990 (IMMACT '90), Pub. L. 101–649, 104 Stat. 4978, alien crewmembers had also been allowed by Immigration and Naturalization Service (INS) regulation to do this kind of work in U.S. ports because longshore work was considered to be within the scope of permitted employment for alien crewmembers. The IMMACT '90 limited this practice in order to provide greater protection to U.S. longshore workers.

Prior to the Coast Guard Act's enactment, section 258 of the INA permitted alien crewmembers admitted with D-visas to perform longshore work only in four specific instances: (a) Where the vessel's country of registration does not prohibit U.S. crewmembers from performing longshore work in that country's ports and nationals of a country which does not prohibit U.S. crewmembers from performing longshore work in that country's ports hold a majority of the ownership interest in the vessel; (b) where there is in effect in a local port one or more collective bargaining agreement(s), each covering at least thirty percent of the longshore workers at a particular port and each permitting the activity to be performed by alien crewmembers; (c) where there is no collective bargaining agreement covering at least thirty percent of the longshore workers and an attestation has been filed with the Department which states that the use of alien crewmembers to perform longshore work is permitted under the prevailing practice of the port, that the use of alien crewmembers is not during a strike or lockout, that such use is not intended or designed to influence the election of a collective bargaining representative, and that notice has been provided to longshore workers at the port; and (d) where the activity is performed with the use of automated self-unloading conveyor belts or vacuum-actuated systems; *provided that*, the Secretary of Labor (Secretary) has not found that an attestation is required because it was not the prevailing practice to utilize alien crewmembers to perform the activity or because the activity was performed during a strike or lockout or in order to influence the election of a collective bargaining representative. For this purpose, the term "longshore work" does not include the loading or unloading of hazardous cargo, as determined by the Secretary of Transportation, for safety and environmental protection and no attestations were or are necessary for the loading and unloading of such cargo.

The Department published final regulations in the **Federal Register** on September 8, 1992 (57 FR 40966), to implement the prevailing practice exception under IMMACT '90. The fishing industry and the carriers worked together to comply with the law by

filing the necessary attestations to qualify under the prevailing practice exception. The International Longshore and Warehousemen's Union responded to protect the jurisdiction of U.S. longshore workers by filing complaints pursuant to the attestations and seeking cease and desist orders to halt the performance of longshore work by the carrier's alien crewmembers.

The basic problem was that the prevailing practice exception was apparently designed for established port areas. A lack of flexibility in the remote areas of Alaska where the longshore work needed to be performed, in some cases, prevented carriers from complying with Departmental regulations. As a result, even where there were no U.S. longshore workers available for the particular employment, employers in some of these remote areas were prohibited from performing the necessary longshore work, resulting in potential adverse impacts on the Alaskan fishing industry including the loss of American jobs. In order to remedy the situation, Congress consulted with representatives of the longshoremen's unions and the carriers and enacted special provisions recognizing the unique character of Alaskan ports.

The Coast Guard Act amended the INA by establishing a new Alaska exception to the general prohibition on the performance of longshore work by alien crewmembers in U.S. ports. The Alaska exception provides that the prohibition does not apply where the longshore work is to be performed at a particular location in the State of Alaska and an attestation with accompanying documentation has been filed by the employer with the Department of Labor. The INA provides, however, that longshore work consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall continue to be governed by section 258(c) of the INA (8 U.S.C. 1288(c)), even at locations in the State of Alaska. If, however, it is determined that an attestation is required for longshore work at locations in the State of Alaska consisting of the use of automated equipment, *i.e.*, because the Administrator has determined, pursuant to a complaint, that it is not the prevailing practice to use alien crewmembers to perform the longshore activity(ies) through the use of the automated equipment, or was during a strike or lockout or intended to influence an election of a bargaining representative for workers in the local port, or if the Administrator issues a cease and desist order against use of the automated equipment without such attestation, the required attestation shall be filed by the employer under the Alaska exception and not under the prevailing practice exception. The amended INA provides that the prevailing practice exception no longer applies in case of longshore work to be performed at a particular location in the State of Alaska. As a result, U.S. ports in the State of Alaska which were previously listed in Appendix A, "U.S. Seaports," were removed from the Appendix in the interim final rule.

The Alaska exception is intended to provide a preference for hiring United States longshoremen over the employer's alien crewmembers. The employer must attest that, before using alien crewmen to perform the activity specified in the attestation, the employer will make a bona fide request for and employ United States longshore workers who are qualified and available in sufficient numbers from contract stevedoring companies and private dock operators. The employer must also provide notice of filing the attestation to such contract stevedoring companies and private dock operators, and to labor organizations recognized as exclusive bargaining representatives of United States longshore workers. Finally, the employer must attest that the use of alien crewmembers to perform longshore work is not intended or designed to influence the election of a bargaining representative for workers in the State of Alaska.

III. Analysis of Comments on the Interim Final Rule

Comments regarding the January 19, 1995, interim final rule were received from 3 entities; a member of the general public through a U.S. Senator; a law firm; and a Federal government agency. None of the 3 comments received concerned the same issue so each will be discussed in turn.

A law firm submitted a comment on behalf of certain foreign carriers involved in longshore operations in Alaska. The firm's comment concerned the reporting and recordkeeping burden of the Department's Attestation by Employers Using Alien Crewmembers for Longshore Activities at Locations in the State of Alaska (Form ETA 9033–A).

The firm proposed that the Form ETA 9033–A be amended to allow employers to file attestations with multiple validity periods and to further amend the attestation to add a new box "(e)" to Item 8, to be entitled "Supplemental Attestation." If adopted, in the event of a change in circumstances, an existing attestation would be photocopied, box "(e)" checked, and a narrative description of the changed circumstances attached, rather than the employer having to file a new attestation.

With regard to the first suggestion, section 258(d)(4) of the INA (8 U.S.C. 1288) provides that "attestations filed under [the Alaska exception] shall expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestations filed with the Secretary of Labor." We believe that this statutory provision would preclude the Department from incorporating the suggested change. Further, ETA, the agency which will process such attestations, indicates that allowing multiple validity periods to apply to a single attestation would be extremely burdensome to administer. In the interim final rule, and continued here in the final rule, the regulations provided that an employer may file a single attestation for multiple locations in the State of Alaska, unlike attestations under the prevailing practice exception which are filed for a particular port. The Department believes this provision is a reasonable accommodation to employers of alien crewmembers and feels the suggested change would render this accommodation unpalatable.

The Department also opposes the second proposed change. First, it is not clear what a "change in circumstances" means. The Department believes that the example provided by the commenter, which concerned the opening of a new dock or facility in a new location, should necessitate filing of a new attestation by the employer. The fourth attestation element under the INA, provision of notice, is based upon actions taken by an employer to comply with the terms of the attestation on or before the date the attestation is filed. Therefore, if a new private dock opened in a new location, an employer should be required to submit a new attestation, attesting that notice of filing has been provided to the operator of the new private dock. The requirement that an employer provide notice of filing and request confirmation of coverage under the Longshore and Harbor Workers' Compensation Act is the only pre-filing requirement contained in the regulation, the other three attestation elements being prospective in nature. Since an employer must provide the required notice to the operator of the new private dock, whether the suggestion is adopted or not, we believe that the burden incurred by filing a new attestation, as compared to filing an amendment to an existing attestation with a narrative description of the change, is a nominal one. It should be noted that, as a matter of enforcement policy, an employer will

not be required to submit a new attestation in the event that a new private dock opened in a previously disclosed location. In that event, an employer will be considered to be in compliance as long as the required notice is provided to the operator of the new private dock and such is properly documented by the employer.

The second comment, filed by a member of the general public through the office of U.S. Senator Ted Stevens (R–AK), concerned longshore work performed by Greek and Russian vessels operating in the Aleutian Islands off Alaska under the reciprocity exception. See 8 U.S.C. 1288(e). The Department has no role in administering the reciprocity exception, which allows employers to use alien crewmembers to perform longshore activities in U.S. ports if the vessel is registered in a country which by law, regulation, or in practice does not prohibit such activity by crewmembers aboard U.S. vessels, and nationals of such a country own a majority of the ownership interest in the vessel.

The final comment received was from the Chief Counsel for Advocacy, Small Business Administration, who expressed concern that the regulations governing the Alaska exception may indeed have a significant economic impact on a substantial number of small businesses, contrary to the Department's certification under 5 U.S.C. 605(b). Further, the Chief Counsel questioned the Department's authority to publish the regulation as an interim final rule without a prior notice of proposed rulemaking.

