Federal Register

1–20–00 Thursday
Vol. 65 No. 13 Jan. 20, 2000

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

Federal Register

1–20–00 Thursday
Vol. 65 No. 13 Jan. 20, 2000
Pages 3119–3374

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 65 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530; 1–888–293–6498

Single copies/back copies:

Paper or fiche	512–1800
Assistance with public single copies	512–1803

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

Contents

Federal Register

Vol. 65, No. 13

Thursday, January 20, 2000

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.

3 CFR
Administrative Orders:
Memorandums:
January 5, 2000.....3119

7 CFR
Proposed Rules:
54.....3155

9 CFR
424.....3121

12 CFR
Proposed Rules:
5.....3157

14 CFR
Proposed Rules:
39.....3165

17 CFR
232.....3123

21 CFR
1308.....3124

30 CFR
250.....3126
Proposed Rules:
206.....3167

32 CFR
Proposed Rules:
323.....3167

37 CFR
4.....3127

40 CFR
52.....3130
63.....3276
70.....3130
Proposed Rules:
52.....3168
63.....3169
70.....3168
260.....3188

42 CFR
412.....3136

47 CFR
27.....3139
73 (6 documents).....3150, 3151, 3152
Proposed Rules:
73.....3188
74.....3188

48 CFR
1806.....3153
1813.....3153
1815.....3153
1835.....3153
1852.....3153
1872.....3153

50 CFR
Proposed Rules:
86.....3332
635.....3199

Federal Register
Vol. 65, No. 13
Thursday, January 20, 2000

Presidential Documents

Title 3—

The President

Memorandum of January 5, 2000

Delegation of Authority Under Section 1401(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65)

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State the duties and responsibilities vested in the President by section 1401(b) of the National Defense Authorization Act for Fiscal Year 2000 ("the Act") (Public Law 106–65).

The Department of State shall obtain concurrence on the report from the following agencies: the Department of Defense, the Department of Commerce, and the Director of Central Intelligence on behalf of the Intelligence Community prior to submission to the Congress.

Any reference in this memorandum to the provisions of any Act shall be deemed to be a reference to such Act or its provisions as may be amended from time to time.

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, January 5, 2000.

[FR Doc. 00–1501
Filed 1–19–00; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 65, No. 13
Thursday, January 20, 2000

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 424

[Docket No. 99–028DF]

Food Additives for Use in Meat and Poultry Products: Sodium Diacetate, Sodium Acetate, Sodium Lactate and Potassium Lactate

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to increase permissible levels of sodium acetate as a flavor enhancer in meat and poultry products and of sodium diacetate as a flavor enhancer and as an inhibitor of the growth of certain pathogens. FSIS is also permitting the use of sodium lactate and potassium lactate in meat and poultry products, except for infant formulas and infant food, for purposes of inhibiting the growth of certain pathogens. FSIS is proceeding with this direct final rule in response to petitions submitted by Armour Swift-Ekrich and Purac America, Inc.

DATES: This rule will be effective March 20, 2000 unless FSIS receives written adverse comments within the scope of this rulemaking or written notice of intent to submit adverse comments within the scope of this rulemaking on or before February 22, 2000.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments within the scope of this rulemaking to: FSIS Docket Clerk, Docket #99–028DF, Department of Agriculture, Food Safety and Inspection Service, Cotton Annex, Room 102, 300 12th Street, SW, Washington, DC 20250–3700. Any written comments submitted in response to this direct final rule and reference materials will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert Post, Director, Labeling and Additives Policy Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 205–0279.

SUPPLEMENTARY INFORMATION:

Background

FSIS was petitioned by Armour Swift-Ekrich to amend the Federal meat and poultry products inspection regulations to increase the amount of sodium diacetate and sodium acetate that may be added to meat and poultry products to levels up to 0.25 percent by weight of total formulation. The reason for the requested increase was for the purpose of inhibiting the growth of microorganisms, specifically *Lm*. The petitioner also requested that the Agency expand the approval to include potassium acetate and potassium diacetate.

The petitioner submitted data with the petition that it had gathered over ten years from experiments in its laboratories. FSIS determined that the data demonstrate that increasing the currently approved level of sodium diacetate to 0.25 percent effectively inhibits the growth of *Lm* in meat and poultry products. However, there was insufficient data submitted with the petition to allow an increase in the amount of sodium acetate to be used as an anti-microbial agent in meat and poultry products. Also, the Food and Drug Administration (FDA) has only approved sodium diacetate to be used as an anti-microbial in accordance with 21 CFR 184.1754. Therefore, FSIS is only approving sodium diacetate at a level up to .25 percent for anti-microbial use in meat and poultry products.

In a June 9, 1995, letter to the petitioner, FDA stated that it had no objection to sodium acetate and sodium diacetate to be used at levels up to .25 percent as flavoring agents. Therefore, to reflect FDA's action, FSIS will permit the use of sodium acetate and sodium diacetate to a level of up to .25 percent as flavoring agents in meat and poultry products.

FDA has not established a use level for potassium acetate or potassium diacetate as either flavoring agents or anti-microbials. Nor did the petitioner supply any data supporting the request for potassium acetate or potassium diacetate. Consequently, the Agency cannot permit the use of potassium acetate or potassium diacetate in meat and poultry products at this time.

FSIS also received a petition from Purac America, Inc. The petition requested that FSIS amend the Federal meat and poultry products inspection regulations to permit the use of sodium lactate and potassium lactate in fully cooked meat, meat food products, poultry, and poultry food products, except for infant foods and formulas, at levels up to 4.8 percent of total product formulation to inhibit the growth of certain pathogens such as *Lm* and *C. botulinum*.

FSIS found that adequate information exists to accept the use of sodium lactate and potassium lactate, singly or in combination, in all fully cooked meat and poultry food products at a level up to 4.8 percent by weight of total formulation for purposes of inhibiting the growth of certain pathogens. FDA has listed sodium lactate and potassium lactate for use with no limitations as long as they are used under good manufacturing practice as defined in 21 CFR 184.1(b). Both are currently approved by FSIS at levels up to 2 percent of total product formulation for use as flavors and flavor enhancers. FSIS will permit the use of sodium lactate and potassium lactate at a level of 4.8 percent in meat and poultry products to inhibit the growth of certain pathogens.

Because the use of these substances would change a product's formulation, FSIS expects that establishments choosing to use any of these substances will reassess their HACCP plans for the products in which the substances will be used. Such a reassessment is specified in 9 CFR 417.4(a)(3). Accordingly, FSIS expects that establishments using sodium diacetate, sodium lactate, or potassium lactate to inhibit the growth of pathogens will modify their HACCP plans to establish the use of the substance as a critical control point (CCP) or to incorporate the use into an existing CCP. Also, establishments that use sodium acetate, sodium diacetate, sodium lactate, or

potassium lactate in their products will need to revise the product's label as specified in part 317 or 318, subpart N.

The use of these substances at the levels that are being provided for by FSIS is not controversial, and FSIS expects no adverse comment to result from the changes that it is making. Therefore, unless the Agency receives written adverse comments within the scope of this rulemaking, or a written notice of intent to submit adverse comments within the scope of the rulemaking, within 30 days, the action will become final 60 days after publication in the **Federal Register**. If written adverse comments within the scope of the rulemaking are received, the final rulemaking notice will be withdrawn, and the Agency will publish a proposed rulemaking notice that includes a comment period.

Executive Order 12988

This direct final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This direct final rule: (1) Preempts all state and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 12866 and Regulatory Flexibility Act

This direct final rule has been determined to be not significant and, therefore, has not been reviewed by OMB.

Effect on Small Entities

This direct final rule will permit the use of sodium acetate as a flavor enhancer, sodium diacetate as a flavor enhancer and anti-microbial, and sodium lactate and potassium lactate as anti-microbials in meat and poultry products.

The use of these ingredients is voluntary. FSIS does not believe that any costs involved with HACCP plan reassessments or modifications, or changes to labels, will be significant. The decision by individual establishments to use any of these ingredients will be based on their conclusions that the benefits outweigh the implementation costs.

The Administrator, FSIS, has determined that this direct final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this direct final rule, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Paperwork Requirements

Abstract: FSIS has reviewed the paperwork and recordkeeping requirements in this direct final rule in accordance with the Paperwork Reduction Act and submitted an information collection request to the Office of Management and Budget for emergency clearance. Establishments that choose to use any of the substances approved by this direct final rule will have to make changes to their product labels. Also, because establishments using the substances will change their products' formulations, they will have to reassess their HACCP plans that cover production of the products, as specified in 417.4(a)(3). FSIS expects that most establishments using the substances approved for antimicrobials will most likely establish the use of the substance as a critical control point (CCP) or incorporate its use into an existing CCP.

Estimate of Burden: FSIS estimates that it will take 1 hour for establishments to develop any new product labels. Establishments will only need to make the label changes once. The Agency estimates that it will take 1 hour for establishments to reassess their HACCP plans. For purposes of this paperwork analysis, FSIS assumes that all of the establishments it has estimated to use the substances will make changes to one HACCP plan one time. The Agency estimates that an establishment will spend about 5 minutes a day (250 days) completing 1 monitoring record and 2 minutes a day filing the record for one HACCP plan.

Respondents: Meat and Poultry product establishments.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses per Respondent: 1 for label changes, 1 for HACCP reassessment; 250 for monitoring records, and 250 for filing the record.

Estimated Total Annual Burden on Respondents: 31,166.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, Room 109 Cotton Annex, Washington, DC 20250–3700.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the method and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond; including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Lee Puricelli, see the address above, and to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) Washington, DC 20253.

List of Subjects in 9 CFR Part 424

Food additives, Food packaging, Meat inspection, Poultry and poultry products.

For the reasons discussed in the preamble, FSIS is amending 9 CFR part 424 of the Federal meat and poultry products inspection regulations as follows:

PART 424—PREPARATION AND PROCESSING OPERATIONS

1. The authority citation for part 424 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–470; 601–695; 7 CFR 2.18, 2.53.

2. Section 424.21 is amended in the chart in paragraph (c) by adding in alphabetical order new entries for "potassium lactate," "sodium diacetate," and "sodium lactate" under the class "Antimicrobial agents" and by revising the entries for "sodium acetate" and "sodium diacetate" under the class "Flavoring agents" to read as follows:

§ 424.21 Use of food ingredients and sources of radiation.

* * * * *

(c) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Antimicrobial Agents	Potassium lactate	To inhibit microbial growth	Various meat and poultry products, except infant formulas and infant food.	4.8% by weight of total formulation.
	Sodium diacetate	...do	...do	0.25% by weight of total formulation.
	Sodium lactate	...do	...do	4.8% by weight of total formulation.
*	*	*	*	*
Flavoring agents; Protectors and Developers.	Sodium acetate	To flavor products	Various meat and poultry products.	Not to exceed 0.25% of formulate in accordance with 21 CFR 184.1721.
	Sodium diacetate	...do	...do	Not to exceed 0.25% of formulate in accordance with 21 CFR 184.1754.
*	*	*	*	*

Done at Washington, DC, on: December 23, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 00–1220 Filed 1–19–00; 8:45 am]

BILLING CODE 3410–DM–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–7789; 34–42327; 35–27123; 39–2380; IC–24235]

RIN 3235–AG96

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting an updated edition of the EDGAR Filer Manual and is providing for its incorporation by reference into the Code of Federal Regulations.

EFFECTIVE DATE: January 24, 2000. The new edition of the EDGAR Filer Manual (Release 6.75) will be effective on January 24, 2000. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of January 24, 2000.

FOR FURTHER INFORMATION CONTACT: In the Office of Information Technology, Michael E. Bartell at (202) 942–8800; for questions concerning investment company filings, Ruth Armfield Sanders, Senior Special Counsel, or Shaswat K. Das, Attorney, Division of Investment Management, at (202) 942–0978; and for questions concerning Corporation Finance company filings, Herbert Scholl, Office Chief, EDGAR and Information Analysis, Division of Corporation Finance, at (202) 942–2930.

SUPPLEMENTARY INFORMATION: Today we are adopting an updated EDGAR Filer Manual ("Filer Manual"), which describes the technical formatting requirements for the preparation and submission of electronic filings through the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system.[1] Filers must comply with the provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.[2] Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.[3]

The purpose of this new version of EDGAR and the Filer Manual (Release 6.75) is to add new form types and delete several old ones.[4]

We have added the following submission types to EDGAR:

- *SC TO–C*—Written communication relating to an issuer or third party tender offer not by the subject company.
- *SC 14D9–C*—Written communication by the subject company relating to a tender offer by a third party.
- *SC TO–I and SC TO–I/A*—Tender offer schedule and amendment filed by the issuer.
- *SC TO–T and SC TO–T/A*—Tender offer schedule and amendment filed by a third party.
- *425*—A prospectus or other communication in connection with business combination transactions.
- *N–6 and N–6/A*—Submission types for registration statements and pre-effective amendments for separate accounts (unit investment trusts) if we adopt our proposed Form N–6.[5]

[1] We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33–6986 (Apr. 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on October 18, 1999. *See* Release No. 33–7752 (October 20, 1999) [64 FR 56430].

[2] *See* Rule 301 of Regulation S–T (17 CFR 232.301).

[3] *See* Release Nos. 33–6977 (Feb. 23, 1993) [58 FR 14628], IC–19284 (Feb. 23, 1993) [58 FR 14848], 35–25746 (Feb. 23, 1993) [58 FR 14999], and 33–6980 (Feb. 23, 1993) [58 FR 15009] in which we comprehensively discuss the rules we adopted to govern mandated electronic filing. *See also* Release No. 33–7122 (Dec. 19, 1994) [59 FR 67752], in which we made the EDGAR rules final and applicable to all domestic registrants; Release No. 33–7427 (July 1, 1997) [62 FR 36450], in which we adopted minor amendments to the EDGAR rules; Release No. 33–7472 (Oct. 24, 1997) [62 FR 58647], in which we announced that, as of January 1, 1998, we would not accept in paper filings that we require filers to submit electronically; Release No. 34–40935 (Jan. 12, 1999) [64 FR 2843], in which we made mandatory the electronic filing of Form 13F; and Release No. 33–7684 (May 17, 1999) [64 FR 27888], in which we adopted amendments to implement the first stage of EDGAR modernization.

[4] We have added the new Williams Act submission types to accommodate the new rules that will become effective January 24, 2000. See Release No. 33–7760 (Oct. 22, 1999) [64 FR 61408].

[5] *See* Release Nos. 33–7514; IC–23066 (Mar. 2, 1998) [63 FR 13988], in which we proposed new

Continued

• *497AD*—Prospectus filed by certain investment companies under Rule 482[6](482 ads).[7] Filers who are required to file 482 ads with us in accordance with Rule 497 and the NOTE to Rule 482(c) should submit their 482 ads under this new submission type.

Appendices A and B of the Filer Manual contain the descriptions and associated tagging requirements for all of the new submission types. We also have added a new section to Table 6 of Appendix A, entitled, "Miscellaneous Filings Under the Securities Act." This section groups several new and existing submission types (425, DEL AM, RW, AW, and 497AD) used by investment companies to make filings under Securities Act Rules 425, 473, 477, and 482.[8]

We have also made the following changes effective after Release 6.75 is issued:

• The EDGAR system will no longer support the following form types: SC 13E4 and SC 14D1.

• We will add the submission's accession number to the subject line of all notices to filers of acceptance or suspension.

• We will revise EDGARLink so that filers will be able to perform a version verify upgrade of the software while in a Windows environment.

Finally, we are amending Rule 301 of Regulation S–T to provide for the incorporation by reference of the Filer Manual into the Code of Federal Regulations, which 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. The revised Filer Manual and the amendments to Rule 301 will be effective on January 24, 2000.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549–0102. We will post electronic format copies on the SEC's Web Site. The SEC's Web Site address for the Filer Manual is http://www.sec.gov/asec/ofis/filerman.htm. You may also obtain copies from Disclosure Incorporated, the paper and microfiche contractor for the Commission, at (800) 638–8241.

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).[9] It follows that the requirements of the Regulatory Flexibility Act[10] do not apply.

The effective date for the updated Filer Manual and the rule amendments is January 24, 2000. In accordance with the APA,[11] we find that there is good cause to establish an effective date less than 30 days after publication of these rules.

Statutory Basis

We are adopting the amendments to Regulation S–T under Sections 6, 7, 8, 10, and 19(a) of the Securities Act,[12] Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,[13] Section 20 of the Public Utility Holding Company Act of 1935,[14] Section 319 of the Trust Indenture Act of 1939,[15] and Sections 8, 30, 31, and 38 of the Investment Company Act.[16]

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The January 24, 2000 edition of the *EDGAR Filer Manual: Guide for Electronic Filing with the U.S. Securities and Exchange Commission (Release 6.75)* is incorporated into the Code of Federal Regulations by reference, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0102 or by calling Disclosure Incorporated at (800) 638–8241. Electronic format copies are available on the SEC's Web Site. The SEC's Web Site address for the Manual is http://www.sec.gov/asec/ofis/filerman.htm. Information on becoming an EDGAR e–mail/electronic bulletin board subscriber is available by contacting TRW/UUNET at (703) 345–8900 or at www.trw–edgar.com.

Dated: January 11, 2000.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1123 Filed 1–19–00; 8:45 am]

BILLIING CODE 8010–10–P

Form N–6 for insurance company separate accounts that are registered as unit investment trust and that offer variable life policies.

[6] 17 CFR 230.482.

[7] The mandated electronic submissions of rule 101(a)(1)(i) of Regulation S–T [17 CFR 232.101(a)(1)(i)] omcide 482 ads where we require filers to file them with us. *See* Release 33–7122 at footnote 32 and accompanying text.

[8] 17 CFR 230.425, 230.473, 230.477, and 230.482.

[9] 5 U.S.C. 553(b).

[10] 5 U.S.C. 601–612.

[11] 5 U.S.C. 553(d)(3).

[12] 15 U.S.C. 77f, 77g, 77h, 77j and 77s(a).

[13] 15 U.S.C. 78c, 78*l*, 78m, 78n, 78o, 78w and 78*ll*.