As described above, due to a lack of flexibility in the remote areas of Alaska under the pre-existing "prevailing practice exception" to the general prohibition, representatives of the longshoremen's unions and the carriers, working in concert with the Alaskan Congressional delegation, enacted special provisions recognizing the unique character of Alaskan sea ports. The statute was a direct result of these negotiations between the affected parties. Departmental officials worked closely with all relevant parties in drafting the rule, both union and carrier representatives, including meeting on two separate occasions to discuss implementation of the statutory provisions.

Specific language in the statute prohibited employers from filing attestations for locations in the State of Alaska under the pre-existing prevailing practice exception, resulting in an adverse impact on the Alaskan fishing industry and potential loss of jobs and revenue for both U.S. workers and employers. Further, some employers may have been encouraged by economic exigencies to utilize foreign crewmembers in longshore work illegally or to reflag their vessels to qualify for the "reciprocity exception." Either of these actions by shippers would have diminished employment opportunities for Alaskan workers seeking longshore work, contrary to the purposes of the Coast Guard Act. The Department received evidence from union representatives that delay in implementing the Alaska exception would indeed have had an adverse impact on the employment opportunities of Alaskan workers seeking longshore work. Consequently, at the time, the Department, for good cause, determined that the potential harm made it impracticable and contrary to the public interest to delay implementation by publishing the rule as a proposed rule.

The Department believes the program and the regulations will in fact have a positive economic impact on small businesses such as contract stevedoring companies. These firms will benefit from an increase in their business opportunities which would not occur but for the Department's regulations to implement the Alaska exception. The purpose of the Alaska exception is to insure that, to the extent possible, U.S. contract stevedoring companies and private dock operators, some of which may be small businesses, are given a chance to compete for jobs which would otherwise go to foreign nationals. The only burden imposed by the regulations will fall upon foreign shippers who seek to employ alien workers in longshore work on foreign-flagged vessels which are registered in countries that do not afford similar work opportunities for U.S. longshoremen.

Finally, it is noted that other than the Chief Counsel's letter and despite the fact that the Department notified all relevant parties of the publication of the interim final rule in the **Federal Register**, the two comments described above were the only others received, neither of which concerned the economic impact of the rule on small businesses.

This is a new program and we believe that the paperwork burden will be reduced in subsequent years due to increased familiarity with the provisions contained in the regulations. The Department is very concerned about the reporting and record keeping burden on the regulated community, including small businesses, and is fully committed to reducing this burden where appropriate. In the instant case, however, we believe that the reporting and record keeping requirements under the Alaska exception and contained herein are required to maintain the program's integrity and to effectively carry out the Secretary's responsibilities in protecting the wages and working conditions of U.S. workers under the INA.

The regulations for the attestation program for employers using alien crewmembers for longshore work in the United States are published at 20 CFR part 655, subparts F and G, and 29 CFR part 506, subparts F and G, 60 FR 3950 (January 19, 1995).

Regulatory Impact and Administrative Procedure

E.O. 12866

In accordance with Executive Order 12866, the Department of Labor has determined that this is not a significant regulatory action as defined in section 3(f) of the Order.

Regulatory Flexibility Act

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact on a substantial number of small entities.

Catalog of Federal Domestic Assistance Number

This program is not listed in the *Catalog of Federal Domestic Assistance.*

List Of Subjects

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Fashion Models, Forest and Forest products, Guam, Health professions, Immigration, Labor, Longshore work, Migrant labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

29 CFR Part 506

Administrative practice and procedures, Aliens, Crewmembers, Employment, Enforcement, Immigration, Labor, Longshore work, Penalties, Reporting and recordkeeping requirements.

Adoption of the Joint Final Rule

Accordingly, the interim final rule amending 20 CFR part 655, subparts F and G, and 29 CFR part 506, subparts F and G, which was published at 60 FR 3950 on January 19, 1995, is adopted as a final rule without change.

Authority: 8 U.S.C. 1288(c) and (d).

Signed at Washington, DC, this 23rd day of August, 1996.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–22510 Filed 9–4–96; 8:45 am]

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federal register

Thursday
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Part IV

Department of Health and Human Services

Administration for Children and Families

Availability of Financial Assistance for the Mitigation of Environmental Impacts to Indian Lands Due to Department of Defense Activities; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612–972]

Availability of Financial Assistance for the Mitigation of Environmental Impacts to Indian Lands Due to Department of Defense (DOD) Activities

AGENCY: Administration for Native Americans (ANA), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Announcement of availability of competitive financial assistance to assist eligible applicants address environmental problems and impacts from DOD activities to Indian lands.

DEFINITION: For purposes of this program announcement, Indian land is defined as all lands used by American Indian tribes and Alaska Native Villages.

SUMMARY: The Congress has recognized that DOD activities may have caused environmental problems for Indian tribes and Alaska Natives. These environmental hazards can negatively impact the health and safety as well as the social and economic welfare of Indian tribes and Alaska Natives. Accordingly, the Congress has taken steps to help those affected begin to mitigate environmental impacts from DOD activities by assisting them in the planning, development and implementation of programs for such mitigation.

This environmental mitigation program was begun through a program announcement published on December 29, 1993 as a response to the Department of Defense Appropriations Act, Pub.L. 103–139, which was enacted on November 11, 1993. This program continues under Pub.L. 103–335 (the Act), enacted on September 30, 1994. Section 8094A of the Act states, "Of the funds appropriated to the Department of Defense (DOD) for Operations and Maintenace Defense-Wide, not less than $8,000,000 shall be made available until expended to the Administration for Native Americans within 90 days of enactment of this Act: Provided That such funds shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritizing of mitigation, on Indian lands resulting from Department of Defense activities: Provided further, That the Department of Defense shall provide to the Committees on Appropriations of the Senate and House of Representatives by September 30, 1995, a summary report of all environmental damage that has occurred on Indian land as a result of DOD activities, to include, to the extent feasible, a list of all documents and records known to the Department that describe the activity or action causing or relating to such environmental damage." The Administration for Native Americans (ANA) and the Department of Defense (DOD) announce the availability of remaining FY 95 funds for eligible applicants to begin or continue the process of addressing the environmental problems and damage caused from DOD activities.

FOR FURTHER INFORMATION CONTACT: Sharon McCully—(202) 690–5780 or John Bushman—(202) 690–6234 at the Administration for Native Americans, Department of Health and Human Services, 200 Independence Avenue, S.W., Rm 348F, Washington, D.C. 20201–0001.

DATES: The closing dates for submission of applications is November 8, 1996 and November 7, 1997.

A. Introduction and Purpose

The program announcement states the availability of unobligated FY 1995 funds to provide financial assistance to eligible applicants for the purpose of mitigating environmental impacts on Indian lands related to DOD activities.

Financial assistance awards made under this program announcement will be on a competitive basis and the proposals will be reviewed against the evaluation criteria contained in this announcement.

The Federal government recognizes that substantial environmental problems, resultant from defense activities, exist on Indian lands and will geographically range from border to border and from coast to coast. The nature and magnitude of the problems will most likely be better defined when affected Indian tribes and Alaska Natives have completed environmental assessments called for in Phase I of this four-phase program.

The Federal government has also recognized that Indian tribes, Alaska Natives and their tribal organizations must have the opportunity to develop their own plans and technical capabilities and access the necessary financial and technical resources in order to assess, plan, develop and implement programs to mitigate any impacts caused by DOD activities.

The ANA and the DOD recognize the potential environmental problems created by DOD activities that may affect air, water, soil and human and natural resources (i.e., forests, fish, plants). It is also recognized that potential applicants may have specialized knowledge and capabilities to address specific concerns at various levels within the four phase program. Under this announcement proposals will be accepted for *any and all of the four phases* or one specific phase. These phases are: Phase I—assessment of Indian lands to develop as complete an inventory as possible of environmental impacts caused by DOD activities; Phase II—identification and exploration of alternative means for mitigation of these impacts and determination of the technical merit, feasibility and expected costs and benefits of each approach in order to select one approach; Phase III—development of a detailed mitigation plan, and costing and scheduling for implementation of the design, including strategies for meeting statutory or regulatory requirements and for dealing with other appropriate Federal agencies; and, Phase IV—implementation of the mitigation plan.

The following are some known areas of concern. It is expected that applicants may identify additional areas of concern in their applications:

- Damage to treaty protected spawning habitats caused by artillery practice or other defense activities;
- Damage to Indian lands and improvements (e.g. wells, fences) and facilities caused by bombing practice;
- Damage caused to range and forest lands by gunnery range activities;
- Low-level flights over sacred sites and religious ceremonies which disrupt spiritual activities;
- Movement of soil covering the remains of buried Indian people and artifacts requiring, by tradition, their reburial in traditional rituals;
- Operation of dams by the Army Corps of Engineers which has had adverse impacts on spawning beds and treaty fishing rights and water quality due to problems of siltation; reduced stream flows; increased water temperatures; and, dredge and fill problems;
- Leaking of underground storage tanks on lands taken from Indians for temporary war-time use by the DOD;
- Unexploded ordnance from gunnery and bombing practice on Indian lands resulting in significant damage to rangelands, wildlife habitat, stock water wells, etc.;
- Disposal activities related to removal of unexploded ordnance, nuclear waste materials, toxic materials,

and biological warfare materials from Indian lands;

• Transportation of live ordnance, nuclear waste, chemical and biological warfare materials from and across Indian lands;

• Seepage of fluids suspected of containing toxic materials onto Indian lands;

• Chlorofluorocarbons (CFC's) resulting from abandoned containers and/or dumping onto Indian lands;

• Polychlorinated biphenyls (PCB's) from transformers which have been abandoned and/or dumped onto Indian lands;

• Public health concerns regarding electromagnetic fields surrounding Defense-related transmission facilities which cross Indian lands; and

• Reclamation activities required to mitigate any or all of the above stated conditions and other activities as they become known.

B. Proposed Projects To Be Funded With Unobligated FY 1995 Funds

The purpose of this announcement is to invite single year (up to seventeen months in duration) or up to thirty-six month proposals from eligible applicants to undertake any or all of the Phases. Applicants may apply for projects of up to 36 months duration. A multi-year project, requiring more than 12 months to develop and complete, affords applicants the opportunity to develop more complex and in-depth projects. Funding after the first 12 month budget period of an approved multi-year project is non-competitive and subject to availability of funds. (see Part E for further information)

Phase I: The purpose of Phase I is to conduct the research and planning needed to identify environmental impacts to Indian lands caused by DOD activities on or near Indian lands and to plan for remedial investigations to determine and carry out a preliminary assessment of these problems. These activities may include, but not be limited to, the following:

• Conduct site inspections to identify problems and causes related to DOD activities;

• Identify and develop approaches to handle raw data that will assist in performing comprehensive environmental assessments of problems and causes related to DOD activities;

• Identify apprcaches and develop methodologies which will be used to develop the activities to be undertaken in Phases II and III;

• Identify other Federal agency programs, if any, that must be involved in mitigation activities and their requirements;

• Identify potential technical assistance and expertise required to address the activities to be undertaken in Phases II and III; and

• Identify other Federal environmental restoration programs that could be accessed to cooperatively coordinate and mobilize resources in addressing short and long-term activities developed under Phase III.

Phase I should result in adequately detailed documentation of the problems and sources of help in solving them to provide a useful basis for examining alternative mitigation approaches in Phase II.

Phase II: The purpose of Phase II activities is to examine alternative approaches for mitigation of the impacts identified in Phase I and to lead toward the mitigation design to be developed in Phase III. Phase II activities may include, but need not be limited to the following:

• Conduct remedial investigation and/or feasibility studies as necessary;

• Plan for the design of a comprehensive mitigation strategy to address problems identified during Phase I which address areas such as land use restoration, clean-up processes, contracting and liability concerns; regulatory responsibilities; and resources necessary to implement clean up actions;

• Design strategies that coordinate with or are complementary to existing DOD cleanup programs such as the Defense Environmental Restoration Program which promotes and coordinates efforts for the evaluation and cleanup of contamination at DOD installations;

• Review possible interim remedial strategies that address immediate potential hazards to the public health and environment in order to provide alternative measures i.e., providing alternate water supplies, removing concentrated sources of contaminants, or constructing structures to prevent the spread of contamination;

• Identify specific types of technical assistance and management expertise required to assist in developing specific protocols for environmental assessments, remedial investigations, feasibility studies, interim remedial actions and strategic planning for existing and future mitigation activities;

• Review other types of assessments that need to be considered, reviewed and incorporated into the conduct and/or design process such as:

—Estimates of clean-up cost;
—Estimate of impacts of short-term approach;
—Estimate of impacts of long-term approach;
—Cultural impacts;
—Economic impacts;
—Human health-risk impacts; and

• Document approaches and procedures which have been developed in order to negotiate with appropriate Federal agencies for necessary cleanup action and to keep the public informed.

In establishing the basis for a design process, particularly when there are multiple problems, the applicants may want to consider a prioritization process as follows:

• Emergency situations that require immediate clean-up;

• Time-critical sites, i.e. sites where the situation will deteriorate if action is not taken soon;

• Projects with minimum funding requirements;

• Projects with intermediate-level funding requirements;

• Projects with maximum funding requirements.

Achieving compliance with Federal environmental protection legislation is the driving force behind all Federal clean-up activities. The following is a list of major Federal environmental legislation that should be recognized in a regulatory review as all Federal, state and local regulatory requirements which could have major impacts in the design of mitigation strategies:

• Indian Environmental General Assistance Program Act of 1992;

• Clean Air Act (CAA);

• Clean Water Act (CWA);

• Safe Drinking Water Act (SDWA);

• Surface Mining Control and Reclamation Act of 1977 (SMCRA);

• Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA);

• Toxic Substances Control Act (TSCA);

• Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA);

• Nuclear Waste Policy Act of 1982 (NWPA);

• Comprehensive Environmental Resource Conservation and Liability Act (CERCLA or Superfund);

• Resource Conservation and Recovery Act of 1976 (RCRA);

• Hazardous and Solid Waste Amendments of 1984 (HSWA);

• National Environmental Policy Act of 1969 (NEPA); Other Federal legislation that should be included in the regulatory review and that should be of assistance are the tribal specific legislative acts, such as:

• American Indian Religious Freedom Act;

• National Historic Preservation Act of 1991;

• Indian Environmental Regulatory Enhancement Act of 1990;

Other regulatory considerations could involve applicable tribal, village, state

and local laws, codes, ordinances, standards, etc. which should also be reviewed to assist in planning, the mitigation design, and development of the comprehensive mitigation strategy.

Phase II should result in a carefully documented examination of alternative approaches and the selection of an approach to be used in the Phase III design process.

Phase III: The purpose of Phase III is the completion of activities initiated under Phase II, the initiation of new activities required to implement programs, and the design of on-site actions required to mitigate environmental damage from DOD activities.

The Phase III activities may include but need not be limited to:

- Development and implementation of a detailed management plan to: guide corrective action; resolve issues rising from overlapping or conflicting jurisdictions; guide a cooperative and collaborative effort among all parties to ensure there are no duplicative or conflicting regulatory requirements governing the cleanup actions; and, establish a tribal or village framework and/or parameter(s) that will guide the negotiations process for one or multiple cleanup actions;
- Establishment of priorities for mitigation programs when there are multiple clean-up sites; consider at a minimum the nature of the hazard involved: such as its physical and chemical characteristics, including concentrations and mobility of contaminants; the pathway indicating potential for contaminant transport via surface water, ground water and air/soil, and any other indicators that are identified during the environmental assessment, including the prioritization process identified under Phase II;
- Program design and implementation of information dissemination strategies prior to start up of on-site implementation of mitigation program activities;
- Development of a legal and jurisdictional strategy that addresses DOD/contractor liability issues to ensure quality, cost-effective mitigation services, and to evaluate any measures providing equitable risk between the DOD and the remediation contractor, as well as to incorporate Tribal Employment Rights Office (TERO) and other policies and procedures, if required;
- Design of an approval process and other processes necessary for the implementation of tribal and village codes and regulations for current and future compliance enforcement of all mitigation actions;
- Development/design of a documentation strategy to ensure all DOD and contractor cleanup activities are conducted and completed in a environmentally clean and safe manner for the social and economic welfare, as well as public health of Indian and Alaska Native people and the surrounding environment;
- Development and conduct of certified training programs that will enable a local work force to become technically capable to participate in the mitigation activities, if they so choose; and
- Conduct of any other activities deemed necessary to carry out Phases I, II and III activities.