[14] 15 U.S.C. 79t.

[15] 15 U.S.C. 77sss.

[16] 15 U.S.C. 80a–8, 80a–29, 80a–30 and 80a–37.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA No. 187I]

RIN 1117–AA51

Schedules of Controlled Substances: Exempt Anabolic Steroid Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Interim rule and request for comments.

SUMMARY: The Drug Enforcement Administration (DEA) is designating six preparations as exempt anabolic steroid products. This action, as part of the ongoing implementation of the Anabolic Steroids Control Act of 1990, removes certain regulatory controls pertaining to Schedule III substances from the designated entities.

DATES: Effective date: January 20, 2000. Comments must be submitted on or before March 20, 2000.

ADDRESSES: Comments and objections should be submitted to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC. 20537; Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537; Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION:

What Does This Rule Accomplish and by What Authority Is It Being Issued:

Section 1903 of the Anabolic Steroids Control Act of 1990 (title XIX of Pub. L. 101–647) (ASCA) provides that the Attorney General may exempt products which contain anabolic steroids from all or any part of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*) if the products have no significant potential for abuse. The procedure for implementing this section of the ASCA is described in 21 CFR 1308.33. The purpose of this rule is to identify six products for which applications were made and which the Deputy Assistant Administrator for the DEA Office of Diversion Control finds meet the exempt anabolic steroid product criteria.

Why Is DEA Adding Anabolic Steroid Products to the List of Exemptions?

In accordance with 21 CFR 1308.33 applications for the exemption of six anabolic steroid products were submitted by the products' manufacturers to the Deputy Assistant Administrator for the DEA Office of Diversion Control. Each application delineated a set of facts which the applicant believed justified the exempt status of its product. The applicants provides data which they believed showed that because of the specific product preparation, concentration, mixture, or delivery system these products had no significant potential for abuse. Upon acceptance of these applications the Deputy Assistant Administrator requested from the Assistant Secretary for Health, Department of Health and Human Services (HHS) a recommendation as to whether these products which contain anabolic steroids should be considered for exemption from certain portions of the CSA. The Deputy Assistant Administrator has received the determination and recommendations of the Assistant Secretary for Health and Surgeon General, that there was sufficient evidence to establish that these products do not possess a significant potential for abuse.

Which Anabolic Steroid Products Are Affected?

The Deputy Assistant Administrator, having reviewed the applications, the recommendations of the Assistant Secretary for Health and Surgeon General, and other relevant information, finds that each of the products described below has no significant potential for abuse because of its concentration, preparation, mixture, or delivery system.

What Action Can Individuals Take if They Are Concerned About the Impact of this Rule?

Interested persons are invited to submit their comments in writing with regard to this interim rule. If any comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which this order is based, the Deputy Assistant Administrator shall immediately suspend the effectiveness of this order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Deputy Assistant Administrator shall reinstate, revoke, or amend his original order as he determines appropriate.

Miscellaneous Matter—Correction

In a previously published rule, an exempt anabolic steroid product was identified in the list referred to in 21 CFR 1308.34 by its active ingredients rather than its trade name. See 62 FR 51776, October 3, 1997. Exemptions are granted, in accordance with the ASCA and the implementing regulations, to specific products. Therefore, DEA is correcting the list referred to in 21 CFR 1308.34 to describe the product by its specific trade name, Depo-Testadiol. The corrected information for this product in the list referred to in 21 CFR 1308.34 is:

Trade name	Company	NDC No.	Form	Ingredients	Quantity
Depo-Testadiol	The Upjohn Company, Kalamazoo, MI.	0009–0253	Vial	Testosterone cypionate, Estradiol cypionate.	50 mg/ml, 2 mg.ml.

Why is DEA making this rule immediately effective?

This rule is being made immediately effective in order to provide a health benefit to the public by more expeditiously increasing the access to these anabolic steroid products and to reduce regulatory restrictions that DEA (in consultation with HHS) has determined to be an unnecessary burden on the businesses manufacturing these products.

Plain English

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of this regulation, call or write Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator, for the DEA Office of Diversion Control, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it, certifies that it will not have a significant economic impact on a substantial number of small business entities. The granting of exempt status relieves persons who handle the exempt products in the course of legitimate business from the registration, labeling, records, reports, prescription, physical security, and import and export restrictions imposed by the CSA.

Administrative Procedure Act 5 U.S.C. 553

This rule provides a health benefit to the public by more expeditiously increasing the access to these anabolic steroid products and reducing regulatory restrictions that DEA and HHS have determined to be unnecessary. Therefore DEA has determined that it is contrary to the public interest to delay the effectiveness of this rule by requiring notice of proposed rulemaking and delay the effective date.

The relief from these administrative restrictions will provide monetary savings to each of the three pharmaceutical manufacturers who applied for these exemptions. In addition to the economic gain to the pharmaceutical industry, these exemptions provide significant benefits to the general public by increasing the availability of these drug products for the legitimate medical treatment for which they were intended.

Executive Order 12866

This interim rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Deputy Assistant Administrator, Office of Diversion Control, has determined that this rule is a significant regulatory action under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget. This regulation exempts those who handle the affected products in the course of legitimate business from the restrictions associated with Schedule III allowing for a more efficient and cost effective means of doing business. These exemptions will provide direct economic relief and financial savings to the three manufacturer applicants requesting these actions. This regulation is in the public interest and provides more expedient access to these products which, in turn, has the potential to improve the health benefits to the public.

Executive Order 13132

This rule will not have substantial direct effects on the United States, on the relationship between the national government and the United States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule, as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based companies to compete with foreign-based companies in domestic and export markets.

PART 1308—[AMENDED]

Pursuant to the authority vested in the Attorney General by section 1903 of the ASCA, delegated to the Administrator of the DEA pursuant to 21 U.S.C. 871(a) and 28 CFR 0.100, and redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control pursuant to 28 CFR 0.104, Appendix to Subpart R, section 7(g), the Deputy Assistant Administrator hereby orders that the following compounds, mixtures, or preparations containing anabolic steroids be exempted from application of sections 302 through 309 and 1002 through 1004 of the CSA (21 U.S.C. 822–829 and 952–954) and 21 CFR 1301.11, 1301,13, 1301.71 through 1301.76 for administrative purposes only and be included in the list of products described in 21 CFR 1308.34.

§ 1308.34 Amended

EXEMPT ANABOLIC STEROID PRODUCTS

Trade name	Company	NDC No.	Form	Ingredients	Quality
Component E–H in Process Pellets.	Ivy Laboratories, Inc. Overland Park, KS.	.....	Pail	Testosterone propionate, Estradiol benzoate.	25 mg/pellet, 2.5 mg/pellet.
Component E–H in Process Granulation.	Ivy Laboratories, Inc. Overland Park, KS.	.....	Pail or Drum	Testosterone propionate, Estradiol benzoate.	10 parts, 1 part.
Component TE–S in Process Pellets.	Ivy Laboratories, Inc. Overland Park, KS.	.....	Pail	Trenbolone acetate, Estradiol USP.	120 mg/pellet, 24 mg/pellet.
Component TE–S in Process Granulation.	Ivy Laboratories, Inc. Overland Park, KS.	.....	Pail or Drum	Trenbolone acetate, Estradiol USP.	5 parts, 1 part.
Testoderm with Adhesive 4 mg/d.	Alza Corp, Palo Alto, CA	Export only	Patch	Testosterone	10 mg.
Testosterone Ophthalmic Solutions.	Allergan, Irvine, CA	.....	Ophthalmic Solutions.	Testosterone	<0.6 w/v.

Dated: January 11, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc 00–1347 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC32

Postlease Operations Safety

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Corrections to final regulations.

SUMMARY: This document contains corrections to the final regulations which were published Tuesday, December 28, 1999 (64 FR 72756). The regulations related to postlease operations safety. These corrections relate to an incorrect citation in the preamble to the published final regulations and to three documents incorporated by reference on Boiler and Pressure Vessel Codes.

EFFECTIVE DATE: January 27, 2000.

The incorporation by reference of certain publications listed in these rules was approved by the Director of the Federal Register as of December 15, 1999, and January 27, 2000.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray, (703) 787–1600.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections supersede 30 CFR 250, subpart A, General, regulations on the effective date and affect all operators and lessees on the Outer Continental Shelf.

With respect to the correction of the three documents incorporated by reference, on December 15, 1999 (64 FR 69923), MMS published a technical amendment to § 250.101, "Documents incorporated by reference," to update versions of the ANSI/ASME Boiler and Pressure Vessel Code, Sections I, IV, and

VIII. MMS had determined that the 1998 edition, with the 1999 amendment, provided a degree of safety equal to the previously incorporated 1995 edition, as had been determined by industry. The technical amendment was effective on December 15, 1999. We had expected the publication of the final rule superseding 30 CFR 250, subpart A, to be published and become effective much sooner than actually occurred. As published, this final rule redesignates § 250.101 as § 250.198 and repeats the entire table of all of our documents incorporated by reference. However, it does not reflect the technical amendments to the ANSI/ASME Boiler and Pressure Vessel Code, Sections I, IV, and VIII documents that were updated with an effective date prior to the publication of 30 CFR 250, subpart A, regulations. Therefore, when the subpart A regulations take effect on January 27, 2000, unless corrected they will reverse the effect of the technical amendment updating the three documents. We are correcting this inadvertent mistake.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on December 28, 1999, of the final regulations, which were the subject of FR Doc. 99–31869, is corrected as follows:

Preamble [Corrected]

On page 72757, in the first column, in the second "bulletted" paragraph, in the fourth sentence, the citation "§ 250.175(b)(1)" is corrected to read "§ 250.174".

§ 250.198 [Corrected]

On page 72790, in the table in paragraph (e), the three entries for "ANSI/ASME Boiler and Pressure Vessel Code" are corrected to read as follows:

§ 250.198 Documents incorporated by reference.

* * * * *

(e) * * *

Title of documents	Incorporated by Reference at
ANSI/ASME Boiler and Pressure Vessel Code, Section I, Rules for Construction of Power Boilers, including Appendices, 1998 Edition; July 1, 1999 Addenda, Rules for Construction of Power Boilers, by ASME Boiler and Pressure Vessel Committee Subcommittee on Power Boilers; and all Section I Interpretations Volume 43.	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
ANSI/ASME Boiler and Pressure Vessel Code, Section IV, Rules for Construction of Heating Boilers, including Nonmandatory Appendices A, B, C, D, E, F, H, I, K, and L, and the Guide to Manufacturers Data Report Forms, 1998 Edition; July 1, 1999 Addenda, Rules for Construction of Heating Boilers, by ASME Boiler and Pressure Vessel Committee Subcommittee on Heating Boilers; and all Section IV Interpretations Volumes 43 and 44..	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
ANSI/ASME Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Pressure Vessels, Divisions 1 and 2, including Nonmandatory Appendices, 1998 Edition; July 1, 1999 Addenda, Rules for Construction of Pressure Vessels, by ASME Boiler and Pressure Vessel Committee Subcommittee on Pressure Vessels; and all Section VIII Interpretations, Divisions 1 and 2, Volumes 43 and 44..	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).

* * * * * * * * * * * *

Dated: January 5, 2000.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 00–1201 Filed 1–19–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 4

[Docket No. 000105007–0007–01]

RIN 0651–AB12

Complaints Regarding Invention Promoters

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: The Patent and Trademark Office (Office) has added rules of practice to implement the Office's procedures for acceptance of complaints under the Inventors' Rights Act of 1999, Pub. L. 106–113, section 4001 (to be codified at 35 U.S.C. 297). The Act requires the Office to provide a forum for the publication of complaints concerning invention promoters. The Office is providing the public with an opportunity to comment on the new rules which have been adopted.

DATES: The interim final rules are effective January 28, 2000; written comments must be submitted on or before February 22, 2000.

ADDRESSES: Address written comments to the attention of Kevin Baer, Attorney Advisor, Commissioner of Patents and Trademarks, Box 4, Washington, D.C. 20231. In addition, written comments may be sent by facsimile transmission to (703) 305–8885 or by electronic mail messages over the Internet to kevin.baer uspto.gov. The written comments will be available in the Patent and Trademark Office, Public Search Room, room 1A03, Crystal Plaza 3, Arlington, Virginia 20231, on or about February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kevin Baer, by telephone at (703) 305–9300, by facsimile at (703) 305–8885, by electronic mail at kevin.baer@uspto.gov, or by mail marked to the attention of Kevin Baer, Attorney Advisor, addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: These interim rules implement the Office's procedures for handling complaints and replies filed under the Inventors' Rights Act of 1999, Pub. L. 106–113, section 4001 (to be codified at 35 U.S.C. 297). The Act requires the Office to provide a forum for the publication of complaints concerning invention promoters and replies from the invention promoters. The Office requests comments from any interested members of the public on the following interim rules.

Background

Congress passed the Inventors' Rights Act of 1999 (Act) to protect the independent inventor from unscrupulous invention promoters who prey on independent inventors. Legitimate invention promoters assist novice inventors by providing

information on how to develop, finance, manufacture, and market their inventions. Congress recognized that invention promotion services are valuable to independent inventors but also understood that some invention promoters were asking for large sums of money up-front without providing any real services. 145 Cong. Rec. S14708, S14716 (daily ed. Nov. 17, 1999) (Statement of Senator Lott introducing section-by-section analysis). Included within the Act is a requirement that the Office provide a forum for publishing complaints about invention promoters and replies from the invention promoters. Under the Act the Office has no role in enforcing the Act against invention promoters or investigating invention promoters. The Act provides customers of invention promoters with certain civil remedies, but neither the Office nor the interim rules govern the private legal rights of the invention promoter customers.

The interim final rules explain how the Office will handle complaints and replies to the complaints by the invention promoters.

Discussion of Specific Rules

The rules for implementing this Act will be found in new Part 4, of Title 37, Code of Federal Regulations (37 CFR Part 4).

Section 4.1

Section 4.1 is being added to explain that: (i) these rules govern the Office's responsibility under the Inventors' Rights Act of 1999; (ii) the Office will not undertake any investigation of the invention promoter; and (iii) any civil remedies must be pursued by the injured party.

Section 4.2

Section 4.2 is being added to include the definitions set out in the Act.

Section 4.3

Section 4.3 is being added to explain that the Office will accept complaints about invention promoters. Anyone submitting a complaint should understand that the complaint may be forwarded to the invention promoter about which the complaint is made and that the complaint will likely be publicly available. The Act requires the Office to forward copies of the complaint to the invention promoter so that the invention promoter may respond. The Office will not accept any complaints under this system that request that the complaint be kept confidential. The Act requires the Office to make complaints publicly available. Likewise, any reply from the invention promoter will be made publicly available.

In order for the Office to identify a submission as a complaint under this Act, the complaint must be clearly marked or otherwise indicate that it is a complaint filed under these rules or under the Act. General letters of complaint sent to the Office will not be treated under this complaint publication program.

The complaint should fairly and impartially summarize the complaint. The purpose of the Act is to provide complainants with a forum for publicly making a complaint against an invention promoter. As with all submissions to the Office, persons should conduct themselves with decorum and courtesy. *See* 37 CFR 1.3. Submissions that do not provide the requested information will be returned. If a complainant's address is not provided, the submission will be destroyed. A complaint can be withdrawn by the complainant or named customer at any time prior to its publication.

The Office is developing a form for the convenience of persons wishing to make a complaint. At a minimum, a complaint under these rules must provide: (1) the identity of the person making the complaint; (2) an address of the person complaining; (3) the name and address of the invention promoter; (4) the name of the customer of the invention promoter; (5) an explanation of the invention promotion services offered or performed; (6) the name of the mass media used to advertise the invention promoter's services; (7) an explanation of the relationship between the customer and the invention promotion services; and (8) a signature of the complainant.

Complaints should be submitted to the Office of Independent Inventor Programs, U.S. Patent and Trademark Office, Washington, D.C. 20231. No originals of documents should be included with the complaint.

Section 4.4(a)

Section 4.4(a) is being added to explain that the Office will forward complaints to the invention promoter named in the complaint. The invention promoter will be given 30 days to respond to the complaint. The complaint and the invention promoter's reply, if any, will be made publicly available. The Office may return the complainant's submission for clarification if the Office is unable to determine whether a submission is intended to be a complaint under these rules. The Office may also return the submission if it fails to include any necessary information. Similarly, the Office may return multiple submissions concerning the same subject matter.

Section 4.4(b)

Section 4.4(b) is being added to explain that the Office will accept responses from invention promoters. The party responding must identify the submission as a response to a particular complaint, identify the individual signing the response, and provide that individual's title or authority for signing the response.

The Office intends to forward copies of the complaints to the invention promoter using regular first class U.S. mail. In the event the mailing is returned, section 4.5 will apply. In the absence of mail being returned undeliverable, the Office will presume that the invention promoter received the mailing. In the unlikely event the invention promoter does not receive the mailing and the mailing is not returned as undeliverable, then publication of the complaint provides the invention promoter with adequate notice that a complaint has been filed. A reply that is submitted after the complaint is made public will also be made available to the public.

Section 4.5

Section 4.5 is being added to explain how the Office will handle situations where the copy of the complaint that is mailed to the invention promoter is returned undelivered. If this occurs, the Office will publish a notice alerting the invention promoter that a complaint has been filed. The notice will be published in the Official Gazette, in the **Federal Register**, or on the Office's Internet home page at www.uspto.gov. The invention promoter will have 30 days after publication of the notice to submit a response to the complaint. If the invention promoter does not submit a response to the complaint within 30 days, then the complaint will be made public.

Section 4.6

Section 4.6 is being added to clarify that routine complaints about registered attorneys or agents will not be treated under these rules. The Office may return a submission involving a registered attorney or agent to seek clarification as to whether or not the attorney or agent was involved with the invention promotion services. The Office does not plan on publishing complaints against registered attorneys or agents unless the complainant can fairly demonstrate that the attorney or agent is involved with invention promotion services. However, attorneys or agents who work with

invention promoters should realize that such work may cause their name or affiliation to be publicly disclosed in a complaint. In addition, the Office may forward any submission concerning a registered attorney or agent to the Office of Enrollment and Discipline.