Phase III should result in a comprehensive plan for conducting all aspects of mitigation action contemplated.

Phase IV: *The Phase IV activities are the implementation of mitigation plans specified in the detailed plan completed in Phase III.*

C. Eligible Applicants

The following organizations are eligible to apply:

- Federally recognized Indian tribes;
- Incorporated Non-Federally and State recognized Indian tribes;
- Alaska Native villages, tribes or tribal governing bodies (IRA or traditional councils) as recognized by the Bureau of Indian Affairs;
- Nonprofit Alaska Native Regional Associations and/or Corporations with village specific projects;
- Nonprofit Native Organizations in Alaska with village specific projects;
- Other tribal or village organizations or consortia of Indian tribes.

In addition, current ANA grantees who meet the above eligibility criteria, but do not have a mitigation grant under Program Announcement 93612–952 are also eligible to apply for a grant award under this program announcement.

D. Available Funds

Subject to availability of funds, approximately $7 million of financial assistance is available under this program announcement for eligible applicants. All remaining unobligated FY 95 funds will be available for this purpose. It is expected that about 25 awards will be made, ranging from $100,000 to $1 million. Each eligible applicant described above (Part C) can receive only one grant award under this announcement.

E. Multi-Year Projects

This announcement is soliciting applications for project periods up to 36 months. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be as long as 36 months. Funding after the 12 month budget period of an approved multi-year project is non-competitive. The non-competitive funding for the second and third years is contingent upon the grantee's satisfactory progress in achieving the objectives of the project according to the approved work plan, the availability of Federal funds, compliance with the applicable statutory, regulatory and grant requirements, and determination that continued funding is in the best interest of the Government.

F. Grantee Share of Project

Grantees must provide at least five (5) percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. The funds for the match must be from a private source, or state source where the funds were not obtained from the Federal government by the state, or a Federal source where legislation or regulation authorizes the use of these funds for matching purposes. Therefore, a project requesting $300,000 in Federal funds (based on an award of $100,000 per budget period), must include a match of at least $15,789 (5% total project cost). Applicants may request a waiver of the requirement for a 5% non-Federal matching share. Since the matching requirement is very low it is not expected that waivers will be requested, However, the procedure for requesting a waiver can be found in 45 CFR 1336, Subpart E- Financial Assistance Provisions.

It is the policy of ANA to apply the waiver of the non-Federal matching share requirement for the purposes of this particular program announcement.

G. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

H. Application Process

(1) Availability of Application Forms: In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied, including Form–424, and in the manner prescribed by ANA. The application kits containing the necessary forms and instructions may be obtained from: Department of Health and Human Services,Administration for

Children and Families, Administration for Native Americans, Room 348F, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201–0001, (202) 690–7776.

(2) Application Submission: Each application should include one signed original and two (2) copies of the grant application, including all attachments. Assurances and certifications must be completed. Submission of the application constitutes certification by the applicant that it is in compliance with Drug-Free Workplace and Debarment and these forms do not have to be submitted. The application must be hand delivered or mailed by the closing date to: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, Rm 348–F, 200 Independence Avenue, S.W., Washington, D.C. 20201–0001, Attn: 93612–972.

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at the Administration for Children and Families, Administration for Native Americans, 200 Independence Avenue, S.W. Washington, D.C. 20201–0001.

The application must be signed by an individual authorized: 1) to act for the applicant tribe, village or organization, and 2) to assume the applicant's obligations under the terms and conditions of the grant award.

(3) Application Consideration: The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement. The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel consisting of reviewers familiar with environmental problems of Indian tribes and Alaska Native villages will evaluate each application against the published criteria in this announcement. The results of this review will assist the Commissioner in making final funding decisions.
- The Commissioner's decision will also take into account the comments of ANA staff, state and Federal agencies having performance related information, and other interested parties.
- As a matter of policy the Commissioner will make grant awards consistent with the stated purpose of this announcement and all relevant statutory and regulatory requirements *under 45 CFR Parts 74 and 92 applicable to grants under this announcement.*
- After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within approximately 120 days of the closing date. Successful applicants are notified through an official Financial Assistance Award (FAA) document. The Administration for Native Americans staff cannot respond to requests for funding decisions prior to the official notification to the applicants. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, *and the amount of the non-Federal matching share requirement.*

I. Review Process

1. Initial Application Review

Applications submitted by the closing date and verified by the postmark date under this program announcement will undergo a pre-review to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement.
- The application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation (All required materials and forms are listed in the Grant Application Checklist.)

2. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the evaluation criteria. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

3. Determination of Ineligibility

Applicants who are initially rejected from competitive evaluation because of ineligibility, may appeal an ANA decision of applicant ineligibility. Likewise, applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817).

J. Review Criteria

A proposed project should reflect the purposes stated and described in the *Introduction and Program Purpose* (Section A) of this announcement. No additional weight or preference is given to applications because of an increased number of phases proposed. Also, competition is not based on proposals of the same phase or phases but on the merit of the application independent of phase consideration. The evaluation criteria are:

(1) Goals and Available Resources (15 points):

(a) The application presents specific mitigation goals related to the proposed project. It explains how the tribe or village intends to achieve those goals identified in the application and clearly documents the involvement and support of the community in the planning process and implementation of the proposed project. The above requirement may be met by submission of a resolution by a tribe or tribal organization stating that community involvement has occured in the project planning and will occur in the implementation of the project.

(b) Available resources (other than ANA) which will assist, and be coordinated with the project are described. These resources may be personnel, facilities, vehicles or financial and may include other Federal and non-Federal resources.

(2) Organizational Capabilities and Qualifications (10 points).

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly demonstrates the successful management of prior or current projects of similar scope by the organization and/or by the individuals designated to manage the project.

(b) Position descriptions or resumes of key personnel, including those of consultants, are presented. The position descriptions and resumes relate specifically to the staff proposed in the Approach Page and in the proposed Budget of the application. Position descriptions very clearly describe the position and its duties and clearly relate to the personnel staffing required for implementation of the project activities. Either the position descriptions or the resumes present the qualifications that the applicant believes are necessary for overall quality management of the project.

(3) Project Objectives, Approach and Activities (45 points). The Objective Work Plan in the application includes

project objectives and activities related to the long term goals for each budget period proposed and demonstrates that these objectives and activities:

- Are measurable and/or quantifiable;
- Are based on a fully described and locally determined balanced strategy for mitigation of impacts to the environment;
- Clearly relate to the tribe or village long-range goals which the project addresses;
- Can be accomplished with available or expected resources during the proposed project period;
- Indicate when the objective, and major activities under each objective will be accomplished;
- Specify who will conduct the activities under each objective; and
- Support a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) Results or Benefits Expected (20 points). The proposed project will result in specific measurable outcomes for each objective that will clearly contribute to the completion of the project and will help the tribe or village meet its goals. The specific information provided in the application on expected results or benefits for each objective is the basis upon which the outcomes can be evaluated at the end of each budget year.

(5) Budget (10 points).

There is a detailed budget provided for each budget period requested. (This is especially necessary for multi-year applications.) The budget is fully explained. It justifies each line item in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source. Sufficient cost and other detail is included and explained to facilitate the determination of cost allowability and the relevance of these costs to the proposed project. The funds requested are appropriate and necessary for the scope of the project.

K. Guidance to Applicants

The following is provided to assist applicants to develop a competitive application.

(1) *Program Guidance:*

- The Administration for Native Americans will fund projects that present the strongest prospects for meeting the stated purposes of this program announcement. Projects will not be funded on the basis of need alone.
- In discussing the problems being addressed in the application, relevant historical data should be included so that the appropriateness and potential benefits of the proposed project will be better understood by the reviewers and decision-maker.
- Supporting documentation, if available, should be included to provide the reviewers and decision-maker with other relevant data to better understand the scope and magnitude of the project.
- The applicant should provide documentation showing support for the proposed project from authorized officials, board of directors and/or officers through a letter of support or resolution. It would be helpful, particularly for organizations, to delineate the membership, make-up of the board of directors, and its elective procedures to assist reviewers in determining authorized support.