All submissions to the Office under this Part are subject to the criminal penalties under 18 U.S.C. 1001 for false statements.

Classification

Administrative Procedure Act

This interim final rule sets forth the Office procedures to make complaints involving invention promoters publicly available, together with any response of the invention promoters as required by the Inventors' Rights Act of 1999, Pub. L. No. 106–113, section 4001. Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(3)(A), or any other law.

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(3)(A), or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Executive Order 13132

This interim final rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132.

Executive Order 12866

This interim final rule has been determined to be not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This interim final rule contains a collection of information requirement that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). This rule provides procedures for persons desiring to voluntarily submit complaints to the Office concerning invention promoters so that the Office is able to: (1) Forward the complaint to the invention promoter for a response; and (2) publish the complaint. An information collection package supporting this new rule will be submitted to OMB for review and approval. The public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are invited on: (a) Whether the collection of information is necessary for proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden; (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 to respondents.

Interested persons are requested to send comments regarding the burden estimate or any other aspects of the information requirements, including suggestions for reducing the burden, to Kevin Baer, Attorney Advisor, Box 4, Patent and Trademark Office, Washington, D.C. 20231, or to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, D.C. 20503, (Attn: PTO Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 4

Administrative practice and procedure, Inventions and patents

For the reasons set forth in the preamble and pursuant to the authority contained in 35 U.S.C. 6 and 297, title 37 of the Code of Federal Regulations is amended by adding part 4 to read as follows:

1. Part 4 is added to read as follows:

PART 4—COMPLAINTS REGARDING INVENTION PROMOTERS

Sec.

Authority: 35 U.S.C. 6 and 297.

§ 4.1 Complaints Regarding Invention Promoters

These regulations govern the Patent and Trademark Office's (Office) responsibilities under the Inventors' Rights Act of 1999, which can be found in the U.S. Code at 35 U.S.C. 297. The Act requires the Office to provide a forum for the publication of complaints concerning invention promoters. The Office will not conduct any independent investigation of the invention promoter. Although the Act provides additional civil remedies for persons injured by invention promoters, those remedies must be pursued by the injured party without the involvement of the Office.

§ 4.2 Definitions

(a) *Invention Promoter* means any person, firm, partnership, corporation, or other entity who offers to perform or performs invention promotion services for, or on behalf of, a customer, and who holds itself out through advertising in any mass media as providing such services, but does not include—

(1) Any department or agency of the Federal Government or of a State or local government;

(2) Any nonprofit, charitable, scientific, or educational organization qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986;

(3) Any person or entity involved in the evaluation to determine commercial potential of, or offering to license or sell, a utility patent or a previously filed nonprovisional utility patent application;

(4) Any party participating in a transaction involving the sale of the stock or assets of a business; or

(5) Any party who directly engages in the business of retail sales of products or the distribution of products.

(b) *Customer* means any individual who enters into a contract with an invention promoter for invention promotion services.

(c) *Contract for Invention Promotion Services* means a contract by which an invention promoter undertakes invention promotion services for a customer.

(d) *Invention Promotion Services* means the procurement or attempted procurement for a customer of a firm, corporation, or other entity to develop and market products or services that include the invention of the customer.

§ 4.3 Submitting Complaints

(a) A person may submit a complaint concerning an invention promoter with the Office. A person submitting a complaint should understand that the complaint may be forwarded to the invention promoter and may become publicly available. The Office will not accept any complaint that requests that it be kept confidential.

(b) A complaint must be clearly marked, or otherwise identified, as a complaint under these rules. The complaint must include:

(1) The name and address of the complainant;

(2) The name and address of the invention promoter;

(3) The name of the customer;

(4) The invention promotion services offered or performed by the invention promoter;

(5) The name of the mass media in which the invention promoter advertised providing such services;

(6) An explanation of the relationship between the customer and the invention promoter; and

(7) A signature of the complainant.

(c) The complaint should fairly summarize the action of the invention promoter about which the person complains. Additionally, the complaint should include names and addresses of persons believed to be associated with the invention promoter. Complaints, and any replies, must be addressed to Office of Independent Inventor Programs, U.S. Patent and Trademark Office, Washington, D.C. 20231.

(d) Complaints that do not provide the information requested in paragraphs (b) and (c) of this section will be returned. If complainant's address is not provided, the complaint will be destroyed.

(e) No originals of documents should be included with the complaint.

(f) A complaint can be withdrawn by the complainant or the named customer at any time prior to its publication.

§ 4.4 Invention Promoter Reply

(a) If a submission appears to meet the requirements of a complaint, the invention promoter named in the complaint will be notified of the complaint and given 30 days to respond. The invention promoter's response will be made available to the public along with the complaint. If the invention promoter fails to reply within the 30-day time period set by the Office, the complaint will be made available to the public. Replies sent after the complaint is made available to the public will also be published.

(b) A response must be clearly marked, or otherwise identified, as a response by an invention promoter. The response must contain:

(1) The name and address of the invention promoter;

(2) A reference to a complaint forwarded to the invention promoter or a complaint previously published;

(3) The name of the individual signing the response; and

(4) The title or authority of the individual signing the response.

§ 4.5 Notice by Publication

If the copy of the complaint that is mailed to the invention promoter is returned undelivered, then the Office will publish a Notice of Complaint Received in the Official Gazette, the **Federal Register**, or on the Office's Internet home page. The invention promoter will be given 30 days from such notice to submit a reply to the complaint. If the Office does not receive a reply from the invention promoter within 30 days, the complaint alone will become publicly available.

§ 4.6 Attorneys and Agents

Complaints against registered patent attorneys and agents will not be treated under this section, unless a complaint fairly demonstrates that invention promotion services are involved. Persons having complaints about registered patent attorneys or agents should contact the Office of Enrollment and Discipline at the U.S. Patent and Trademark Office, Box OED, Washington, D.C. 20231, and the attorney discipline section of the attorney's state licensing bar if an attorney is involved.

Dated: January 13, 2000.

Q. Todd Dickinson,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 00–1359 Filed 1–19–00; 8:45 am]

BILLING CODE 3510–16–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[NE 071–1071a; FRL–6521–6]

Approval and Promulgation of Implementation Plans and Operating Permits Programs, Approval Under Section 112(l); State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve a State Implementation Plan (SIP) revision submitted by the state of Nebraska on February 5, 1999. This revision consists of updates to *Title 129—Nebraska Air Quality Regulations*, Chapters 1, 2, 5, 6, 7, 8, 10, 17, 22, 25, 34, 35, 41, and Appendix II. The state also requested that EPA approve revisions adopted by the Lincoln-Lancaster County Health Department (LLCHD), Lincoln, Nebraska, in 1997 and 1998, and rule revisions adopted by the city of Omaha in 1998. EPA is taking action to approve these revisions also. These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards and with respect to hazardous air pollutants (HAP). EPA is also approving revisions to the agencies' part 70 operating permits programs. The effect of this action is to ensure that the state and local agencies' air program rule revisions are reflected in the EPA-approved program.

DATES: This direct final rule is effective on March 20, 2000 without further notice, unless EPA receives adverse comment by February 22, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be addressed to Wayne A. Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the state submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551–7603.

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

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is approval under section 112(l)?
What is the Part 70 Operating Permits Program?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgations of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that EPA has approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

What is Approval Under Section 112(l)?

Section 112(l) of the CAA provides authority for EPA to implement a program to regulate HAPs, and to subsequently delegate authority for this program to the states and local agencies. EPA has delegated authority for this program to Nebraska, LLCHD, and Omaha, and has approved relevant state and local agency HAP rules under this authority. In this action, EPA is approving revisions to the section 112(l) approved state and local agency rules.

What Is the Part 70 Operating Permits Program?

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revisions to the state and local agencies' operating permits program are also subject to public notice, comment, and EPA approval.

What Is Being Addressed in This Document?

EPA is taking final action to approve a SIP revision submitted by the state of Nebraska on February 5, 1999. This revision consists of updates to *Title 129—Nebraska Air Quality Regulations,* Chapters 1, 2, 5, 6, 7, 8, 10, 17, 22, 25, 34, 35, 41, and Appendix II. The state also requested that EPA approve revisions adopted by the LLCHD, Lincoln, Nebraska in 1997 and 1998, and the city of Omaha in 1998. All of the rule revisions are being approved pursuant to section 110. State rules being approved pursuant to section 112(l) are Chapters 5, 7, 8, and 10. Section 112(l) approved rules for LLCHD are Chapters 5, 7, 8, and 15. The Omaha 112(l) revisions are consistent with the state's 112(l) revisions.

EPA is also approving as an amendment to the agencies' Part 70 operating programs the following rule revisions: NDEQ Chapters 1, 2, 5, 6, 7, 8, 10, 29, and 41; LLCHD Chapters 2–1, 2–2, 2–5, 2–6, 2–7, 2–8, and 2–15; and Omaha rules similar to the NDEQ revisions.

A detailed discussion of the specific rule revisions effected by the state and local agencies is contained in the Technical Support Document (TSD) prepared for this action, which is available from the EPA contact listed above.

The request to revise the Nebraska SIP was submitted by Michael J. Linder, NDEQ Interim Director, on February 5, 1999. The state rules were effective September 7, 1997; the Lincoln-Lancaster County rules were effective March 11, 1997, and August 11, 1998; and the city of Omaha rules were effective April 1, 1998.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittals have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittals also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSDs which are part of this notice, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

EPA is processing this action as a direct final action because this amendment to the Nebraska SIP makes routine revisions to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments.

Conclusion

Final Action

EPA is taking final action to approve, as an amendment to the Nebraska SIP, rule revisions submitted by the state of Nebraska as discussed above. Approval of this revision in the Nebraska SIP will make the state and local agency rules Federally enforceable. EPA is also approving revisions to the agencies' part 70 operating permits programs and section 112(l) programs.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse

comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 20, 2000 without further notice unless the Agency receives adverse comments by February 22, 2000.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 20, 2000, and no further action will be taken.

Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612 (Federalism) and Executive Order 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not establish a further health or risk-based standard because it approves state rules which implement a previously promulgated health or safety-based standard.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and

advising any small governments that may be significantly or uniquely impacted by the rule.

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

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 20, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

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

Dated: December 14, 1999.

William Rice,

Acting Regional Administrator, Region VII.

Chapter I, Title 40 of the CFR is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart CC—Nebraska

2. In § 52.1420 paragraph (c), table titled EPA-APPROVED NEBRASKA REGULATIONS, the following entries are revised, and a new entry titled Appendix II is added following the Appendix I entry, and in paragraph (e), table titled EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS, two entries are added at the end of the table to read as follows:

§ 52.1420 Identification of plan.

(c) EPA-approved regulations.

EPA—APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Comments
STATE OF NEBRASKA				
Department of Environmental Quality Title 129—Nebraska Air Quality Regulations				
129–1	Definitions	9/7/97	[insert publication date and FR citation].	
129–2	Definition of Major Source	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
129–5	Operating Permit	9/7/97	[insert publication date and FR citation].	Section 001.02 is not SIP approved.
* * *		*	*	
129–6	Emissions Reporting	9/7/97	[insert publication date and FR citation].	
129–7	Operating Permits—Application	9/7/97	[insert publication date and FR citation].	
129–8	Operating Permit Content	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
129–10	Operating Permits for Temporary Sources	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
129–17	Construction Permits—When Required	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
129–22	Incinerators; Emission Standards	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
129–25	Nitrogen Oxides (Calculated as Nitrogen Dioxide); Emissions Standards for Existing Stationary Sources.	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
129–34	Emission Sources; Testing; Monitoring	9/7/97	[insert publication date and FR citation].	
129–35	Compliance; Exceptions Due to Startup, Shutdown, or Malfunction.	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
129–41	General Provision	9/7/97	[insert publication date and FR citation].	
* * *		*	*	
Appendix II	Hazardous Air Pollutants (HAPS)	9/7/97	[insert publication date and FR citation].	
* * * * *				
Lincoln-Lancaster County Air Pollution Control Program				
Article 1—Administration and Enforcement				
* * * * *				
Article 2—Regulations and Standards				
Section 1	Definitions	8/11/98	[insert publication date and FR citation].	
Section 2	Major Sources—Defined	8/11/98	[insert publication date and FR citation].	
* * *		*	*	
Section 5	Operating Permits—When Required	8/11/98	[insert publication date and FR citation].	
Section 6	Emissions Reporting—When Required	8/11/98	[insert publication date and FR citation].	

EPA—APPROVED NEBRASKA REGULATIONS—Continued

Nebraska citation	Title	State effective date	EPA approval date	Comments
Section 7	Operating Permits—Application	8/11/98	[insert publication date and FR citation].	
Section 8	Operating Permit—Content	8/11/98	[insert publication date and FR citation].	
*	* *	*	*	
Section 15	Operating Permit Modifications—Reopening for Cause.	8/11/98	[insert publication date and FR citation].	
*	* *	*	*	
Section 17	Construction Permits—When Required	8/11/98	[insert publication date and FR citation].	
*	* *	*	*	
Section 20	Particulate Emissions—Limitations and Standards.	3/31/97	[insert publication date and FR citation].	
*	* *	*	*	
Section 32	Dust—Duty to Prevent Escape of	3/31/97	[insert publication date and FR citation].	
*	* *	*	*	
City of Omaha				
Chapter 41—Air Quality Control				
Article I In General				
41–2	Adoption of State Regulations with Exceptions	4/1/98	[insert publication date and FR citation].	
*	* *	*	*	

* * * * *

(e) * * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable Geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	* *	*	*	
Lincoln Municipal Code, Chapter 8.06.140 and 8.06.145.	City of Lincoln	2/5/99	[insert publication date and FR citation].	
Lancaster Co. Resolution 5069, Sections 12 and 13.	Lancaster County	2/5/99	[insert publication date and FR citation].	

PART 70—[AMENDED]

1. The authority citation for Part 70 continues to read a follows:

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

2. Appendix A to Part 70 is amended by adding paragraph (d) to the entry for Nebraska; City of Omaha; Lincoln-Lancaster County Health Department to read as follows.

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

* * * * *

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

* * * * *

(d) The Nebraska Department of Environmental Quality submitted the following program revisions on August 20, 1999; NDEQ Title 129, Chapters 1, 2, 5, 6, 7, 8, 10, 29, and 41; City of Omaha Ordinance No. 34492, amended section 41–2, and LLCHD Articles 2–1, 2–2, 2–5, 2–6, 2–7, 2–8, and 2–15, effective February 22, 2000.

* * * * *

[FR Doc. 00–618 Filed 1–19–00; 8:45 am]

BILLIING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

[HCFA–1124–IFC]

RIN 0938–AJ92

Medicare Program; Medicare Inpatient Disproportionate Share Hospital (DSH) Adjustment Calculation: Change in the Treatment of Certain Medicaid Patient Days in States With 1115 Expansion Waivers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period implements a change to the Medicare DSH adjustment calculation policy in reference to section 1115 expansion waiver days. This rule sets forth the criteria to use in calculating the Medicare DSH adjustment for hospitals for purposes of payment under the prospective payment system.

DATES: *Effective date:* January 20, 2000.

Applicability Date: These regulations are applicable to discharges occurring on or after January 20, 2000.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on March 20, 2000.

ADDRESSES: Mail an original and 3 copies of written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1124–IFC, P.O. Box 8010, Baltimore, MD 21244–8010.

If you prefer, you may deliver an original and 3 copies of your written comments to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–16–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

FOR FURTHER INFORMATION CONTACT: Kathleen Buto, Deputy Director, Center for Health Plans and Providers, (202) 205–2505.

SUPPLEMENTARY INFORMATION:

I. Background

A. Summary

The Medicare disproportionate share hospital (DSH) adjustment provision under section 1886(d)(5)(F) of the Social Security Act (the Act) was enacted by section 9105 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 and became effective for discharges occurring on or after May 1, 1986, as set forth in the May 6, 1986 final rule with comment period (51 FR 16772).

The size of a hospital's Medicare DSH adjustment, which is applied to the hospital inpatient prospective payment system (PPS) payment, is based on the sum of the percentage of patient days attributable to patients eligible for both Medicare Part A and Supplemental Security Income (SSI), and the percentage of patient days attributable to patients eligible for Medicaid but not Medicare Part A. The first computation includes days for patients who, during a given month, were entitled to both Medicare Part A and SSI (excluding State supplementation). This number is divided by the number of covered patient days utilized by patients under Medicare Part A for that same period. The second computation includes patient days associated with beneficiaries who were eligible for medical assistance (Medicaid) under a State plan approved under Title XIX but who were not entitled to Medicare Part A. (See 42 CFR 412.106(b)(4).) This number is divided by the total number of patient days for that same period.

Currently, hospitals whose disproportionate patient percentage exceeds a certain threshold (which varies for urban and rural areas) receive either a fixed adjustment or, in the case of large urban hospitals (100 or more beds) or large rural hospitals (500 or more beds), a variable adjustment based on a statutory formula. As of April 1, 1990, variable adjustments were made for large urban hospitals and rural referral centers. Facilities that qualify as rural referral centers as well as sole community hospitals receive the greater of a fixed adjustment or a variable adjustment based on a statutory formula. Qualifying large rural hospitals and sole community hospitals receive a fixed adjustment. Urban hospitals with 100 or more beds that receive funds from State and local governments for indigent care in excess of 30 percent of net inpatient revenues are treated separately (42 CFR 412.106(c)).

B. Section 1115 Expansion Waivers

Some States provide medical assistance under a demonstration project (also referred to as a section 1115 waiver). In some section 1115 waivers, a given population that otherwise could have been made eligible for Medicaid under section 1902(r)(2) or 1931(b) in a State plan amendment is made eligible under the waiver. These populations are referred to as hypothetical eligibles, and are specific, finite populations identifiable in the budget neutrality agreements found in the Special Terms and Conditions for the demonstrations; the patient days utilized by that population are to be recognized for purposes of calculating the Medicare DSH adjustment. In addition, the section 1115 waiver may provide for medical assistance to expanded eligibility populations that could not otherwise be made eligible for Medicaid.

Under current policy, hospitals were to include in the Medicare DSH calculation only those days for populations under the section 1115 waiver who were or could have been made eligible under a State plan. Patient days of the expanded eligibility groups, however, were not to be included in the Medicare DSH calculation.

II. Provisions of the Interim Final Rule With Comment Period

In this interim final rule with comment period, we are revising the policy, effective with discharges occurring on or after January 20, 2000, to allow hospitals to include the patient days of all populations eligible for Title XIX matching payments in a State's

section 1115 waiver in calculating the hospital's Medicare DSH adjustment.

One purpose of a section 1115 expansion waiver is to extend Title XIX matching payments to services furnished to populations that otherwise could not have been made eligible for Medicaid. The costs associated with these populations are matched based on section 1115 authority. In fact, section 1115(a)(2)(A) of the Act states that the "costs of such project which would not otherwise be included as expenditures under section * * * 1903 * * * shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures * * * approved under (Title XIX)." Thus, the statute allows for the expansion populations to be treated as Medicaid beneficiaries.

In addition, at the time that the Congress enacted the Medicare DSH adjustment, there were no approved section 1115 expansion waivers. Nonetheless, we believe allowing hospitals to include the section 1115 expanded waiver population in the Medicare DSH calculation is fully consistent with the Congressional goals of the Medicare DSH adjustment to recognize the higher costs to hospitals of treating low income individuals covered under Medicaid. Therefore, inpatient hospital days for these individuals eligible for Title XIX matching payments under a section 1115 waiver are to be included as Medicaid days for purposes of the Medicare DSH adjustment calculation.

In order to provide consistency in both components of the calculation, any days that are added to the Medicaid day count must also be added to the total day count, to the extent that they have not been previously so added.

Regardless of the type of allowable Medicaid day, the hospital bears the burden of proof and must verify with the State that the patient was eligible under one of the allowable categories during each day of the patient's stay. The hospital is responsible for and must provide adequate documentation to substantiate the number of Medicaid days claimed. Days for patients that cannot be verified by State records to have fallen within a period wherein the patient was eligible for Medicaid as described in this rule cannot be counted.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Waiver of Proposed Rulemaking and 30-Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

We find that it would be contrary to the public interest to undertake prior notice and comment procedures before implementing this interim final rule with comment period. States that have approved section 1115 waivers are continually involved in critical efforts to implement, refine, and operate their Medicaid programs. For example, the States, managed care organizations, and hospitals are always considering their financial positions and the adequacy of rates paid between these critical partners. We believe this policy change impacts their financial positions. Therefore, we believe the extended period of uncertainty for hospitals and others that would result if this policy change were to go through proposed and final rulemaking could adversely affect the course of these critical efforts and thereby disrupt services to Medicaid beneficiaries and other low-income patients who are served by hospitals, especially safety net hospitals.

Moreover, because our prior guidance on certain aspects of our Medicare DSH policy was insufficiently clear, many hospitals in States with approved section 1115 expansion waivers have been receiving Medicare DSH payments reflecting the inclusion of expansion population patient days. But for an immediate effective date of this rule, these Medicare DSH payments will cease until completion of the notice and comment rulemaking process, and, as a result, many of these hospitals may experience financial difficulties that may adversely affect access to services by the low-income patients served by these safety net hospitals.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day comment period for public comment.

Also, we normally provide a delay of 30 days in the effective date of a regulation. However, if adherence to this procedure would be impracticable, unnecessary, or contrary to the public interest, we may waive the delay in the effective date. For the reasons discussed above, it is important that the provisions of this final rule with comment period have immediate effect in order to avoid a potential hardship for hospitals and a potential disruption of services for their patients.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements:

Section 412.106(b)(4) (ii) and (iii) contain information collection requirements that are subject to the PRA. The requirements are as follows:

In paragraph (b)(4)(ii), effective with discharges occurring on or after January 20, 2000, for purposes of counting days under paragraph (b)(4)(i) of this section, hospitals may include all days attributable to populations eligible for Title XIX matching payments through a waiver approved under section 1115 of the Social Security Act.

In paragraph (b)(4)(iii), the hospital has the burden of furnishing data adequate to prove eligibility for each Medicaid patient day claimed under paragraph (b)(4) and of verifying with the State that a patient was eligible for Medicaid during each claimed Medicaid day. We solicit comments on the burden

associated with these requirements. Based upon the burden estimates received from the public, HCFA will add these new requirements and associated burden to the existing information collections entitled; "Medicaid Disproportionate Share Adjustment Procedure and Criteria" (OMB #0938–0691, HCFA–R–194, current expiration date 9/30/2002; and/or "Medicaid Disproportionate Share Hospital Payments—Institutions for Mental Disease" (OMB #0938–0746, HCFA–R–0266, current expiration date 6/30/2002.

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Information Technology Investment Management Group, Attn: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

VI. Regulatory Impact Analysis

A. Introduction

Section 804(2) of title 5, United States Code (as added by section 251 of Public Law 104–121), specifies that a "major rule" is any rule that the Office of Management and Budget finds is likely to result in—

- An annual effect on the economy of $100 million or more.
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic and export markets.

We estimate that the impact of this interim final rule with comment period will exceed $100 million. Therefore, this rule is a major rule as defined in Title 5, United States Code, section 804(2).

We have examined the impacts of this interim final rule with comment period as required by Executive Order 12866, the Regulatory Flexibility Act (RFA) (Public Law 96–354), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, non-profit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by non-profit status or by having revenues of $5 million or less annually. Individuals and States are not included in the definition of a small entity.

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. With the exception of hospitals located in certain New England counties, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds that is located outside of a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA). Section 601(g) of the Social Security Amendments of 1983 (Public Law 98–21) designated hospitals in certain New England counties as belonging to the adjacent NECMA. Thus, for purposes of the hospital inpatient prospective payment system, we classify these hospitals as urban hospitals.

It is clear that the changes being made in this rule would affect a number of hospitals, and the effects on some may be significant. Therefore, the discussion below constitutes a combined regulatory impact analysis and regulatory flexibility analysis.

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure in any one year by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation). We have concluded that this rule does not impose any mandates on State, local, or tribal governments, or the private sector that will result in an annual expenditure of $100 million or more.

B. Impact of This Interim Final Rule With Comment Period

There are currently eight States with section 1115 expansion waivers (Delaware, Hawaii, Massachusetts, Missouri, New York, Oregon, Tennessee, and Vermont). Under this interim final rule with comment period, hospitals in these eight States would be allowed to include in the Medicaid percentage portion of their Medicare DSH calculation the inpatient hospital days attributable to patients who are eligible under the State's section 1115 expansion waiver. Because our policy was that these days were not allowable prior to the effective date of this interim final rule with comment period, by allowing hospitals to begin to include these days in their Medicare DSH calculation the impact will be to increase the DSH payments these hospitals will receive compared to what they would receive absent this change.

Based on data available for the numbers of individuals covered by the expansion waiver in each of the eight States compared to the total number of individuals covered by Medicaid in each State (adjusted for utilization), we have estimated the impact of this change to be $270 million in higher FY 2000 PPS payments, (total FY 2000 DSH payments are projected to be $4.6 billion), and $370 million in FY 2001 payments. Thus the total impact of this change for the period from FY 2001 through FY 2005 is estimated to be $2.14 billion.

In accordance with the provisions of Executive Order 12866, this interim final rule with comment period was reviewed by the Office of Management and Budget.

VII. Federalism

We have reviewed this interim final rule with comment period under the threshold criteria of Executive Order 13132, Federalism. In considering this policy change, we have evaluated any potential Federalism impacts. States are already responsible as needed for providing information to hospitals and fiscal agents under current regulations. In addition, there are existing requirements for maintaining and reporting these data under the Terms and Conditions of their section 1115 demonstration agreement. Therefore, States already possess the information necessary to implement this change, and no new standards or requirements are

established as a result of this change. Indeed there may be a reduction in State responsibilities since section 1115 demonstration populations will no longer have to be treated differently from other Medicaid eligibles.

In order to assist the States in making this information available to the Medicare fiscal intermediaries so they can accurately count days related to patients eligible under an 1115 waiver, we are issuing clarifying instructions to the States specifying exactly what data are to be included in the Medicare DSH calculation, and the States' role in providing this information. In addition, we are in ongoing contact with States that have waivers in order to assist and monitor the development and implementation of their waivers.

We believe this regulation meets Federalism requirements as it does not increase the burden on States and is responsive to requests from hospitals who partner with States in providing health services to needy populations.

List of Subjects in 42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 42 CFR chapter IV, part 412 is amended as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 412.106, republish the headings of paragraphs (b) and (b)(4), redesignate paragraph (b)(4)(ii) as paragraph (b)(4)(iii), and add a new paragraph (b)(4)(ii) to read as follows:

§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.

* * * * *

(b) Determination of a hospital's disproportionate patient percentage. * * *

(4) Second computation. * * *

(ii) Effective with discharges occurring on or after January 20, 2000, for purposes of counting days under paragraph (b)(4)(i) of this section, hospitals may include all days attributable to populations eligible for Title XIX matching payments through a waiver approved under section 1115 of the Social Security Act.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 22, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Approved: December 22, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 00–1357 Filed 1–14–00; 3:09 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[CC Docket No. 99–168; FCC 00–5]

Service Rules for the 746–764 and 776–794 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes service rules governing the initial assignment of licenses, by competitive bidding, and the subsequent regulatory treatment of commercial services to be provided on the 746–764 and 776–794 MHz Bands. The service rules adopted in this document enable assignment of these bands to licensees by competitive bidding, scheduled to commence in early May in order to comply with the statutory requirement that revenues from the auction of the commercial spectrum segments be received in the U.S. Treasury by September 30, 2000.

DATES: This rule is effective January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Legal Information: Stan Wiggins, 202–418–1310; Technical Information: Martin Liebman, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order (First R&O) in WT Docket No. 99–168, FCC 00–5, adopted January 6, 2000, and released January 7, 2000. The complete text of this First R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, S.W., Washington, DC. The informal text of the First R&O is posted on the Commission's Internet web site, at *www.fcc.gov/Bureaus/Wireless/Orders/2000/fcc00005.txt*.

Synopsis of the First Report and Order

1. The Commission adopts a First Report and Order (First R&O) in WT Docket No. 99–168, establishing service and auction rules for the commercial licensing of 36 megahertz of spectrum, the 746–764 and 776–794 Bands, as directed by Congress in the Balanced Budget Act of 1997. The subsequent legislation, referred to as the Consolidated Appropriations enactment directs the Commission to assign these licenses by competitive bidding, and to deposit revenues from those assignments in the U.S. Treasury no later than September 30, 2000. The assignment of this spectrum to commercial licensees has the potential to expand existing wireless services, both fixed and mobile, and to introduce both new technologies and new services.

2. The First R&O divides these Bands into several sub-bands, as subsequently described in the "band plan" and these decisions reflect broad spectrum management considerations. The First R&O also determines the more specific service rule and auction rule issues raised with respect to the sub-bands occupying 30 of the 36 megahertz, while it defers to a subsequent R&O the comparably specific issues raised with respect to the remaining 6 megahertz, which are designated as Guard Bands and occupy spectrum adjacent to frequencies previously allocated for public safety use. Those issues are the subject of a Public Notice issued January 7, 2000, which seeks additional comment on technical and operational issues. See Public Comment Sought On Issues Related To Guard Bands In The 746–764 MHz and 776–794 MHz Spectrum Block (WT Docket No. 99–168), Public Notice (January 7, 2000). A future R&O will also adopt revisions to Form 601.

3. These spectrum Bands occupy frequencies formerly reserved for analog UHF television service, and new licenses assigned by auction on these Bands will be required to protect existing UHF television services from harmful interference. This obligation to protect existing UHF television services will continue until the termination of analog television service, as part of the scheduled transition to digital television (DTV) service. Analog television licenses may not be renewed beyond December 31, 2006, unless the Commission determines that an extension is authorized. *See* 47 U.S.C. 309(j)(14)(B).

4. The First R&O is the Commission's first decision guided by principles enunciated in its Spectrum Reallocation Policy Statement. *See* Principles for Reallocation of Spectrum to Encourage the Development of Telecommunications Technologies for the New Millennium, FCC 99–354, November 22, 1999, (Spectrum Reallocation Policy Statement), 1999 WL 1054886 (1999). Based on that statement and the record in this proceeding, the First R&O adopts a flexible, market-based approach to determining service rules for this band, and declines to establish a unitary, 36 megahertz license as requested by some commenters. The potential for interference to public safety users, and the range of different services and spectrum needs asserted by commenting parties, make it undesirable to leave determination of the internal framework of these bands to a single commercial entity. Expanding demand for wireless voice and data services, rapid technological change, and the variety of interested parties and potential service applications support the Commission's conclusion that establishment of separate sub-bands will best ensure the realization of a variety of spectrum management priorities. These priorities include: (i) Protection of public safety operations; (ii) encouraging efficient and intensive use of spectrum; (iii) enabling potential entry by a variety of technologies and service providers.

5. Ensuring protection to public safety operations is achieved, in part, by the creation of Guard Bands. Encouraging efficient and intensive use of spectrum is furthered by creating sub-bands for applications of different scale, while allowing licensee flexibility in both the range of possible fixed and mobile wireless uses, and in the optional combination and post-auction division of these spectrum resources. The creation of the different sub-bands, rather than licensing the entire commercial band to a single licensee for a specified geographic area, in part reflects the preference of some parties, including proponents of new technologies and services, for smaller initial spectrum segments on which to bid. The two major sub-bands established by the First R&O, and the two paired Guard Bands, are configured as follows.

6. *Band Plan:* The largest sub-band is a 20 megahertz segment, consisting of two paired 10 megahertz blocks at 752–762 MHz and 782–792 MHz, provides a significant block of spectrum that should be desirable for providers of advanced wireless services requiring greater bandwidth. The greater flexibility of these larger bandwidth segments could be used, for example, to satisfy the asymmetric characteristics of data services. Providers of existing cellular and PCS services also contend that large spectrum blocks are needed to support mobile "next generation" telephony. The second major sub-band is half this size, a 10 megahertz segment consisting of two paired 5 megahertz blocks at 747–752 MHz and 777–782 MHz, and should be of interest to entities seeking to deploy innovative wireless technologies, including those with the potential to provide Internet access, that require less spectrum. The paired 5 megahertz blocks also, by their placement on the band, reduce the number of existing television channels to which a new licensee's operations would potentially cause interference. The designation of paired bands with distinct power limits, as described, is consistent with traditional practice for paired mobile services and achieves effective flexibility to enable such offerings without constraining new technologies and services.

7. Each of these sub-bands is open to both fixed and mobile services, under the technical rules specified, and is also open to new "broadcast-type" services that, consistent with the part 27 technical rules, might be subject to provisions of the Communications Act specifically directed at broadcast services. Bidders are permitted to bid on both sub-bands in a specific geographic area, and retain both if successful at auction.

8. Service and technical regulations governing the larger sub-bands were adopted in the First R&O and are described in more detail below. In contrast, service and technical regulations for the two spectrum blocks established as Guard Bands will be adopted in a future report and order, though the First R&O notes that the Commission intends to adopt more stringent interference protection standards for Guard Bands than for the larger sub-bands that do not directly abut public safety spectrum. The actions in the First R&O respecting Guard Bands are therefore limited to their designation in the band plan as two paired blocks of spectrum. The first Guard Band consists of two 1 megahertz segments, at 746–747 MHz and 776–777 MHz, and the second consists of two 2 megahertz segments, at 762–764 MHz and 792–794 MHz.

9. The two larger sub-bands will be auctioned on the basis of six Economic Area Groupings (EAGs), which should allow significant economies of scale to help reduce costs and increase efficiencies. Bidders may aggregate these regional licenses into nationwide licenses.

10. The First R&O also adopts standards to ensure protection of the approximately 100 existing conventional television stations permitted to continue operations on these bands during the transition to digital television, as well as rules for application licensing, technical and operational requirements, and competitive bidding. The structure of the band plan, and the related rules, establish a flexible structure intended to enable the most efficient and intensive use of this spectrum, and we describe below our review of these actions as required by section 303(y) of the Communications Act.

11. The NPRM in this proceeding sought comment both on broad spectrum management issues, including the internal framework of the spectrum band and possible sharing between services, as well as specific issues raised by the activation of commercial services on this band. *See* Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to part 27 of the Commission's rules, WT Docket No. 99–168, Notice of Proposed Rulemaking, FCC 99–97, June 3, 1999 (NPRM), 1999 WL 350460, 64 FR 36686, July 7, 1999. The band plan previously described addresses several spectrum management issues. Additional, more particular concerns arise over varied service and technical issues. Another broad spectrum issue is the Commission's concern over potential interference between conventional television and wireless services, if the full scope of flexible use were implemented for these spectrum blocks.

12. With regard to broad spectrum management, sharing of these bands by conventional television and wireless services is subject to section 303(y) of the Communications Act, which requires the Commission, before authorizing such "flexible use" of a spectrum allocation, to make several factual determinations. 47 U.S.C. 303(y). Specifically, the Commission must determine that such flexible use is consistent with international agreements, and also: (1) Would be in the public interest; (2) would not deter investment in communications services and systems, or technology development; and (3) would not result in harmful interference among users. Many commenters, representing a variety of potential service providers, asserted that renewed conventional television operations on these bands would create such a wide range of interference difficulties as to effectively preclude other, non-broadcast wireless

applications. The First R&O does not permit operations by conventional television stations, that is, by stations operating at power levels authorized by parts 73 and 74 of the Commission's rules. While spectrum markets benefit from flexible service rules, the Commission determined that the inherent technical conflicts between such disparate services would create substantial spectrum inefficiencies and render provision of both types of services on this spectrum impracticable.

13. Because the Commission determined not to enable conventional television services on these bands, it did not need to make the factual determinations required by section 303(y) as a precondition to such flexible use. The Commission also interpreted the section 303(y) review requirement as limited to regulatory decisions that enable flexible use between "services" as the term "service" is used in the allocations process. Thus, the Commission did not perform a section 303(y) review of rules that enable licensee flexibility within a specific service, though it did consider the section 303(y) criteria when making decisions under the broader public interest mandate in the statute.