(2) *Technical Guidance.*

- Applicants are strongly encouraged to have someone other than the author apply the evaluation criteria in the program announcement and to score the application prior to its submission, in order to gain a better sense of its quality and potential competitiveness in the review process.
- ANA will accept only one application under this program announcement from any one applicant. If an eligible applicant sends two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.
- An application from an Indian tribe, Alaska Native Village or other eligible organization must be submitted by the governing body of the applicant.
- The application's Form 424 must be signed by the applicant's representative (tribal official or designate) who can act with full authority on behalf of the applicant.
- The Administration for Native Americans suggests that the pages of the application be numbered sequentially from the first page and that a table of contents be provided. The page numbering, along with simple tabbing of the sections, would be helpful and allows easy reference during the review process.
- Two (2) copies of the application plus the original are required.
- The Cover Page should be the first page of an application, followed by the one-page abstract.
- Section B of the Program Narrative should be of sufficient detail as to become a guide in determining and tracking project goals and objectives.
- The applicant should specify the entire length of the project period on the first page of the Form 424, Block 13, not the length of the first budget period. ANA will consider the project period specified on the Form 424 as governing.
- Line 15a of the Form 424 should specify the Federal funds requested for the first *Budget period,* not the entire project period.
- Applicants proposing multi-year projects need to describe and submit project objective workplans and activities for each budget period. (Separate itemized budgets for the Federal and non-Federal costs should be included).
- Applicants for multi-year projects must justify the entire time-frame of the project and also project the expected results to be achieved in each budget period and for the total project period.

(3) *Projects or activities that generally will not meet the purposes of this announcement.*

- Proposals from consortia of tribes or villages that are not specific with regard to support from, and roles of member tribes.
- The purchase of real estate or construction.

L. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Program Narrative Statement by OMB.

M. Due Date for Receipt of Applications

The closing date for applications submitted in response to this program announcement are November 8, 1996 and November 7, 1997.

N. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Section H, Application Process: Application Submission.

The Administration for Native Americans will not accept applications submitted electronically nor via facsimile (FAX) equipment.

Deadline: Applications shall be considered as meeting the announced deadline if they are either:

1. Received on or before the deadline date at the place specified in the program announcement, or
2. Sent on or before the deadline date and received by the granting agency in the time for the independent review under DHHS GAM Chapter 1–62 (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated

receipt from a commercial carrier or U.S. Postal Service. Private Metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications. Applications which do not meet the criteria above are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines. The granting agency may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

(Catalog of Federal Domestic Assistance Program Number 93.612 Native American Programs)

Dated: August 27, 1996.

Gary N. Kimble,

Commissioner, Administration for Native Americans.

BILLING CODE 4184-01-P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration

D. Decrease Duration Other (*specify*):

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A. State	H. Independent School Dist.
B. County	I. State Controlled Institution of Higher Learning
C. Municipal	J. Private University
D. Township	K. Indian Tribe
E. Interstate	L. Individual
F. Intermunicipal	M. Profit Organization
G. Special District	N. Other (Specify):

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184-01-C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided.

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column heading on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duty authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers,

or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

BILLING CODE 4184–01–P

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184-01-C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions" provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184-01-P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

[FR Doc. 96–22604 Filed 9–4–96; 8:45 am]

BILLING CODE 4184–01–C

federal register

Thursday
September 5, 1996

Part V

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5556–5]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of Acceptability.

SUMMARY: This notice expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. In addition, this Notice clarifies information on refrigerant blends R–410A, R–410B, and R–407C that EPA previously added to the acceptable substitute list.

ADDRESSES: Information relevant to this notice is contained in Air Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone: (202) 260–7548. The docket may be inspected between 8:00 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Nancy Smagin at (202) 233–9126 or fax (202) 233–9577, U.S. EPA, Stratospheric Protection Division, 401 M Street, S.W., Mail Code 6205J, Washington, D.C. 20460; EPA Stratospheric Ozone Protection Hotline at (800) 296–1996; EPA World Wide Web Site at http://www.epa.gov/ozone/title6/snap/snap.html.

SUPPLEMENTARY INFORMATION:

I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

Rulemaking—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

Listing of Unacceptable/Acceptable Substitutes—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

Petition Process—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional 6 months.

90-day Notification—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or *existing* chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

Outreach—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

Clearinghouse—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program. At the same time, EPA also issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in the final rule for the SNAP program (59 FR 13044), EPA does not believe that rulemaking is required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Consequently, EPA is adding substances to the list of acceptable alternatives by this notice.

EPA does, however, believe that Notice-and-Comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from either the list of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the **Federal Register**.

The Agency defines a "substitute" as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators or end-users, when they are responsible for introducing a substitute into commerce.

EPA published lists of acceptable alternatives on August 26, 1994 (59 FR 44240), January 13, 1995 (60 FR 3318), July 28, 1995 (60 FR 38729), February 8, 1996 (61 FR 4736) and published Final Rulemakings restricting the use of certain substitutes on June 13, 1995 (60 FR 31092), and May 22, 1996 (61 FR 25585). EPA also published a Notice of Proposed Rulemaking restricting the use of certain substitutes on May 22, 1996 (61 FR 25604).

II. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes for class I and class II substances in the following industrial sectors: refrigeration and air conditioning, foam blowing, and fire

suppression and explosion protection. In this Notice, EPA has split the refrigeration and air conditioning sector into two parts: substitutes for class I substances and substitutes for class II substances. For copies of the full list, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

Parts A through G below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing today's listing decisions are in Appendix A. The comments contained in Appendix A provide additional information on a substitute, but for listings of acceptable substitutes, they are not legally binding under section 612 of the Clean Air Act. Thus, adherence to recommendations in the comments is not mandatory for use as a substitute. In addition, the comments should not be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments to their use of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning: Class I

1. Secondary Loop Systems

In this Notice, EPA requests information about fluids used in secondary loop systems. Unlike most other end-uses, secondary loop systems do not circulate refrigerant through heat exchangers that are in direct contact with the refrigerated or air conditioned space. Rather, the primary refrigerant exchanges heat only with a second fluid, which in turn carries heat away from the cooled space.

A good example of such a system is a large building chiller. The primary loop chills water, which then circulates throughout the building, where fans blow air over the cold pipes to air condition occupied spaces. Another example is an ammonia-based supermarket refrigeration system. The ammonia-containing primary loop is isolated from the occupied area of the store, while a secondary loop fluid carries the chill to the refrigerated cases.

Secondary loop systems are gaining market share in many areas because they offer potential safety improvements, particularly when the primary refrigerant is flammable or toxic. The primary system generally has a relatively small charge, and it can be placed in an external building, thereby removing the risk to occupants. In addition, a smaller charge means that less refrigerant can escape during a leak. Given even the lower ozone depletion potential (ODP) of HCFCs, and global warming potential (GWP) of some HCFCs and HFCS, this reduced leakage yields direct benefits to the environment. Because of the potential environmental and safety benefits of secondary loop systems, EPA is investigating whether it would be appropriate to list secondary fluids formally under the SNAP program.

Such systems would use an already EPA-acceptable refrigerant in the primary loop and a different fluid in the secondary loop. Therefore, such a system could be listed as a not-in-kind replacement for CFC-based refrigeration and air conditioning equipment. EPA is aware that water, ethylene glycol, propylene glycol, ice slurries, CO_2, ethyl alcohol, calcium chloride, Flo-ice, HCFC–123, and certain hydrofluoroethers are either used today or are being considered for use as secondary fluids. While studying whether this end-use would be appropriate for listing, EPA invites companies interested in listing other secondary loop fluids to contact the SNAP coordinator at 202–233–9126, fax 202–233–9577.