14. At the same time that it declined to permit conventional television service, however, the Commission determined not to preclude broadcast-type services that comply with the power and other technical requirements established in part 27 for wireless services on these bands. With respect to these services, therefore, the Commission undertook the required section 303(y) review, and determined that because such broadcast-type services will be required to comply fully with the technical and operating regulations adopted for wireless services, they would create no additional interference attributable to sharing between broadcast and wireless services. The Commission also determined that it did not anticipate adverse investment or innovation effects from such services, and concluded that permitting broadcast-type services consistent with technical requirements imposed on wireless services is in the public interest and satisfies the criteria in section 303(y).

15. More particular licensing and operating rule concerns include: (1) The regulatory status of entities licensed under part 27; (2) eligibility restrictions; (3) aggregation and disaggregation; (4) ownership restrictions; (5) license terms and renewal; (6) performance requirements; (7) notice of initial applications and petitions to deny; (8) forbearance; and (9) equal employment opportunity. After reviewing the First R&O actions in these areas, we will turn to consider technical rules and competitive bidding, and finally the protection of television services.

16. (1) *Regulatory Status.* The rules adopted in the First R&O require licensees to identify the regulatory status of the services offered, such as common carrier or broadcast, and the Commission will revise Form 601 to add the broadcast option for new services on this Band.

17. *(2) Eligibility Restrictions.* The Commission believes that opening this spectrum to as wide a range of applicants as possible will encourage efforts to develop new technologies and services, and help to ensure the most efficient use of spectrum. Thus, the First R&O imposes no restrictions on eligibility, and also does not recognize these spectrum blocks for purposes of calculating the CMRS spectrum cap applied to cellular, broadband PCS, and SMR services. The Commission noted that including these bands in the cap and adjusting the cap upward would permit reconsolidation within present CMRS bands, renewing concerns about reduced competition and increased prices and reduced quality of services provided.

18. *(3) Aggregation and Disaggregation.* The initial sizing of EAG geographic licensing areas, described briefly in this summary, recognizes several spectrum management interests. First, these regional areas seem best suited to facilitate rapid service deployment, and to avoiding excessive concentration of licenses. Second, mindful of our statutory obligation to deposit auction revenues by September 30, 2000, we accord due weight to our experience with auctions for larger numbers of licenses, which are more complex and take longer to complete. Third, while the First R&O enables parties to aggregate spectrum and service areas when bidding, and to disaggregate spectrum and partition service areas after the auction, there are risks and costs associated with both aggregating geographic service areas and forming bidding consortia to obtain rights to areas smaller than the initial licensing areas. Fourth, the economies of scale that attach to larger licensing areas afford better prospects for developing standard protocols for specific applications, and for manufacturing equipment to operate at specific frequencies.

19. The Commission believes that permitting licensees in these bands to partition service areas and disaggregate spectrum will improve smaller entities' ability to overcome entry barriers, and facilitate greater participation by rural telephone companies and other smaller entities, including those owned by minorities and women. The First R&O also establishes bidding credits for small businesses.

20. *(4) Ownership restrictions.* The First R&O determines to apply existing 47 CFR 27.12, which implements section 310 of the Communications Act, to applicants for licenses on these bands regardless of the service they choose to provide. While the statute requires different substantive standards for compliance with alien ownership restrictions, depending on whether the licensee is providing common carrier or non-common carrier services, establishing parity with regard to reporting requirements will enable more effective Commission monitoring of compliance.

21. *(5) License terms and renewal.* The First R&O establishes an initial license term of approximately 14 years, until January 1, 2014, recognizing that incumbent television licensees pose an obstacle to fulfillment of new licensees' performance obligations. The 2014 expiration date reflects the judgment that licensees should be allowed eight years after the scheduled termination of the DTV transition as a reasonable period to fulfill those requirements. Licensees providing nonbroadcast services will also be given a renewal expectancy established in 47 CFR 27.14(b), which relies in part on the substantial service standards specified in the next paragraph. Licensees involved in a comparative renewal proceeding must include the 47 CFR 27.14(b) showing at a minimum to claim a renewal expectancy. Because the Communications Act establishes a maximum eight-year term for broadcast licensees, entities providing broadcast-type services on the 700 MHz bands will have to seek renewal eight years after initiating such services.

22. *(6) Performance requirements.* 47 CFR 27.14(a) requires commercial wireless licensees to provide "substantial service" to their service area within 10 years of being licensed. Several examples of "safe harbors" that demonstrate substantial service are provided in the part 27 Report and Order. See Amendment of the Commission's rules to Establish Part 27, the Wireless Communications Service ("WCS"), GN Docket No. 96–228, Report and Order, 12 FCC Rcd 10785 (1997) (Part 27 Report and Order), 62 FR 09636, March 3, 1997. We will apply those standards to licensees in the 747–762 MHz and 777–792 MHz bands. The First R&O also encourages licensees to

build out not only in urban areas and areas of high density population, but in rural areas as well, and cautions that licensees that do not serve rural areas, even if otherwise compliant with performance standards, will not necessarily be assured of license renewal. Failure to meet the substantial service requirement results in forfeiture of the license and ineligibility to regain it.

23. *(7) Notice of initial applications; petitions to deny.* The Commission in its Part 1 Third Report and Order previously exercised its statutory authority to provide for a seven-day public notice period for auctionable services and a five-day period for filing petitions to deny, and has determined in the First R&O to apply those periods to initial applications for license in this spectrum. See Amendment of Part 1 of the Commission's rules—Competitive Bidding Procedures, WT Docket No. 97–82, Allocation of Spectrum Below 5 GHZ Transferred from Federal Government Use, 4660–4685 MHz, ET Docket No. 94–32, Third Report and Order and Second Further Notice of Proposed Rulemaking, 13 FCC Rcd 374, 431 (para. 98) (1997), recon. pending, 62 FR 13540 March 21, 1997.

24. *(8) Forbearance.* The Commission has previously forborne from applying certain obligations imposed on common carriers by Title II of the Communications Act. Common carriers classified as CMRS, who provide mobile services in the 747–762 MHz and 777–792 MHz bands, will not be required to file contracts of service, seek authority for interlocking directors, or submit applications for new facilities or discontinuance of existing facilities. Such providers also will not be required to file tariffs for most international services, or be subject to most of section 226 of the Communications Act, relating to telephone operator services. CMRS providers on these bands will also be subject to the Commission's complete detariffing of interstate, interexchange services offered by non-dominant interexchange carriers, to our elimination of part 41 requirements applicable to franks, and to our elimination of prior approval requirements for most pro forma transfer applications involving telecommunications carriers. CMRS providers on this spectrum will, however, be required to support service provider Local Number Portability by November 24, 2002.

25. With regard to providers of fixed common carrier services, such entities are specifically exempt from the requirement that authority be sought for interlocking directorates, following the Commission's decision in its 1998 Biennial Regulatory Review of part 62 of the Commission rules. See 1998 Biennial Regulatory Review—Repeal of part 62 of the Commission's rules, CC Docket No. 98–195, Report and Order, FCC 99–163 (July 16, 1999), 1999 WL 503615, 64 FR 43937, August 13, 1999. In addition, the First R&O applies to licensees on these bands the recent amendment of 47 CFR 63.71, which provides for the automatic grant of a nondominant common carrier's application for discontinuance after 31 days. This establishes comparable regulatory treatment between wireline providers and fixed wireless providers operating on the 747–762 MHz and 777–792 MHz bands.

26. The Commission's network reliability requirements, however, will not apply to fixed service common carrier licensees on this spectrum. When such services are involuntarily discontinued, reduced, or impaired for more than 48 hours, the licensee must promptly notify the Commission in writing of the reasons, and include a statement indicating when normal service will be resumed. The licensee must also promptly notify the Commission when normal service is resumed.

27. The First R&O also determined that a non-common carrier licensee on these bands that voluntarily discontinues, reduces, or impairs service to a community or part of a community will be required to give written notice to the Commission within seven days. Neither a non-common carrier nor a fixed service common carrier, however, need surrender its license for cancellation if the "discontinuance" is merely a change in common carrier or non-common carrier status.

28. *(9) Equal employment opportunity (EEO).* Because the service rules permit licensees on these bands to provide any service consistent with the technical regulations, including wireless and broadcast services, the Commission determined not to include an explicit EEO provision in part 27 of the rules. Rather, an applicant's election on its Form 601 of one of several specific regulatory classifications will determine which of the several, service-based Commission EEO rules will apply.

29. We now turn to technical rules. These can be divided into: (1) In-band interference control; (2) out-of-band and spurious emission limits; (3) RF safety and power limits; and (4) special considerations raised by use of channels 65, 66 and 67. Apart from the specific provisions described here, all licensees are subject to the general provisions of part 27.

30. *(1) In-band interference control.* The First R&O adopts the field strength limit approach to control co-channel interference in these bands. The rules thus require licensees to limit signals from all base and fixed stations operating in the 747–762 MHz band to a predicted or measured field strength, specifically 40 dBu/m, at the licensee's geographic border.

31. *(2) Out-of-band and spurious emission limits.* The NPRM in this proceeding recognized both general concerns with interference caused by emissions outside the licensee's assigned spectrum, and specifically stated Congressional concern with ensuring that public safety service licensees operate free of interference from new commercial licensees. In the First R&O, the Commission seeks to protect public safety services while maintaining the viability of adjacent commercial bands. Specifically, the First R&O requires licenses operating in the 747–762 MHz and 777–792 MHz bands to attenuate power for emissions on any frequency outside the authorized spectrum by at least 43 + 10 log (P) dB, where P is the transmitter power. In addition, the Commission adopts a more stringent out-of-band emission limit (OOBE) of 76 + 10 log10 (P) dB per 6.25 kHz for emissions from base station transmitters operating on the 747–762 MHz sub-bands into the 764–776 MHz and 794–806 MHz public safety bands.

32. For mobile and portable transmitters, which will operate in the 777–792 MHz sub-band, the First R&O specifies an OOBE attenuation requirement of at least 65 + 10 log P dB per 6.25 kHz in the 764–776 MHz and 794–806 MHz public safety bands. If fixed transmissions are employed in the 777–792 MHz band, interference to public safety operations in the 764–776 MHz band would resemble the type of interference to that band caused by base stations operating in the 747–762 MHz band (and for which we have adopted a 76 + 10 log P standard). Accordingly, for fixed transmissions in the 777–792 MHz band, the First R&O adopts the standard applied to emissions from base stations in the 747–762 MHz band, which requires attenuation of fixed transmitters by at least 76 + 10 log P dB per 6.25 kHz in the 764–776 and 794–806 MHz public safety bands. The Commission also stated its intention to consider greater out-of-band attenuation when emissions from a transmitter operating in the 747–762 and 777–792 MHz bands causes harmful interference to public safety operations.

33. These technical regulations governing OOBE and spurious emissions are supplemented by additional regulations governing use of channels 65, 66, and 67.

34. *(3) RF safety and power limits.* The First R&O adopts a threshold of 1000 w ERP for categorical exclusion from routine evaluation for RF exposure for base and fixed stations. For portable devices, the First R&O adopts a maximum power of 3 w ERP, with the provision that these devices be evaluated for RF exposure in compliance with § 2.1093 of the Commission's rules. This will require modification of §§ 1.1307(b), 2.1091, and 2.1093 of the Commission's rules to include potential services and devices developed for use in the 700 MHz band.

35. The First R&O adopts the following power limits: (1) For base stations and fixed stations operating in the 747–762 MHz band, an effective radiated power (ERP) no greater than 1,000 watts and an antenna height above average terrain (HAAT) no greater than 305 meters; (2) for mobile, fixed, and control stations operating in the 777–792 MHz band, an ERP no greater than 30 watts; and (3) for portable stations operating in the 777–792 MHz band, an ERP no greater than 3 watts.

36. *(4) Special considerations for Use of Channels 65, 66, and 67.* The second harmonic transmissions of services operating on these channels, from 776 MHz to 794 MHz, fall within a band used for radionavigation in the Global Navigation Satellite System (GNSS), which includes the Global Positioning System (GPS). To protect this system and ensure that commercial equipment operating in these bands does not cause interference to the GNSS, especially when GNSS is used for precision approach and landing, the First R&O adopts the following OOBE limits for all spurious emissions, including harmonics, that fall within the 1559–1610 MHz frequency range, from equipment operating in the 747–762 MHz and 777–792 MHz bands. First, for wideband emissions, the OOBE limit will be −70 dBW/MHz equivalent isotropically radiated power (EIRP). Second, for discrete emissions of less than 700 Hz bandwidth, an absolute EIRP limit of −80 dBW.

37. We now turn to competitive bidding issues. The First R&O determined that because the Commission has not yet completed the development of a practical means of implementing combinatorial bidding procedures, such procedures should not be used for these bands. The Commission will use the competitive bidding procedures contained in subpart Q of Part 1 of the Commission's rules for the auction of licenses in these bands, including any amendments adopted in the ongoing part 1 proceeding. While these rules generally will be adequate for the auction of licenses for all uses permitted in these bands, the Commission also directed the Wireless Telecommunications Bureau to adopt, if operationally feasible, an optional nationwide bid withdrawal procedure for the 747–762 MHz and 777–792 MHz bands that would cap bid withdrawal payments for bidders seeking a 30 megahertz nationwide aggregation. Such a procedure would require applicants to declare on their short-form applications whether they seek a 30 megahertz nationwide aggregation and wish to be subject to the nationwide bid withdrawal provisions. Applicants that choose to be such a nationwide bidder would not be allowed to bid on anything other than all licenses comprising the 30 megahertz aggregation, and must win either this aggregation or no licenses at all. The bid withdrawal payment for a 30 megahertz nationwide bidder that withdraws from the auction would be calculated as the difference between the sum of the withdrawn bids and the sum of the subsequent high bids on the withdrawn licenses. In addition, nationwide bid withdrawal payments would be limited to a certain percentage, such as 5 percent, of the aggregate withdrawn bids. Applicants that do not choose this nationwide bid withdrawal option may still aggregate licenses pursuant to the standard bid withdrawal provisions. The Bureau will seek comment on whether to implement this procedure in its public notice seeking comment on auction procedures for these bands, and will announce, prior to the filing of short-form applications for the auction, whether a 30 megahertz nationwide aggregation subject to this procedure will be available.

38. For purposes of the auction of licenses for these bands, the Commission will define a small business as an entity with average annual gross revenues for the preceding three years not exceeding $40 million. A very small business is an entity with average annual gross revenues for the preceding three years not exceeding $15 million. In calculating gross revenues for purposes of small business eligibility, the Commission will attribute the gross revenues of the applicant, its controlling interests and its affiliates. Consistent with the levels of bidding credits adopted in the Part 1 proceeding, small businesses will receive a 15 percent bidding credit, and very small businesses will receive a 25 percent bidding credit. The First R&O does not adopt special preferences for entities owned by minorities or women, because the Commission does not have an adequate record to support such special provisions under current standards of judicial review.

39. We now turn to protection of television services from interference caused by licensees on these bands. Previous Commission decisions stated that television operations in the 746–806 MHz band would be fully protected during the digital television (DTV) transition period. See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87–268, Sixth Report and Order, 12 FCC Rcd 14588 (1997), 62 FR 2668, July 11, 1997; Reallocation of Television Channels 60–69, the 746–806 MHz Band, ET Docket No. 97–157, Notice of Proposed Rule Making, 12 FCC Rcd 14141 (1997), 62 FR 41012, July 31, 1997. The subsequent Public Safety Spectrum Report and Order, adopting service rules for the public safety uses of the 700 MHz band, addressed the protection of transitional television operations in the 764–776 MHz and 794–806 MHz public safety bands. See In the Matter of Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State, and local Public Safety Agency Requirements Through the Year 2010; Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96–86, First Report and Order and Third Notice of Proposed Rulemaking, 14 FCC Rcd 152 (1998), 63 FR 58645, November 2, 1998 (Public Safety Spectrum Report and Order). The Commission concludes in the First R&O that the factors and considerations examined in the Public Safety Spectrum Report and Order with regard to protection of television service should also apply to the use of the 747–762 MHz and 777–792 MHz bands. Licensees operating on these bands will be required to comply with the provisions of 47 CFR 90.545, and the First R&O incorporates those provisions into part 27, as 47 CFR 27.60.

40. The existing agreements with Canada and Mexico covering television broadcast use of the UHF 470–806 MHz band do not reflect the additional use or services being adopted in the First R&O. Until supplemental agreements have been finalized, licenses issued for these bands within 120 km of the national borders will be subject to such future agreements. Licensees operating in border areas will be granted on the condition that harmful interference may not be caused to, but must be accepted

from, UHF television transmitters in Canada and Mexico. Also, pending further negotiations, the First R&O adopts the protection criteria for domestic television stations as interim criteria for Canadian and Mexican television stations.

41. The effect of continued television operations by protected incumbents on the usefulness of these spectrum blocks was recognized in the NPRM, which proposed to permit new licensees to reach agreement with protected, incumbent television licensees for: (1) Accelerated conversion to DTV-only transmission; (2) acceptance of higher levels of interference than allowed by the protection standards; or (3) otherwise accommodating the new licensees. The First R&O recognizes the spectrum management challenge of both minimizing the operational difficulties posed by incumbents to new wireless licensees, while maintaining broadcast services through the transition period. The extended license term specified for services on these bands reflects that licensees may not have uncompromised use of the spectrum resource for some years, under the statutory provision for DTV transition.

42. In addition, to the extent that incumbent television licensees seek to negotiate with new licensees on these bands, and develop accommodations that affect only the analog television broadcast, the unitary license established for NTSC and DTV television facilities may pose administrative complications. The First R&O states the Commission's willingness to consider specific regulatory requests needed to implement voluntary agreements reached between incumbent television licensees and new licensees in these bands. In considering the public interest aspects of specific requests, the Commission would consider both the benefits of provisioning new wireless services, including service to underserved areas, and the loss of service to the community of the broadcast licensee.

Final Regulatory Flexibility Analysis

43. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the NPRM issued in this proceeding. See Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99–168, Notice of Proposed Rulemaking, FCC 99–97, June 3, 1999 (NPRM), 1999 WL 350460, 64 FR 36686, July 7, 1999. The Commission sought written public comments in the NPRM, including comment on the IRFA. Under the provisions of the Consolidated Appropriations enactment, however, the Commission is exempt from 5 U.S.C. Chapter 6 and so is not required to prepare a Final Regulatory Flexibility Analysis (FRFA) as part of this First R&O. See Consolidated Appropriations, Appendix E. Sec. 213. See also 145 Cong. Rec. at H12493–94 (Nov. 17, 1999).

Ordering Clauses

44. Part 27 of the Commission's Rules is accordingly amended. The rule amendments made by this First R&O shall become effective January 20, 2000, pursuant to the Consolidated Appropriations statute. See Public Law 106–113, 113 Stat. 1501, Appendix E, Section 213. "Making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes." (Consolidated Appropriations). See also 145 Cong. Rec. at H12493–94, H12501 (Nov. 17, 1999).

45. The Office of Public Affairs, Reference Operations Division, shall send a copy of this First R&O to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act

46. The First R&O contains a new information collection. The actions contained in this First R&O are, however, exempt from the Paperwork Reduction Act of 1995 under the Consolidated Appropriations statute. See Consolidated Appropriations, Appendix E. Sec. 213. See also 145 Cong. Rec. at H12493–94 (Nov. 17, 1999). Implementation of the revisions to part 27 required to assign licenses in these commercial spectrum bands, including revisions to information collections, are therefore not subject to approval by the Office of Management and Budget, and became effective on adoption. As a matter of information, the new paperwork requirements contained in the First R&O are limited to: (1) Minor revisions to existing Commission Form 601, to reflect the scope of possible services to be provided on these spectrum blocks; and (2) the application of existing information collection requirements associated with the auction and licensing processes to entities participating in the auction of these spectrum blocks.

List of Subjects CFR 47 CFR Part 27

Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 27 as follows:

1. The authority citation for part 27 is revised to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

2. The heading for part 27 is revised to read as follows:

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

3. Section 27.1 is amended in paragraph (a) by removing the phrase "for the Wireless Communications Service (WCS)" and adding in its place the phrase "for miscellaneous wireless communications services (WCS)", and by revising paragraph (b) to read as follows:

§ 27.1 Basis and purpose.

* * * * *

(b) *Purpose.* This part states the conditions under which spectrum is made available and licensed for the provision of wireless communications services in the following bands.

(1) 2305–2320 MHz and 2345–2360 MHz.

(2) 747–762 MHz and 777–792 MHz.

* * * * *

4. Section 27.2 is revised to read as follows:

§ 27.2 Permissible communications.

(a) *Miscellaneous wireless communications services.* Subject to technical and other rules contained in this part, a licensee in the frequency bands specified in § 27.5 may provide any services for which its frequency bands are allocated, as set forth in the non-Federal Government column of the Table of Allocations in § 2.106 of this chapter (column 5).

(b) *Satellite DARS.* Satellite digital audio radio service (DARS) may be provided using the 2310–2320 and 2345–2360 MHz bands. Satellite DARS service shall be provided in a manner consistent with part 25 of this chapter.

5. Section 27.3 is amended by redesignating paragraph (e) as paragraph (f), paragraphs (f), (g), and (h) as paragraphs (k), (l), and (m), and by adding paragraphs (e), (g), (h), (i), (j) and (n) to read as follows:

§ 27.3 Other applicable rule parts.

* * * * *

(e) *Part 15.* This part sets forth the requirements and conditions applicable to certain radio frequency devices.

* * * * *

(g) *Part 20.* This part sets forth the requirements and conditions applicable to commercial mobile radio service providers.

(h) *Part 21.* This part sets forth rules the requirements and conditions applicable to point-to-point microwave services relating to communications common carriers.

(i) *Part 22.* This part sets forth the requirements and conditions applicable to public mobile services.

(j) *Part 24.* This part sets forth the requirements and conditions applicable to personal communications services.

* * * * *

(n) *Part 101.* This part sets forth the requirements and conditions applicable to fixed microwave services.

6. Section 27.4 is amended by adding a new definition for "broadcast services", and revising the definition for "wireless communications service" in alphabetical order to read as follows:

§ 27.4 Terms and definitions.

* * * * *

Broadcast services. This term shall have the same meaning as that for "broadcasting" in section 3(6) of the Communications Act of 1934, *i.e.*, "the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations." 47 U.S.C. 153(6).

* * * * *

Wireless communications service. A radiocommunication service licensed pursuant to this part for the frequency bands specified in § 27.5.

7. Section 27.5 is amended by redesignating paragraphs (a) and (b) as (a)(1) and (a)(2), redesignating and revising the introductory text as paragraph (a) and adding paragraph (b) to read as follows:

§ 27.5 Frequencies.

(a) *2305–2320 MHz and 2345–2360 MHz bands.* The following frequencies are available for WCS in the 2305–2320 MHz and 2345–2360 MHz bands:

* * * * *

(b) *746–764 MHz and 776–794 MHz bands.* The following frequencies are available for licensing pursuant to this part in the 746–764 MHz and 776–794 MHz bands:

(1) Two paired channels of 1 megahertz each are available for assignment. Block A: 746–747 MHz and 776–777 MHz.

(2) Two paired channels of 2 megahertz each are available for assignment. Block B: 762–764 MHz and 792–794 MHz.

(3) Two paired channels of 5 megahertz each are available for assignment. Block C: 747–752 MHz and 777–782 MHz.

(4) Two paired channels of 10 megahertz each are available for assignment. Block D: 752–762 MHz and 782–792 MHz.

8. Section 27.6 is amended by redesignating paragraphs (a) and (b) as (a)(1) and (a)(2), redesignating and revising the introductory text as paragraph (a), and adding a new paragraph (b) to read as follows:

§ 27.6 Service areas.

(a) *2305–2320 MHz and 2345–2360 MHz bands.* WCS service areas for the 2305–2320 MHz and 2345–2360 MHz bands are Major Economic Areas (MEAs) and Regional Economic Area Groupings (REAGs) as defined below. Both MEAs and REAGs are based on the U.S. Department of Commerce's 172 Economic Areas (EAs). See 60 FR 13114 (March 10, 1995). In addition, the Commission shall separately license Guam and the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands, American Samoa, and the Gulf of Mexico, which have been assigned Commission-created EA numbers 173–176, respectively. Maps of the EAs, MEAs, and REAGs and the **Federal Register** Notice that established the 172 EAs are available for public inspection and copying at the FCC Public Reference Room, Room CY–A257, 445 12th Street SW, Washington, D.C. 20554.

* * * * *

(b) *746–764 MHz and 776–794 MHz bands.* WCS service areas for the 746–764 MHz and 776–794 MHz bands are as follows.

(1) [Reserved]

(2) Service areas for Blocks C and D in the 747–762 MHz and 777–792 MHz bands are based on Economic Area Groupings (EAGs) as defined by the Federal Communications Commission. *See* 62 FR 15978 (April 3, 1997) extended with the Gulf of Mexico. *See* also 62 FR 9636 (March 3, 1997), in which the Commission created an additional four economic area-like areas for a total of 176. Maps of the EAGs and the **Federal Register** Notice that established the 172 Economic Areas (EAs) are available for public inspection and copying at the Reference Center, Room CY A–257, 445 12th St., S.W., Washington, DC 20554. These maps and data are also available on the FCC website at *www.fcc.gov/oet/info/maps/areas/.*

(i) There are 6 EAGs, which are composed of multiple EAs as defined in the table below:

Economic area groupings	Name	Economic areas
EAG001	Northeast	1–11, 54
EAG002	Mid-Atlantic	12–26, 41, 42, 44–53, 70
EAG003	Southeast	27–40, 43, 69, 71–86, 88–90, 95, 96, 174, 176(part)
EAG004	Great Lakes	55–68, 97, 100–109
EAG005	Central/Mountain	87, 91–94, 98, 99, 110–146, 148, 149, 152, 154–159, 176(part)
EAG006	Pacific	147, 150, 151, 153, 160–173, 175

Note 1 to paragraph (b)(2)(i): Economic Area Groupings are defined by the Federal Communications Commission; *see* 62 FR 15978 (April 3, 1997) extended with the Gulf of Mexico.

Note 2 to paragraph (b)(2)(i): Economic Areas are defined by the Regional Economic Analysis Division, Bureau of Economic Analysis, U.S. Department of Commerce February 1995 and extended by the Federal Communications Commission, *see* 62 FR 9636 (March 3, 1997).

(ii) For purposes of paragraph (b)(2)(i) of this section, EA 176 (the Gulf of Mexico) will be divided between EAG003 (the Southeast EAG) and EAG005 (the Central/Mountain EAG) in accordance with the configuration of the Eastern/ Central and Western Planning Area established by the Mineral Management Services Bureau of the Department of the Interior (MMS). That portion of EA 176 contained in the Eastern and Central Planning Areas as defined by MMS will be included in

EAG003; that portion of EA 176 contained in the Western Planning Area as defined by MMS will be included in EAG005. Maps of these areas may be found on the following MMS website: *www.gomr.mms.gov/homepg/offshore/offshore.html*.

9. Section 27.10 is added to subpart B to read as follows:

§ 27.10 Regulatory status.

(a) *Single authorization.* Authorization will be granted to provide any or a combination of the following services in a single license: common carrier, non-common carrier, and broadcast. A licensee may render any kind of communications service consistent with the regulatory status in its license and with the Commission's rules applicable to that service. An applicant or licensee may submit a petition at any time requesting clarification of the regulatory status for which authorization is required to provide a specific communications service.

(b) *Designation of regulatory status in initial application.* An applicant shall specify in its initial application if it is requesting authorization to provide common carrier, non-common carrier, or broadcast services, or a combination thereof.

(c) *Amendment of pending applications.* The following rules apply to amendments of a pending application.

(1) Any pending application may be amended to:

(i) Change the carrier regulatory status requested, or

(ii) Add to the pending request in order to obtain common carrier, non-common carrier, or broadcast status, or a combination thereof, in a single license.

(2) Amendments to change, or add to, the carrier regulatory status in a pending application are minor amendments filed under § 1.927 of this chapter.

(d) *Modification of license.* The following rules apply to amendments of a license.

(1) A licensee may modify a license to:

(i) Change the regulatory status authorized, or

(ii) Add to the status authorized in order to obtain a combination of services of different regulatory status in a single license.

(2) Applications to change, or add to, the carrier status in a license are modifications not requiring prior Commission authorization. The licensee must notify the Commission within 30 days of the change. If the change results in the discontinuance, reduction, or impairment of an existing service, the licensee is subject to the provisions of § 27.66.

10. Section 27.11 is amended by adding the following sentences to the end of paragraph (a), by revising paragraph (b), and by adding a new paragraph (c) to read as follows:

§ 27.11 Initial authorization.

(a) * * * Initial authorizations shall be granted in accordance with § 27.5. Applications for individual sites are not required and will not be accepted, except where required for environmental assessments, in accordance with §§ 1.1301 through 1.1319 of this chapter.

(b) *2305–2320 MHz and 2345–2360 MHz bands.* Initial authorizations for the 2305–2320 MHz and 2345–2360 MHz bands shall be for 10 megahertz of spectrum in accordance with § 27.5(a).

(1) Authorizations for Blocks A and B will be based on Major Economic Areas (MEAs), as specified in § 27.6(a)(1).

(2) Authorizations for Blocks C and D will be based on Regional Economic Area Groupings (REAGs), as specified in § 27.6(a)(2).

(c) *746–764 MHz and 776–794 MHz bands.* Initial authorizations for the 746–764 MHz and 776–794 MHz blocks shall be for 1, 2, 5, or 10 megahertz of spectrum in accordance with § 27.5(b).

(1) Authorizations for Block A, consisting of two paired channels of 1 megahertz each, will be based on those geographic areas specified in § 27.6(b)(1).

(2) Authorizations for Block B, consisting of two paired channels of 2 megahertz each, will be based on those geographic areas specified in § 27.6(b)(1).

(3) Authorizations for Block C, consisting of two paired channels of 5 megahertz each, will be based on Economic Area Groupings (EAGs), as specified in § 27.6(b)(2).

(4) Authorizations for Block D, consisting of two paired channels of 10 megahertz each, will be based on EAGs, as specified in § 27.6(b)(2).

11. Section 27.13 is revised to read as follows:

§ 27.13 License period.

(a) *2305–2320 MHz and 2345–2360 MHz bands.* Initial WCS authorizations for the 2305–2320 MHz and 2345–2360 MHz bands will have a term not to exceed ten years from the date of original issuance or renewal.

(b) *747–762 MHz and 777–792 MHz bands.* Initial authorizations for the 747–762 MHz and 777–792 MHz bands will extend until January 1, 2014, except that a part 27 licensee commencing broadcast services, will be required to seek renewal of its license for such services at the termination of the eight-year term following commencement of such operations.

§ 27.14 [Amended]

12. Section 27.14 is amended in paragraph (a) by removing "ten years of being licensed" and adding in its place "the prescribed license term set forth in § 27.13".

13. Section 27.15 is amended by revising paragraph (b)(4) and adding a new paragraph (e) to read as follows:

§ 27.15 Geographic partitioning and spectrum disaggregation.

* * * * *

(b) * * *

(4) *Signal levels.* For purposes of partitioning and disaggregation, part 27 systems must be designed so as not to exceed the signal level specified for the particular spectrum block in § 27.55 at the licensee's service area boundary, unless the affected adjacent service area licensees have agreed to a different signal level.

* * * * *

(e) *Compliance with construction requirements.* The following rules apply for purposes of implementing the construction requirements set forth in § 27.14.

(1) *Partitioning.* Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that it will independently satisfy the substantial service requirement for its respective partitioned area. If a licensee subsequently fails to meet its substantial service requirement, its license will be subject to automatic cancellation without further Commission action. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire, pre-partitioned geographic service area. If the partitioner subsequently fails to meet its substantial service requirement, only its license will be subject to automatic cancellation without further Commission action.

(2) *Disaggregation.* Parties to disaggregation agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the disaggregator and disaggregatee each certifies that it will share responsibility for meeting the substantial service requirement for the geographic service area. If the parties choose this option and either party subsequently fails to satisfy its substantial service responsibility, both

parties' licenses will be subject to forfeiture without further Commission action. Under the second option, both parties certify either that the disaggregator or the disaggregatee will meet the substantial service requirement for the geographic service area. If the parties choose this option, and the party responsible subsequently fails to meet the substantial service requirement, only that party's license will be subject to forfeiture without further Commission action.

14. Section 27.50 is amended by redesignating paragraphs (a) and (b) as paragraphs (b)(1) and (b)(2), by removing "in the 2305–2320 MHz and 2345–2360 MHz bands", each place it appears, by adding new paragraphs (a) and (b) introductory text, and by adding Table 1 following paragraph (c) to read as follows:

§ 27.50 Power and antenna height limits.

(a) The following power and antenna height limits apply to transmitters operating in the 747–762 MHz and 777–792 MHz bands:

(1) Fixed and base stations transmitting in the 747–762 MHz band must not exceed an effective radiated power (ERP) of 1000 watts and an antenna height of 305 m height above average terrain (HAAT), except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts ERP in accordance with Table 1 of this section;

(2) Fixed, control, and mobile stations transmitting in the 777–792 MHz band are limited to 30 watts ERP;

(3) Portable stations (hand-held devices) transmitting in the 777–792 MHz band are limited to 3 watts ERP;

(4) Maximum composite transmit power shall be measured over any interval of continuous transmission using instrumentation calibrated in terms of RMS-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, etc., so as to obtain a true maximum composite measurement for the emission in question over the full bandwidth of the channel.

(b) The following power limits apply to the 2305–2320 MHz and 2345–2360 MHz bands:

* * * * *

(c) * * *

TABLE 1.—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 747–762 MHZ BAND

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) (watts)
Above 1372 (4500)	65
Above 1220 (4000) To 1372 (4500)	70
Above 1067 (3500) To 1220 (4000)	75
Above 915 (3000) To 1067 (4000)	100
Above 763 (2500) To 915 (3000)	140
Above 610 (2000) To 763 (2500)	200
Above 458 (1500) To 610 (2000)	350
Above 305 (1000) To 458 (1500)	600
Up to 305 (1000)	1000

15. Section 27.51 is revised to read as follows:

§ 27.51 Equipment authorization.

(a) Each transmitter utilized for operation under this part must be of a type that has been authorized by the Commission under its certification procedure.

(b) Any manufacturer of radio transmitting equipment to be used in these services may request equipment authorization following the procedures set forth in subpart J of part 2 of this chapter. Equipment authorization for an individual transmitter may be requested by an applicant for a station authorization by following the procedures set forth in part 2 of this chapter.

16. Section 27.53 is amended by revising paragraph (a) introductory text, redesignating paragraph (c) as paragraph (f), and adding paragraphs (c), (d) and (e) to read as follows:

§ 27.53 Emission limits.

(a) For operations in the bands 2305–2320 MHz and 2345–2360 MHz, the power of any emission outside the licensee's frequency band(s) of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by the following amounts:

* * * * *

(c) For operations in the 747 to 762 MHz band, the power of any emission outside the licensee's frequency band(s) of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, in accordance with the following:

(1) On any frequency outside the 747 to 762 MHz band, the power of any emission shall be attenuated outside the band below the transmitter power (P) by at least 43 + 10 log (P) dB;

(2) On all frequencies between 764 to 776 MHz and 794 to 806 MHz, by a factor not less than 76 + 10 log (P) dB in a 6.25 kHz band segment;

(3) Compliance with the provisions of paragraph (c)(1) of this section is based on the use of measurement instrumentation employing a resolution bandwidth of 100 kHz or greater. However, in the 100 kHz bands immediately outside and adjacent to the frequency block, a resolution bandwidth of at least 30 kHz may be employed;

(4) Compliance with the provisions of paragraph (c)(2) of this section is based on the use of measurement instrumentation such that the reading taken with any resolution bandwidth setting should be adjusted to indicate spectral energy in a 6.25 kHz segment.