2. Acceptable Substitutes for Other End-Uses

Note that EPA acceptability does not mean that a given substitute will work in a specific type of equipment within an end-use. Engineering expertise must be used to determine the appropriate use of these and any other substitutes. In addition, although some alternatives are listed for multiple refrigerants, they may not be appropriate for use in all equipment or under all conditions.

a. Hot Shot and GHG–X4

Hot Shot and GHG–X4, both of which consist of HCFC–22, HCFC–124, HCFC–142b, and isobutane, are acceptable as substitutes for CFC–12 and R–500 in the following retrofitted and new end-uses:

- Centrifugal and Reciprocating Chillers
- Industrial Process Refrigeration
- Ice Skating Rinks
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators
- Household Freezers
- Residential Dehumidifiers
- Non-Automotive Motor Vehicle Air Conditioners

Because HCFC–22 and HCFC–142b contribute to ozone depletion, they will be phased out of production. Therefore, these blends will be used primarily as retrofit refrigerants. However, these blends are acceptable for use in new systems. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to these blends. HCFC–142b has one of the highest ODPs among the HCFCs. The GWPs of HCFC–22 and HCFC–142b are 1700 and 2000, respectively, which are somewhat high. However, this concern is mitigated by the scheduled phaseout of these refrigerants. Although HCFC–142b and isobutane are flammable, these blends are not. In addition, testing on these blends has shown that they do not become flammable after leaks. GHG–X4 is being sold under the trade names "Autofrost" and "Chill-It."

b. R–401C

R–401C, which consists of HCFC–22, HFC–152a, and HCFC–124, is acceptable as a substitute for CFC–12 in retrofitted and new non-automotive motor vehicle air conditioners. Because HCFC–22 and HCFC–124 contribute to ozone depletion, they will be phased out of production. Therefore, these blends will be used primarily as retrofit refrigerants. However, these blends are acceptable for use in new systems. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to these blends. HCFC–142b has one of the highest ODPS among the HCFCs. The GWP of HCFC–22 is 1700, which is somewhat high. However, this concern is mitigated by the scheduled phaseout of this refrigerant. Although HCFC–142b and isobutane are flammable, these blends are not. In addition, testing on these blends has shown that they do not become flammable after leaks. GHG–X4 is being sold under the trade names "Autofrost" and "Chill-It."

c. NARM–502

NARM–502, which consists of HCFC–22, HFC–23, and HFC–152a, is acceptable as a substitute for R–503 and CFC–13 in new and retrofitted very low temperature refrigeration and industrial process refrigeration. Because HCFC–22 contributes to ozone depletion, it will be phased out of production. Therefore, this blend will be used primarily as a retrofit refrigerant. However, NARM–502 is acceptable for use in new systems. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend. The GWP of HCFC–22 is 1700,

which is somewhat high, and the GWP of HFC–23 is 12,100, which is extremely high. However, other acceptable refrigerants in this end-use also contain either HFC–23 or perfluorocarbons (PFCs), with higher GWPs. In addition, the percentage of HFC–23 is quite small, so this blend poses much lower global warming risk than other substitutes for this end-use. Although HFC–152a is flammable, NARM–502 as blended is not, and testing has shown that it does not become flammable after leaks.

d. Freezone (Formerly Listed as HCFC Blend Delta) and FREEZE 12

Freezone, which consists of HFC–134a, HCFC–142b, and a lubricant, and FREEZE 12, which consists of HFC–134a and HCFC–142b, are acceptable as substitutes for CFC–12 in the following retrofitted and new end-uses:

- Centrifugal and Reciprocating Chillers
- Industrial Process Refrigeration
- Ice Skating Rinks
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators
- Household Freezers
- Residential Dehumidifiers
- Non-Automotive Motor Vehicle Air Conditioners

Because HCFC–142b contributes to ozone depletion, it will be phased out of production. Therefore, these blends will be used primarily as retrofit refrigerants. However, they are acceptable for use in new systems. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to these blends. HCFC–142b has one of the highest ODPs among the HCFCs. In addition, the GWP of HCFC–142b is 2000, which is somewhat high. However, this concern is mitigated by the scheduled phaseout of this refrigerant. Although HCFC–142b is flammable, Freezone and FREEZE 12 as blended are not, and testing has shown that they do not become flammable after leaks.

e. G2018C

G2018C, which consists of HCFC–22, HFC–152a, and propylene, is acceptable as a substitute for CFC–12 in the following retrofitted and new end-uses:

- Centrifugal and Reciprocating Chillers
- Industrial Process Refrigeration
- Ice Skating Rinks
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines

Because HCFC–22 contributes to ozone depletion, it will be phased out of production. Therefore, this blend will be used primarily as a retrofit refrigerant. However, it is acceptable for use in new systems. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to G2018C. The GWP of HCFC–22 is 1700, which is somewhat high. However, this concern is mitigated by the scheduled phaseout of this refrigerant. Although HFC–152a is flammable, G2018C as blended is not, and testing has shown that it does not become flammable after leaks.

B. Refrigeration and Air Conditioning: Class II

1. Clarification of Previous Notice (61 FR 4736)

Please refer to the March 18, 1994 SNAP rule (59 FR 13044) for detailed information pertaining to the designation of end-uses, additional requirements imposed under sections 608 and 609, and other information related to the use of alternative refrigerants.

This Notice marks the second time EPA has listed acceptable substitutes for HCFC–22 in the refrigeration and air conditioning sector. Although the substitutes listed below were intended specifically to replace HCFC–22, HCFC–22 is itself frequently used as a substitute for class I refrigerants (e.g, CFC–11 and CFC–12). Therefore, the listings below also describe these HCFC–22 substitutes as acceptable alternatives for class I refrigerants in new equipment. The underlying reasoning is that if, for instance, HCFC–22 poses lower overall risk than CFC–12, and R–410A poses lower overall risk than HCFC–22, then R–410A must also pose lower overall risk than CFC–12. Therefore, even though R–410A is not designed to be a direct replacement for CFC–12, in new equipment it may be appropriate to design for R–410A rather than for another CFC–12 substitute. As with all listings, however, engineering expertise is required to determine the best match between a given class I refrigerant and an alternative.

The February 8, 1996 Notice of Acceptability (61 FR 4736) inadvertently described R–410A, R–410B, and R–407C as not containing any components regulated as volatile organic compounds (VOC) under Title I of the Clean Air Act . In fact, all three blends contain HFC–32, which is a VOC-regulated compound.

2. Acceptable Substitutes

a. R–507

R–507, which consists of HFC–143a and HFC–125, is acceptable as a substitute for HCFC–22, and by extension, class I refrigerants, in equipment in the following new and retrofit end-uses:

- Commercial comfort air conditioning
- Industrial process refrigeration systems
- Industrial process air conditioning
- Refrigerated transport
- Retail food refrigeration
- Cold storage warehouses
- Vending machines
- Commercial ice machines
- Household and light commercial air conditioning

R–507 contains HFC–125 and HFC–143a. HFC–125 and HFC–143a exhibit a fairly high global warming potential (3,200 and 4,400 respectively at 100 year integrated time horizon) compared to other HFCs and HCFC–22. However, their potential for contributing to global warming will be mitigated in the listed end uses through the implementation of the venting prohibition under Section 608(c)(2) of the Clean Air Act. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect through regulations on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996. R–507 does not contain ozone-depleting substances and is low in toxicity. Although HFC–143a is flammable, the blend is not. It is a near azeotrope, so it will not fractionate during operation. Leak testing has demonstrated that its composition never becomes flammable.

b. Ammonia

Ammonia, either in vapor compression or absorption systems, is acceptable as a substitute for HCFC–22, and by extension, class I refrigerants, in equipment in the following new end-uses:

- Industrial process air conditioning
- Industrial process refrigeration
- Ice skating rinks
- Cold storage warehouses
- Commercial ice machines
- Commercial comfort air conditioning (absorption chillers or vapor compression with a secondary loop)

- Retail food refrigeration (with a secondary loop)
- Household refrigerators (absorption systems only)
- Household and light commercial air conditioning (absorption systems only)

Ammonia applications that do not fall under any of the above-listed end uses and for which ammonia has traditionally been used as the refrigerant fluid, whether in vapor compression or absorption systems, are not covered under the SNAP program. Therefore, does not require notification or listing under the SNAP program.

Ammonia has been used as a medium to low temperature refrigerant in vapor compression cycles for more than 100 years. Ammonia has excellent refrigerant properties, a characteristic pungent odor, no long-term atmospheric risks, and low cost. It is, however, moderately flammable and toxic, although it is not a cumulative poison. Ammonia may be used safely if existing OSHA and ASHRAE standards are followed. Users should check local building codes related to the use of ammonia. Ammonia does not deplete the ozone or contribute to global warming.

c. Alternative Technologies

Several technologies already exist as alternatives to equipment using class I substances. As a result of the CFC phaseout, they are gaining prominence in the transition away from CFCs. Examples of these technologies include evaporative cooling, desiccant cooling, and absorption refrigeration and air conditioning. In addition, several technologies are currently under development. Significant progress has expanded the applicability of these alternatives, and their environmental benefits generally include zero ODP and low direct GWP. In addition, evaporative cooling offers significant energy savings, which results in reduced indirect GWP.

(1) Evaporative Cooling

Evaporative Cooling is acceptable as a substitute for HCFC–22, and by extension, class I refrigerants, in equipment in the following new end-uses:

- Industrial process air conditioning
- Commercial comfort air conditioning
- Household and light commercial air conditioning

Evaporative cooling does not contribute to ozone depletion or global warming and has the potential to be more energy efficient than current refrigeration and air conditioning systems. Evaporative cooling uses no chemicals, but relies instead on water evaporation as a means of cooling. It is in widespread use in office buildings in the western U.S. Recent design improvements have greatly expanded its applicability to other regions.

(2) Desiccant Cooling

Desiccant cooling is acceptable as a substitute for HCFC–22, and by extension, class I refrigerants, in equipment in the following new end-uses:

- Industrial process air conditioning
- Commercial comfort air conditioning
- Residential air conditioning

Desiccant cooling is an alternate technology to the vapor compression cycle. Desiccant cooling systems do not contribute to ozone depletion or global warming. These systems offer potential energy savings over conventional HCFC–22 vapor compression systems.

(3) Water/Lithium Bromide Absorption

Water/lithium bromide absorption is acceptable as an alternative technology to centrifugal chillers using HCFC–22. Some absorption systems use water as the refrigerant and lithium bromide as the absorber. Lithium bromide has zero ODP and GWP. It is low in toxicity and is nonflammable.

C. Foam Blowing

1. Acceptable Substitutes

a. Rigid polyurethane and polyisocyanurate laminated boardstock; Rigid polyurethane appliance; Rigid polyurethane slabstock and other; and Rigid polyurethane spray and commercial refrigeration, and sandwich panels.

Proprietary Blowing Agent 1 (PBA 1) is an acceptable substitute for CFCs and HCFCs in rigid polyurethane and polyisocyanurate laminated boardstock foam; rigid polyurethane appliance; rigid polyurethane slabstock and other; and rigid polyurethane spray and commercial refrigeration, and sandwich panels. This blowing agent was submitted as a proprietary formulation by a foam system manufacturer. PBA 1 does not contain ozone depleting chemicals and has very low or zero global warming potential. This blend is not flammable. No other significant health or environmental risks are anticipated from the use of this substitute as long as other existing relevant health, environmental and safety requirements are met. Exposure assessments indicate worker exposure is unlikely to exceed the OSHA permissible exposure level.

D. Fire Suppression and Explosion Protection

1. Acceptable Substitutes

a. Total Flooding Agents

(1) Foam A—formerly [Water Mist/Surfactant Blend] A

Foam A is acceptable as a Halon 1301 substitute. This agent was previously identified as [Water Mist/Surfactant Blend] A in the July 28, 1995 Notice (60 FR 38729), and was listed as acceptable for use in normally unoccupied areas only. Since that time, the manufacturer has clarified to EPA that this agent is not a water mist system, nor is it a wetting agent, but instead is a low density, short duration foam. This agent is dispensed as bubbles which physically interfere with the mixture of fuel and air, and provide some cooling of the flame front, both of which contribute to control of the fire.

In the event that the manufacturer develops a misting system based on this agent, EPA requires the manufacturer to submit a separate SNAP application for assessment of exposure to fine water mist particles containing additives.

E. Solvent Cleaning

1. Acceptable Substitutes

a. Metals Cleaning

Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal) is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in metals cleaning. This HFE is a new chemical that completed review in May 1996 under EPA's Premanufacture Notice Program under the Toxic Substances Control Act. This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. It has a 4.1-year atmospheric lifetime and a GWP of 150 over a 500-year time horizon and 480 over a 100-year time horizon.

This HFE exhibits only moderate toxicity in tests reviewed by EPA, and the 600 ppm 8-hr Time Weighted Average workplace standard set by the company was deemed sufficiently protective. Based on the combination of the feasibility of meeting the exposure standard and the moderate toxicity exhibited by this chemical, EPA is listing this substance as acceptable without restrictions. As with workplace exposure standards for other CFC alternatives, this standard for this substance, too, will be examined by the Workplace Environmental Exposure Limit subcommittee of the American Industrial Hygiene Association.

b. Electronics Cleaning

Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal) is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in electronics cleaning. This HFE is a new chemical that completed review in May 1996 under EPA's Premanufacture Notice Program under the Toxic Substances Control Act. This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. It has a atmospheric 4.1-year lifetime and a GWP of 150 over a 500-year time horizon and 480 over a 100-year time horizon. The GWP and lifetime for this HFE are both lower than the GWP and lifetime for CFC–113 and for PFCs.

This HFE exhibits only moderate toxicity in tests reviewed by EPA, and the 600 ppm 8-hr Time Weighted Average workplace standard set by the company was deemed sufficiently protective. Based on the combination of the feasibility of meeting the exposure standard and the moderate toxicity exhibited by this chemical, EPA is listing this substance as acceptable without restrictions. As with workplace exposure standards for other CFC alternatives, this standard for this substance, too, will be examined by the Workplace Environmental Exposure Limit subcommittee of the American Industrial Hygiene Association.

c. Precision Cleaning

Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal) is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in precision cleaning. This HFE is a new chemical that completed review this past May under EPA's Premanufacture Notice Program under the Toxic Substances Control Act. This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. It has a 4.1-year atmospheric lifetime and a low GWP of 150 over a 500-year time horizon and 480 over a 100-year time horizon. The GWP and lifetime for this HFE are both lower than the GWP and lifetime for CFC–113 and PFCs.

This HFE exhibits only moderate toxicity in tests reviewed by EPA, and the 600 ppm 8-hr Time Weighted Average workplace standard set by the company was deemed sufficiently protective. Based on the combination of the feasibility of meeting the exposure standard and the moderate toxicity exhibited by this chemical, EPA is listing this substance as acceptable without restrictions. As with workplace exposure standards for other CFC alternatives, this standard for this substance, too, will be examined by the Workplace Environmental Exposure Limit subcommittee of the American Industrial Hygiene Association.

F. Aerosols

1. Acceptable Substitutes

a. Solvents

Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal) is an acceptable substitute for CFC–113 and methyl chloroform (MCF) as a solvent in aerosol products. This HFE is a new chemical that completed review this past May under EPA's Premanufacture Notice Program under the Toxic Substances Control Act. This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. It has a 4.1-year atmospheric lifetime and a GWP of 150 over a 500-year time horizon and 480 over a 100-year time horizon. The GWP and lifetime for this HFE are both lower than the GWP and lifetime for CFC–113 and for PFCs.

This HFE exhibits only moderate toxicity in tests reviewed by EPA, and the 600 ppm 8-hr Time Weighted Average workplace standard set by the company was deemed sufficiently protective. Based on the combination of the feasibility of meeting the exposure standard and the moderate toxicity exhibited by this chemical, EPA is listing this substance as acceptable without restrictions. As with workplace exposure standards for other CFC alternatives, this standard for this substance, too, will be examined by the Workplace Environmental Exposure Limit subcommittee of the American Industrial Hygiene Association.

G. Adhesives, Coatings and Inks

1. Acceptable Substitutes

a. *Trans-1,2-dichloroethylene*

Trans-1,2-dichloroethylene is acceptable as an alternative to MCF and CFC–113 in adhesives. The OSHA set exposure limit (PEL) is 200 ppm.

III. Additional Information

Contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday–Friday, between the hours of 10:00 a.m. and 4:00 p.m. (Eastern Standard Time) weekdays.

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). **Federal Register** notices can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. This Notice may also be obtained on the World Wide Web at http://www.epa.gov/ozone/title6/snap/snap.html.

Dated: August 13, 1996.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

Note: The following Appendix will not appear in the Code of Federal Regulations.