(d) For operations in the 777 to 792 MHz band, the power of any emission outside the licensee's frequency band(s)of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, in accordance with the following:

(1) On any frequency outside the 777 to 792 MHz band, the power of any emission shall be attenuated outside the band below the transmitter power (P) by at least 43 + 10 log (P) dB;

(2) On all frequencies between 764 to 776 MHz and 794 to 806 MHz, by a factor not less than 65 + 10 log (P) dB in a 6.25 kHz band segment, for mobile and portable stations transmitting in the 777 to 792 MHz band;

(3) On all frequencies between 764 to 776 MHz and 794 to 806 MHz, by a factor not less than 76 + 10 log (P) dB in a 6.25 kHz band segment, for fixed stations transmitting in the 777 to 792 MHz band;

(4) Compliance with the provisions of paragraph (d)(1) of this section is based on the use of measurement instrumentation employing a resolution bandwidth of 100 kHz or greater. However, in the 100 kHz bands immediately outside and adjacent to the frequency block, a resolution bandwidth of at least 30 kHz may be employed;

(5) Compliance with the provisions of paragraphs (d)(2) and (d)(3) of this section is based on the use of measurement instrumentation such that the reading taken with any resolution bandwidth setting should be adjusted to indicate spectral energy in a 6.25 kHz segment.

(e) For operations in the 747–762 MHz and 777–792 MHz bands, emissions in the band 1559–1610 MHz shall be limited to −70 dBW/MHz equivalent isotropically radiated power

(EIRP) for wideband signals, and −80 dBW EIRP for discrete emissions of less than 700 Hz bandwidth. For the purpose of equipment authorization, a transmitter shall be tested with an antenna that is representative of the type that will be used with the equipment in normal operation.

* * * * *

17. Section 27.55 is revised to read as follows:

§ 27.55 Field strength limits.

The predicted or measured median field strength at any location on the geographical border of a part 27 service area shall not exceed the value specified for the following bands, unless the adjacent affected service area licensees agree to a different field strength. This value applies to both the initially offered service areas and to partitioned, service areas.

(a) 2305–2320 and 2345–2360 MHz bands: 47 dBuV/m.

(b) 747–762 and 777–792 MHz bands: 40 dBuV/m.

18. Section 27.60 is added to read as follows:

§ 27.60 TV/DTV interference protection criteria.

Base, fixed, control, and mobile transmitters in the 747–762 MHz and 777–792 MHz frequency bands must be operated only in accordance with the rules in this section to reduce the potential for interference to public reception of the signals of existing TV and DTV broadcast stations transmitting on TV Channels 59 through 68.

(a) *D/U ratios.* Licensees must choose site locations that are a sufficient distance from co-channel and adjacent channel TV and DTV stations, and/or must use reduced transmitting power or transmitting antenna height such that the following minimum desired signal-to-undesired signal ratios (D/U ratios) are met.

(1) The minimum D/U ratio for co-channel stations is 40 dB at the hypothetical Grade B contour (64 dBμV/m) (88.5 kilometers (55 miles)) of the TV station or 17 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers (55 miles)) of the DTV station.

(2) The minimum D/U ratio for adjacent channel stations is 0 dB at the hypothetical Grade B contour (64 dBμV/m) (88.5 kilometers (55 miles)) of the TV station or −23 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers (55 miles)) of the DTV station.

(b) *TV stations and calculation of contours.* The methods used to calculate TV contours and antenna heights above average terrain are given in §§ 73.683 and 73.684 of this chapter. Tables to determine the necessary minimum distance from the 747–762 MHz or 777–792 MHz station to the TV/DTV station, assuming that the TV/DTV station has a hypothetical or equivalent Grade B contour of 88.5 kilometers (55 miles), are located in § 90.309 of this chapter and labeled as Tables B, D, and E. Values between those given in the tables may be determined by linear interpolation. The locations of existing and proposed TV/DTV stations during the period of transition from analog to digital TV service are given in Part 73 of this chapter and in the final proceedings of MM Docket No. 87–268. The DTV allotments on Channels 60 through 68 are:

State	City	NTSC TV Ch.	DTV Ch.	ERP (kW)	HAAT (m.)
California	Concord	42	63	61	856
California	Long Beach	18	61	413.6	725
California	Los Angeles	2	60	865.9	1107
California	Los Angeles	11	65	688.7	896
California	Los Angeles	13	66	679.7	899
California	Riverside	62	68	180.1	723
California	Sacramento	10	61	1000	595
California	Stockton	64	62	63.5	874
New Jersey	Newark	13	61	198.7	500
New Jersey	Vineland	65	66	107.8	280
Pennsylvania	Allentown	39	62	50	302
Pennsylvania	Philadelphia	6	64	1000	332
Pennsylvania	Philadelphia	10	67	791.8	354
Puerto Rico	Aguada	50	62	50.1	343
Puerto Rico	Arecibo	60	61	55	242
Puerto Rico	Mayaguez	16	63	50.1	347
Puerto Rico	Naranjito	64	65	50.1	142
Puerto Rico	Ponce	7	66	407.4	826
Wisconsin	Milwaukee	18	61	519.8	307

Note: DTV stations on Channel 59 must be considered even though they are not indicated in the above table. The transition period is scheduled to end on December 31, 2006. After that time, unless otherwise directed by the Commission, 747–762 MHz and 777–792 MHz stations will no longer be required to protect reception of co-channel or adjacent channel TV/DTV stations.

(1) Licensees of stations operating within the ERP and HAAT limits of § 27.50 must select one of three methods to meet the TV/DTV protection requirements, subject to Commission approval:

(i) Utilize the geographic separation specified in the tables referenced below;

(ii) Submit an engineering study justifying the proposed separations based on the actual parameters of the land mobile station and the actual parameters of the TV/DTV station(s) it is trying to protect; or,

(iii) Obtain written concurrence from the applicable TV/DTV station(s). If this method is chosen, a copy of the agreement must be submitted with the application.

(2) The following is the method for geographic separations.

(i) Base and fixed stations that operate in the 747–762 MHz band having an antenna height (HAAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table B (co-channel frequencies based on 40 dB protection) and Table E (adjacent channel frequencies based on 0 dB protection) in § 90.309 of this chapter. For base and fixed stations having an antenna height (HAAT) between 152–914 meters (500–3,000 ft.) the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure B in § 90.309 of this chapter. For heights of more than 152 m. (500 ft.) above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the hypothetical or equivalent Grade B contour of a co-channel TV/DTV station (*i.e.*, it exceeds the distance from the appropriate Table in § 90.309 of this chapter to the

relevant TV/DTV station), an authorization will not be granted unless it can be shown in an engineering study (*see* paragraph (b)(1)(ii) of this section) that actual terrain considerations are such as to provide the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m for DTV stations) or unless the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m coverage contour for DTV stations) will be achieved. Directions for calculating powers, heights, and reduction curves are listed in § 90.309 of this chapter for land mobile stations. Directions for calculating coverage contours are listed in §§ 73.683–685 of this chapter for TV stations and in § 73.625 of this chapter for DTV stations.

(ii) Control, fixed, and mobile stations (including portables) that operate in the 777–792 MHz band are limited in height and power and therefore shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table D (co-channel frequencies based on 40 dB protection for TV stations and 17 dB for DTV stations) in § 90.309 of this chapter and a minimum distance of 8 kilometers (5 miles) from all adjacent channel TV/DTV station hypothetical or equivalent Grade B contours (adjacent channel frequencies based on 0 dB protection for TV stations and −23 dB for DTV stations). Since control, fixed, and mobile stations may affect different TV/DTV stations than the associated base or fixed station, particular care must be taken by applicants/licensees to ensure that all appropriate TV/DTV stations are considered (*e.g.* a base station may be operating within TV Channel 62 and the mobiles within TV Channel 67, in which case TV Channels 61, 62, 63, 66, 67 and 68 must be protected). Control, fixed, and mobile stations shall keep a minimum distance of 96.5 kilometers (60 miles) from all adjacent channel TV/DTV stations. Since mobiles and portables are able to move and communicate with each other, licensees must determine the areas where the mobiles can and cannot roam in order to protect the TV/DTV stations.

(iii) In order to protect certain TV/DTV stations and to ensure protection from these stations which may have extremely large contours due to unusual height situations, an additional distance factor must be used by all base, fixed, control, and mobile stations. For all co-channel and adjacent channel TV/DTV stations which have an HAAT between 350 and 600 meters, licensees must add the following DISTANCE FACTOR to the value obtained from the referenced Tables in § 90.309 of this chapter and to the distance for control, fixed, and mobile stations on adjacent TV/DTV channels (96.5 km).

DISTANCE FACTOR = (TV/DTV HAAT − 350) ÷ 14 in kilometers, where HAAT is the TV or DTV station antenna height above average terrain obtained from its authorized or proposed facilities, whichever is greater.

(iv) For all co-channel and adjacent channel TV/DTV stations which have an antenna height above average terrain greater than 600 meters, licensees must add 18 kilometers as the DISTANCE FACTOR to the value obtained from the referenced Tables in § 90.309 of this chapter and to the distance for control, fixed, and mobile stations on adjacent TV/DTV channels (96.5 km).

Note to § 27.60: The 88.5 km (55 mi) Grade B service contour (64 dBμV/m) is based on a hypothetical TV station operating at an effective radiated power of one megawatt, a transmitting antenna height above average terrain of 610 meters (2000 feet) and the Commission's R–6602 F(50,50) curves. *See* § 73.699 of this chapter. Maximum facilities for TV stations operating in the UHF band are 5 megawatts effective radiated power at an antenna HAAT of 610 meters (2,000 feet). *See* § 73.614 of this chapter. The equivalent contour for DTV stations is based on a 41 dBμV/m signal strength and the distance to the F (50,90) curve. *See* § 73.625 of this chapter.

19. Section 27.66 is added to read as follows:

§ 27.66 Discontinuance, reduction, or impairment of service.

(a) *Involuntary act.* If the service provided by a fixed common carrier licensee is involuntarily discontinued, reduced, or impaired for a period exceeding 48 hours, the licensee must promptly notify the Commission, in writing, as to the reasons for discontinuance, reduction, or impairment of service, including a statement when normal service is to be resumed. When normal service is resumed, the licensee must promptly notify the Commission.

(b) *Voluntary act by common carrier.* If a fixed common carrier licensee voluntarily discontinues, reduces, or impairs service to a community or part of a community, it must obtain prior authorization as provided under § 63.71 of this chapter. An application will be granted within 30 days after filing if no objections have been received.

(c) *Voluntary act by non-common carrier.* If a fixed non-common carrier licensee voluntarily discontinues, reduces, or impairs service to a community or part of a community, it must give written notice to the Commission within seven days.

(d) *Notifications and requests.* Notifications and requests identified in paragraphs(a) through (c) of this section should be sent to: Federal Communications Commission, Common Carrier Radio Services, 1270 Fairfield Road, Gettysburg, Pennsylvania, 17325.

§ 27.308 [Amended]

20. Section 27.308 is amended by removing the phrase "WCS (see subparts C and D of this part as appropriate)" and adding in its place the phrase "applicable frequency band (*see* subparts C, D, and F of this part, as appropriate)".

21. Part 27 is amended by adding subpart F to read as follows:

Subpart F—Competitive Bidding Procedures for the 747–762 MHz and 777–792 MHz Bands

Subpart F—Competitive Bidding Procedures for the 747–762 MHz and 777–792 MHz Bands

§ 27.501 747–762 MHz and 777–792 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 747–762 MHz and 777–792 MHz bands are subject to competitive bidding procedures. The procedures set forth in part 1, subpart Q, of this chapter will apply unless otherwise provided in this part.

§ 27.502 Designated entities.

(a) Eligibility for small business provisions.

(1) A small business is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding $40 million for the preceding three years.

(2) A very small business is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding $15 million for the preceding three years.

(3) For purposes of determining whether an entity meets either of the definitions set forth in paragraphs (a)(1) and (a)(2) of this section, the gross revenues of the entity, its controlling interests and affiliates shall be considered on a cumulative basis and aggregated. An applicant seeking status as a small business or very small business under this section must disclose on its short-and long-form applications, separately and in the aggregate, the gross revenues of the

applicant (or licensee), its controlling interests and affiliates for each of the previous three years.

(4) Persons or entities that hold interests in an applicant (or licensee) that are affiliates of each other or have an identity of interests identified in § 1.2110(b)(4)(iii) of this chapter will be treated as though they were one person or entity and their ownership interests aggregated for purposes of determining an applicant's (or licensee's) compliance with the requirements of this section.

(5) Where an applicant (or licensee) cannot identify controlling interests under the standards set forth in this section, the gross revenues of all interest holders in the applicant, and their affiliates, will be attributable.

(6) A consortium of small businesses (or a consortium of very small businesses) is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition in paragraph (a)(1) of this section (or each of which individually satisfies the definition in paragraph (a)(2) of this section). Where an applicant or licensee is a consortium of small businesses (or very small businesses), the gross revenues of each small business (or very small business) shall not be aggregated.

(7) Designated entities must describe on their long-form applications how they satisfy the requirements for eligibility for designated entity status, and must list and summarize on their long-form applications all agreements that affect designated entity status such as partnership agreements, shareholder agreements, management agreements and other agreements, including oral agreements, establishing, as applicable, de facto or de jure control of the entity. Such information must be maintained at the licensee's facilities or by its designated agent for the term of the license in order to enable the Commission to audit designated entity eligibility on an ongoing basis.

(b) *Controlling interest.*

(1) For purposes of this section, a controlling interest includes individuals or entities with either *de jure or de facto* control of the applicant. *De jure* control is evidenced by holdings of greater than 50 percent of the voting stock of a corporation, or in the case of a partnership, general partnership interests. *De facto* control is determined on a case-by-case basis. An entity must disclose its equity interest and demonstrate at least the following indicia of control to establish that it retains *de facto* control of the applicant:

(i) The entity constitutes or appoints more than 50 percent of the board of directors or management committee;

(ii) The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; and

(iii) The entity plays an integral role in management decisions.

(2) The following rules apply for the calculation of certain interests.

(i) Ownership interests shall be calculated on a fully diluted basis; all agreements such as warrants, stock options, and convertible debentures will generally be treated as if the rights thereunder already have been fully exercised.

(ii) Partnership and other ownership interests and any stock interest equity, or outstanding stock or outstanding voting stock shall be attributed as specified below.

(iii) Stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal, or extra-trust business relationship to the grantor or the beneficiary, the stock interests held in trust will be attributed to the grantor or beneficiary, as appropriate.

(iv) Non-voting stock shall be attributed as an interest in the issuing entity.

(v) Limited partnership interests shall be attributed to limited partners and shall be calculated according to both the percentage of equity paid in and the percentage of distribution of profits and losses.

(vi) Officers and directors of an entity shall be considered to have an attributable interest in the entity. The officers and directors of an entity that controls a licensee or applicant shall be considered to have an attributable interest in the licensee or applicant.

(vii) Ownership interests that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest.

(viii) Any person who manages the operations of an applicant or licensee pursuant to a management agreement shall be considered to have a controlling interest in such applicant or licensee if such person, or its affiliate, has authority to make decisions or otherwise engage in practices or activities that determine, or significantly influence:

(A) The nature or types of services offered by such an applicant or licensee;

(B) The terms upon which such services are offered; or

(C) The prices charged for such services.

(ix) Any licensee or its affiliate who enters into a joint marketing arrangement with an applicant or licensee, or its affiliate, shall be considered to have a controlling interest, if such applicant or licensee, or its affiliate, has authority to make decisions or otherwise engage in practices or activities that determine, or significantly influence:

(A) The nature or types of services offered by such an applicant or licensee;

(B) The terms upon which such services are offered; or the prices charged for such services.

(c) *Bidding credits.* A winning bidder that qualifies as a small business or a consortium of small businesses as defined in this section may use the bidding credit specified in § 1.2110(e)(2)(iii) of this chapter. A winning bidder that qualifies as a very small business or a consortium of very small businesses as defined in this section may use the bidding credit specified in § 1.2110(e)(2)(ii) of this chapter.