APPENDIX A.—SUMMARY OF ACCEPTABLE AND PENDING DECISIONS

End-Use	Substitute	Decision	Comments
CFC–12 and R–500 Centrifugal and Reciprocating Chillers; CFC–12 Industrial Process Refrigeration, Ice Skating Rinks, Cold Storage Warehouses, Refrigerated Transport, Retail Food Refrigeration, Vending Machines, Water Coolers, Commercial Ice Machines (Retrofitted and New).	Hot Shot	Acceptable	
	GHG–X4	Acceptable	
	Freezone	Acceptable	
	FREEZE 12	Acceptable	
	G2018C	Acceptable	
CFC–12 Household Refrigerators, Household Freezers, and Residential Dehumidifiers (Retrofitted and New).	Hot Shot	Acceptable	
	GHG–X4	Acceptable	
	Freezone	Acceptable	
	FREEZE 12	Acceptable	
CFC–13, R–13B1, and R–503 Very Low Temperature Refrigeration and Industrial Process Refrigeration (Retrofitted and New).	NARM–502	Acceptable	

APPENDIX A.—SUMMARY OF ACCEPTABLE AND PENDING DECISIONS—Continued

End-Use	Substitute	Decision	Comments
Non-Automotive Motor Vehicle Air Conditioning, e.g., buses, trains, planes (Retrofitted and New).	R–401C	Acceptable	
	Hot Shot	Acceptable	
	GHG–X4	Acceptable	
	Freezone	Acceptable	
	FREEZE 12	Acceptable	
Refrigeration and Air Conditioning Acceptable Substitutes for Class II Substances			
Household and Light Commercial Air Conditioning.	R–507, Ammonia, Evaporative and Desiccant Cooling.	Acceptable	Ammonia includes absorption systems only. EPA urges recycling of R–507.
Commercial Comfort Air Conditioning	R–507, Ammonia, Evaporative and Desiccant Cooling, Water/Lithium Bromide.	Acceptable	Includes ammonia absorption chillers and vapor compression with a secondary loop. EPA urges recycling of R–507.
Industrial Process Refrigeration	R–507, Ammonia	Acceptable	Includes ammonia vapor compression and absorption systems. EPA urges recycling of R–507.
Industrial Process Air Conditioners	R–507, Ammonia, Evaporative and Desiccant Cooling.	Acceptable	Includes ammonia vapor compression and absorption systems. EPA urges recycling of R–507.
Ice Skating Rinks	Ammonia	Acceptable	Includes ammonia vapor compression and absorption systems.
Refrigerated Transport	R–507	Acceptable	EPA urges recycling.
Retail Food Refrigeration	R–507, Ammonia	Acceptable	Ammonia includes vapor compression with secondary loop systems only. EPA urges recycling of R–507.
Ice Machines	R–507, Ammonia	Acceptable	Includes ammonia vapor compression and absorption systems. EPA urges recycling of R–507.
Household and Other Refrigerated Appliances.	Ammonia	Acceptable	Includes absorption systems only.
Foam Blowing Acceptable Substitutes			
Rigid polyurethane and polyisocyanurate laminated boardstock; Rigid Polyurethane Appliance; Rigid Polyurethane Slabstock and Other; and Rigid Polyurethane Spray and Commercial Refrigeration; and Sandwich Panels CFCs and HCFCs.	Proprietary Blowing Agent 1 (PBA 1)	Acceptable	Proprietary formulation. PBA 1 has zero-ODP and has very low or zero GWP. Not flammable, and no other significant health environmental risks are anticipated from the use of this substitute as long as other exisiting relevant health, environmental and safety requirements are met.
Fire Suppression and Explosion Protection Acceptable Substitutes			
Total Flooding with Halon 1301	Foam A	Acceptable	Previously identified as [Water Mist/ Surfactant Blend] A (60 FR 38729).
Acceptable Substitutes Solvent Cleaning			
Metals cleaning with CFC–113, MCF and HCFC–141b.	Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal).	Acceptable	
Electronics cleaning with CFC–113, MCF and HCFC–141b.	Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal).	Acceptable	
Precision cleaning with CFC–113, MCF and HCFC–141b.	Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal).	Acceptable	

APPENDIX A.—SUMMARY OF ACCEPTABLE AND PENDING DECISIONS—Continued

End-Use	Substitute	Decision	Comments
Acceptable Substitutes Aerosols			
CFC–11, CFC–113, MCF and HCFC–141b as aerosol solvents.	Hydrofluoroether (HFE): C4F9OCH3 (methoxynonafluorobutane, iso and normal).	Acceptable	
Acceptable Substitutes Adhesives, Coatings, and Inks			
MCF and CFC–113 as solvents in adhesives.	Trans-1,2-dichloroethylene	Acceptable	The OSHA set exposure limit (PEL) is 200 ppm.

End-Use	Substitute	Comments
Solvent Cleaning Pending Substitutes		
Metals Cleaning w/CFC–113 and MCF	n-propylbromide	EPA awaiting results from ODP study. EPA also examining new toxicity data reported under the Toxic Substances Control Act.
Electronics Cleaning w/CFC–113 and MCF.	n-propylbromide	EPA awaiting results from ODP study. EPA also examining new toxicity data reported under the Toxic Substances Control Act.
Precision Cleaning w/CFC–113 and MCF	n-propylbromide	EPA awaiting results from ODP study. EPA also examining new toxicity data reported under the Toxic Substances Control Act.
Aerosols Pending Substitutes		
CFC–113, MCF, and HCFC–141b as aerosol solvents.	HFC–4310	EPA awaiting results on occupational exposure study.

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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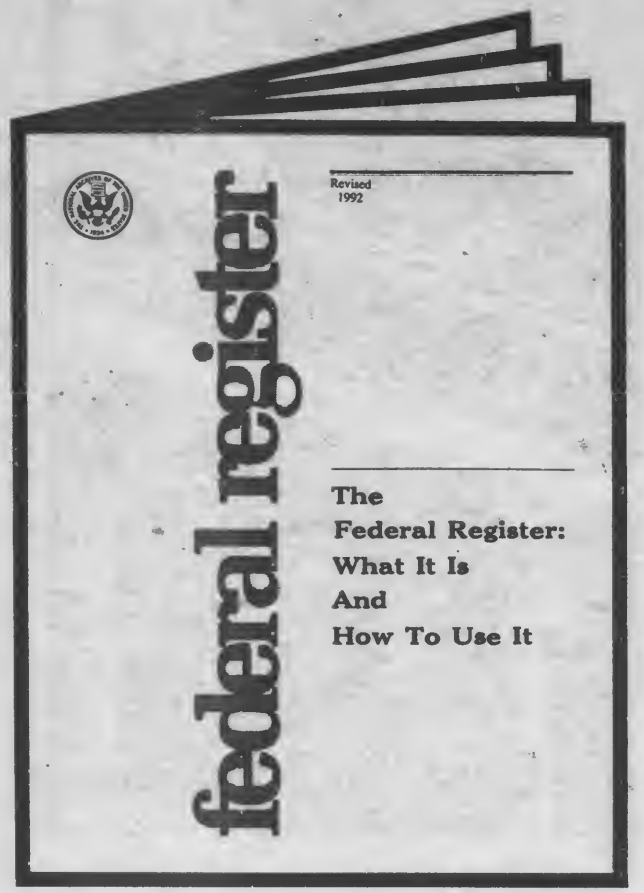

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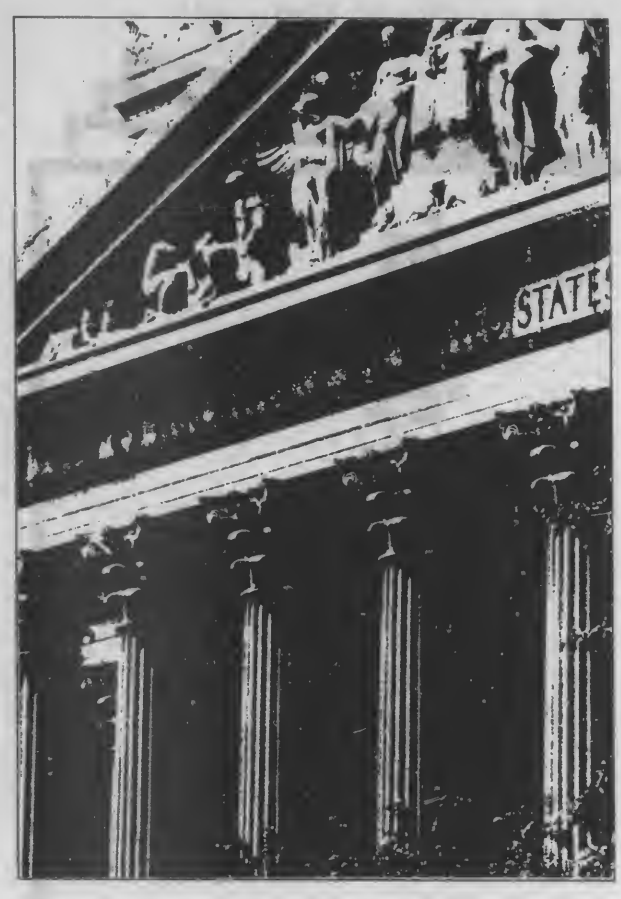

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