[FR Doc. 00–1332 Filed 1–19–00; 8:45 am]
BILLIING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–3040; MM Docket No. 98–72; RM–9265, RM–9368]

Radio Broadcasting Services; Middlebury, Berlin and Hardwick, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dynamite Radio, Inc., substitutes Channel 265C2 for Channel 265A at Middlebury, VT, reallots Channel 265C2 to Berlin, VT, and modifies the license of Station WGTK to specify operation on the higher class channel and specify Berlin as its community of license. *See* 63 FR 36387, July 6, 1998. At the request of Montpelier Broadcasting, Inc., the

Commission allots Channel 290A to Hardwick, VT, as the community's first local aural service. Channel 265C2 can be allotted to Berlin in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, with a site restriction of 11.1 kilometers (6.9 miles) north of the community, at coordinates 44–18–15 NL; 72–37–24 WL. The site restriction does not obviate the short-spacings to Stations CBF–FM, Channel 265C1, Montreal, Quebec, and CBF10F, Channel 266B, Sherbrook, Quebec, Canada. Channel 290A can be allotted to Hardwick in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without the imposition of a site restriction, at coordinates 44–30–18 NL; 72–22–24 WL. The allotment coordinates do not obviate the short-spacing to Stations CFGL, Channel 289C1, Laval, Quebec, and CIMO, Channel 289C1, Magog, Quebec, Canada. Since both Berlin and Hardwick are located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence in these allotments, as specially negotiated short-spaced allotments, has been obtained. A filing window for Channel 290A at Hardwick, VT, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 21, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–72, adopted December 28, 1999, and released January 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Middlebury, Channel 265A, and by adding Berlin, Channel 265C2 and Hardwick, Channel 290A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–1266 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–3041; MM Docket No. 99–303; RM–9737]

Radio Broadcasting Services; Seymour, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 254A at Seymour, Texas, in response to a petition filed by Seymour Broadcasting Company. See 64 FR 57835, October 27, 1999. The coordinates for Channel 254A at Seymour are 33–29–57 NL and 99–15–06 WL. There is a site restriction 10.1 kilometers (6.3 miles) south of the community. With this action, this proceeding is terminated. A filing window for Channel 254A at Seymour will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–303, adopted December 29, 1999 and released January 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 254A at Seymour.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–1265 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–3041; MM Docket No. 99–286; RM–9713]

Radio Broadcasting Services; Albany, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 255A at Albany, Texas, in response to a petition filed by Albany Broadcasting Company. *See* 64 FR 52487, September 29, 1999. The coordinates for Channel 255A at Albany are 32–43–36 NL and 99–17–42 WL. With this action, this proceeding is terminated. A filing window for Channel 255A at Albany will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–286, adopted December 29, 1999 and released January 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's

copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Albany, Channel 255A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–1264 Filed 1–19–00; 8:45 am]

BILLIING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–3041; MM Docket No. 99–307; RM–9739]

Radio Broadcasting Services; Big Sky, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 242A at Big Sky, Montana, in response to a petition filed by R. Steven Hicks. *See* 64 FR 57837, October 27, 1999. The coordinates for Channel 242A at Big Sky are 45–16–02 NL and 111–22–14 WL. There is a site restriction 7.1 kilometers (4.4 miles) west of the community. With this action, this proceeding is terminated. A filing window for Channel 242A at Big Sky will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–307, adopted December 29, 1999 and released January 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel 242A at Big Sky.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–1263 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–3041; MM Docket No. 99–305; RM–9537]

Radio Broadcasting Services; Alberton, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 294C3 at Alberton, Montana, in response to a petition filed by Mountain West Broadcasting. *See* 64 FR 57836, October 27, 1999. The coordinates for Channel 294C3 at Alberton are 47–00–06 NL and 114–28–21 WL. Canadian concurrence has been received for the allotment of Channel 294C3 at Alberton. With this action, this proceeding is terminated. A filing window for Channel 294C3 at Alberton will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–305, adopted December 29, 1999 and released January 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Alberton, Channel 294C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–1262 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–3041; MM Docket No. 99–306; RM–9729]

Radio Broadcasting Services; Inglis, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 257A at Inglis, Florida, in response to a petition filed by Levy County Broadcasting. *See* 64 FR 57837, October 27, 1999. The coordinates for Channel 257A at Inglis are 29–07–49 NL and 82–41–19 WL. There is a site restriction 11.1 kilometers (6.9 miles) north of the

community. With this action, this proceeding is terminated. A filing window for Channel 257A at Inglis will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–306, adopted December 29, 1999 and released January 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Inglis Channel 257A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–1261 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1806, 1813, 1815, 1835, 1852, and 1872

Implementing Foreign Proposals to NASA Research Announcements on a No-Exchange-of-Funds Basis

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final with changes.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to conform the handling of foreign proposals under NASA Research Announcements (NRAs) with that under Announcements of Opportunity (AOs).

EFFECTIVE DATE: January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, NASA Headquarters, Code HK, Washington, DC 20546, (202) 358–1645, email: *celeste.dalton@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

NASA is adopting as final, with changes, the interim rule published in the **Federal Register** (64 FR 48560–48562, September 7, 1999) that revised NFS Parts 1852, Solicitation Provisions and Contract Clauses, and 1872, Acquisition of Investigations. One comment, addressing submission requirements, was received in response to the interim rule, and was considered in the development of the final rule. Editorial and administrative changes are included in the final rule. Included in these changes is a revision to the proposal submission requirements to be consistent with internal procedures. All the revisions in this final rule are considered administrative or editorial and do not involve a significant change in Agency policy.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act, (5 U.S.C. 601, *et seq.*), because it only affects small business entities in the rare circumstance when such entities team with a foreign entity in response to a NRA.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1806, 1813, 1815, 1835, 1852, and 1872

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule published at 64 FR 48560–48562, September 7, 1999, is hereby adopted as final with the following changes:

1. The authority citation for 48 CFR Parts 1806, 1813, 1815, 1835, 1852, and 1872 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. In section 1852.235–72, revise the date of the provision; delete paragraphs (l)(2) and (l)(3); redesignate paragraphs (l)((4) through (l)(6) as (l)(2) through (l)(4), respectively; in newly designated paragraph (l)(4) delete (l)(4)(i), redesignate paragraphs (l)(4)(ii) and (l)(4)(iii) as (l)(4)(i) and (l)(4)(ii), respectively; and revise to read as follows.

1852.235–72 Instructions for Responding to NASA Research Announcements.

* * * * *

Instructions for Responding to NASA Research Announcements—January 2000

* * * * *

(l) Additional Guidelines Applicable to Foreign Proposals and Proposals Including Foreign Participation

(1) NASA welcomes proposals from outside the U.S. However, foreign entities are generally not eligible for funding from NASA. Therefore, unless otherwise noted in the NRA, proposals from foreign entities should not include a cost plan unless the proposal involves collaboration with a U.S. institution, in which case a cost plan for only the participation of the U.S. entity must be included. Proposals from foreign entities and proposals from U.S. entities that include foreign participation must be endorsed by the respective government agency or funding/sponsoring institution in the country from which the foreign entity is proposing. Such endorsement should indicate that the proposal merits careful consideration by NASA, and if the proposal is selected, sufficient funds will be made available to undertake the activity as proposed.

(2) All foreign proposals must be typewritten in English and comply with all other submission requirements stated in the NRA. All foreign proposals will undergo the same evaluation and selection process as those originating in the U.S. All proposals must be received before the established closing date. Those received after the closing date will be treated in accordance with

paragraph (g) of this provision. Sponsoring foreign government agencies or funding institutions may, in exceptional situations, forward a proposal without endorsement if endorsement is not possible before the announced closing date. In such cases, the NASA sponsoring office should be advised when a decision on endorsement can be expected.

(3) Successful and unsuccessful foreign entities will be contacted directly by the NASA sponsoring office. Copies of these letters will be sent to the foreign sponsor. Should a foreign proposal or a U.S. proposal with foreign participation be selected, NASA's Office of External Relations will arrange with the foreign sponsor for the proposed participation on a no-exchange-of-funds basis, in which NASA and the non-U.S. sponsoring agency or funding institution will each bear the cost of discharging their respective responsibilities.

(4) Depending on the nature and extent of the proposed cooperation, these arrangements may entail:

(i) An exchange of letters between NASA and the foreign sponsor; or

(ii) A formal Agency-to-Agency Memorandum of Understanding (MOU).

* * * * *

PART 1872—ACQUISITION OF INVESTIGATIONS

3. In section 1872.705–2, amend the Management Plan and Cost Plan by deleting paragraph (a)(3)(viii)(A); redesignating paragraphs (a)(3)(viii)(B) and (a)(3)(viii)(C) as (a)(3)(viii)(A) and (a)(3)(viii)(B), respectively; and revising paragraphs (a)(3)(i), (a)(3)(iv), (a)(3)(vi) and (a)(3)(viii) to read as follows.

1872.705–2 Appendix B: Guidelines for Proposal Preparation

* * * * *

Management Plan and Cost Plan

(a) * * *

(3) * * *

(i) Where a "Notice of Intent" to propose is requested, prospective foreign proposers should write directly to the NASA official designated in the AO.

* * * * *

(iv) Proposals including the requested number of copies and letters of endorsement from the foreign governmental agency must be forwarded to NASA in time to arrive before the deadline established for each AO.

* * * * *

(vi) Shortly after the deadline for each AO, the Program Office will advise the appropriate sponsoring agency which proposals have been received and when the selection process should be completed. A copy of this acknowledgment will be provided to each proposer.

* * * * *

(viii) NASA's Office of External Relations will then begin making the arrangements to provide for the selectee's participation in the appropriate NASA program. Depending on the nature and extent of the proposed cooperation, these arrangements may entail:

(A) An exchange of letters between NASA and the sponsoring foreign governmental agency.

(B) An agreement or Memorandum of Understanding between NASA and the sponsoring foreign governmental agency.

* * * * *

[FR Doc. 00–1241 Filed 1–19–00; 8:45 am]
BILLING CODE 7510–01–P

Proposed Rules

Federal Register
Vol. 65, No. 13
Thursday, January 20, 2000

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

[Docket Number LS–98–12]

RIN No. 0581–AB66

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes revising the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees would be adjusted by this proposed rule to reflect the increased cost of providing service, and ensure that the Federal meat grading and certification program is operated on a financially self-supporting basis as required by law.

DATES: Comments must be received on or before March 20, 2000.

ADDRESSES: Send written comments to Larry R. Meadows, Chief; USDA, AMS, LS, MGC, STOP 0248, Room 2628–S, 1400 Independence Avenue, SW., Washington, DC 20250–0248. Comments may be faxed to (202) 690–4119 or E-mailed to Larry.Meadows@–usda.gov.

State that your comments refer to Docket No. LS–98–12, and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except Holidays.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification (MGC) Branch, 202–720–1246.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866, and has not been reviewed by the Office of Management and Budget (OMB).

B. Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of AMS has considered the economic impact of this proposed action on small entities.

AMS, through its MGC Branch, provides voluntary meat grading and certification services to a total of 370 businesses of which 261 are small entities. Small entities, which account for approximately 38 percent of the MGC Branch's total revenues, are defined as those that employ less than 500 employees. AMS provides meat grading and certification services to 93 meat processors, 90 livestock slaughterers, 52 facilities that further process federally donated products, 13 trade associations, 9 livestock feeders, 3 trucking companies, and 4 brokers. These entities are under no obligation to use meat grading and certification services provided under the authority of the Agricultural Marketing Act of 1946 (AMA), as amended, 7 USC 1621 *et seq.*

Meat grading and certification services facilitate the orderly marketing of meat and meat products and enable consumers to obtain the quality of meat they desire. Grading services consist of the evaluation of carcass beef, lamb, pork, veal, and calf for conformance with the grades of an official U.S. Standard for each species. Approximately 21 billion pounds of meat are graded each year. Certification services consist of the evaluation of meat and meat products for compliance with specification and contractual requirements. Certification services are used most often by large-scale meat purchasers to ensure that the quality and yields of the products they purchase comply with their stated requirements. Approximately 17 billion pounds of meat and meat products are certified each year.

AMS regularly reviews its user-fee-financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule would not generate sufficient revenues to recover program costs for current and near-term periods while maintaining an adequate reserve balance. Without a fee increase, the projected operating losses for fiscal year (FY) 2000, FY 2001, and FY 2002 will be $1.9 million, $2.9 million, and $4.1 million respectively. Operating losses at these levels will deplete MGC Branch's operating reserve and place the Branch in an unstable financial position that will adversely affect its ability to provide the current level of grading and certification services. Any reduction in Branch services has the potential to substantially harm small and limited resource firms that rely on grading and certification services to market their products and compete in a global marketplace.

This proposed action would raise the fees charged to all users of grading and certification services. AMS estimates that overall, this proposed rule would yield an additional $175,000 in revenue per month for the balance of FY 2000. Of this $175,000, small businesses would pay approximately $66,500 or an average of $255 per month. In FY 2001 and 2002, small entities will pay approximately $798,000, an average of $255 per month or $3,058 per year. However, due to increased program and industry efficiencies, the FY 2000–2002 unit costs of program services (revenue/total pounds graded and certified) will remain virtually unchanged at approximately $0.0006 per pound for each fiscal year. Accordingly, the Administrator of AMS has determined that this proposal would not have a significant economic effect on a substantial number of small business entities.

This proposed fee increase, only the second since November 1993, is necessary to offset increased program operating costs resulting from: (1) The congressionally-mandated, governmentwide salary increases for 1998, 1999, and 2000; (2) inflation of nonsalary operating costs; (3) accumulated increases in CONUS per diem rates; (4) increased costs of servicing less than full-time applicants; and (5) costs associated with updating the MGC Branch's automated information management system to ensure compliance with year 2000 operating requirements.

Since 1993, in an ongoing effort to control operating costs, the MGC Branch has closed 3 field offices, reduced mid-level supervisory staff by over 50 percent, and reduced the number of support staff by 38 percent. At the same time, the MGC Branch has become more

reliant on automated information management systems for data collection, retrieval, and dissemination, account billing, and disbursement of employee entitlements. The reduction in field offices, supervisory staff, support personnel, and the increased reliance on automated systems has enabled the MGC Branch to absorb a substantial portion of the increased operating costs and minimize increases in user-fees over the past 7 years.

Despite the MGC Branch's vigilant cost reduction efforts since 1993, the operating expenses projected for FY 2000 and beyond can only be balanced by adjusting the hourly fee rate charged to users of meat grading and certification services. Any further reduction in personnel, services, or management infrastructure beyond those already implemented would have a detrimental effect on the program's ability to provide meat grading and certification services and ensure the accurate and uniform application of such services. The hourly rate increase is necessary to recover the costs of providing voluntary Federal meat grading and certification services and for the program to continue serving all segments of the industry.

C. Civil Justice Reform

This proposed action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not pre-empt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

D. Paperwork Reduction Act

This proposed action will not impose any additional reporting or recordkeeping requirements on either small or large meat slaughters, processors, and other applicants who use Federal meat grading and certification services.

Background

The Secretary of Agriculture is authorized by the AMA, 1946 as amended, 7 U.S C. 1621 *et seq.*, to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also provides for the collection of fees from users of the Federal meat grading and certification services that are approximately equal to the cost of providing these services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Employee salaries and benefits account for approximately 80 percent of the total budget. Revenue hours include base hours, premium hours, and service performed on Federal legal holidays. As program operating costs continue to rise, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law.

AMS regularly reviews its user-fee-financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule for the meat grading and certification program would not generate sufficient revenues to recover operating costs for current and near-term periods while maintaining an adequate reserve balance. Without a fee increase, the projected operating losses for FY 2000, FY 2001, and FY 2002 will be $1.9 million, $2.9 million and $4.1 million respectively. These losses will totally deplete MGC Branch's operating reserve and place the Branch in an unstable financial position that will adversely affect its ability to provide the current level of grading and certification services.

This proposed fee increase is necessary to offset increased program operating costs resulting from: (1) Congressionally mandated salary increases for all Federal Government employees in 1998, 1999, and 2000; (2) inflation of nonsalary operating costs; (3) accumulated increases in CONUS per diem rates; (4) increased costs of servicing less than full-time applicants; and (5) costs associated with updating MGC Branch's automated information management system to ensure compliance with year 2000 requirements.

Since 1993, in an ongoing effort to control operating costs, the MGC Branch has closed three field offices, reduced mid-level supervisory staff by over 50 percent, and reduced the number of support staff by 38 percent. At the same time, the MGC Branch has become more reliant on automated information management systems for data collection, retrieval, and dissemination, account billing, and disbursement of employee entitlements. The reduction in field offices, supervisory staff and support personnel and the increased reliance on automated systems has enabled the MGC Branch to absorb a substantial portion of the increased operating costs and minimize increases in user-fees over the past 7 years.

In addition to increases in salary, nonsalary and employee entitlement costs, the MGC Branch can no longer absorb less than full cost recovery for providing service to noncommitment applicants. A noncommitment applicant is a less than full-time user of the meat grading and certification services who only pays for the actual time service is provided. Almost always, the cost of providing service to a noncommitment applicant is significantly more than providing service to a commitment applicant (full-time user of meat grading and certification services), and this difference has become more pronounced in the past several years. The cost of servicing noncommitment applicants is significantly increased by the nonrevenue and travel time of the meat graders assigned to provide service. Additionally, administrative and travel costs associated with supervising noncommitment applicants are significantly higher. This places an undue burden on commitment applicants and other users of the service. Under the current fee structure, these additional costs are not fully recovered and must be absorbed by the program. In addition to recovering all costs from commitment applicants, the proposed action will fully recover all costs associated with servicing less than full-time (noncommitment) applicants.

In FY 1999, the MGC Branch incurred significant unfunded costs in updating its automated information management system to ensure compliance with year 2000 requirements. These updates are complete and program managers do not anticipate any delays or lapses in service delivery as a result of non-compliance with year 2000 requirements. Additionally, automated administrative functions have been improved and are more efficient. Therefore, AMS can deliver services to customers in a more efficient and cost-effective manner which will help minimize future cost increases to applicants.

Despite the cost reduction efforts since 1993 and a user-fee increase in 1998, AMS has determined that the MGC Branch incurred a $852,000 operating loss in FY 1999. Further, AMS projects that without the proposed fee increase the MGC Branch will incur combined losses totaling over $9 million over the next three fiscal years and deplete program reserves. Such operating deficits can only be balanced by adjusting the hourly fee rate charged to users of the service. Any further

reduction in personnel, services, or management infrastructure beyond those already implemented would have a detrimental effect on the program's ability to provide meat grading and certification services and support the accurate and uniform application of such services.

In view of these increases in costs, AMS is proposing to increase the base hourly rate charged to commitment applicants from $39.80 to $45. A commitment applicant is a user of meat grading and certification services who agrees to pay for five continuous 8 hour days, Monday through Friday between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants will increase from $42.20 to $52. A noncommitment applicant is a user of meat grading and certification services for eight consecutive hours or less per day between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The hourly rate for premium hours would increase from $47.80 to $57, and will be charged to users of the service for hours worked in excess of 8 hours per day for each assigned official grader and for work performed before 6 a.m. and after 6 p.m., Monday through Friday, and any time on Saturday or Sunday, except on Federal legal holidays. The holiday rate for all applicants will increase from $79.60 to $90, and will be charged to users of the service for all hours worked on legal holidays.

List of Subjects in 7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 54 be amended as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 54 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 54.27 [Amended]

2. Section 54.27 is amended as follows:

a. In paragraph (a), "$42.20" is removed and "$52" is added in its place, "$47.80" is removed and "$57" is added in its place, "$79.60" is removed and "$90" is added in its place, and

b. In paragraph (b), "$39.80" is removed and "$45" is added in its place, "$47.80" is removed and "$57" is added in its place, and "$79.60" is removed and "$90" is added in its place.

Dated: January 13, 2000.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 00–1281 Filed 1–19–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 00–03]

RIN 1557–AB80

Financial Subsidiaries and Operating Subsidiaries

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend its regulations to implement section 121 of the Gramm-Leach-Bliley Act, which authorizes national banks to conduct expanded financial activities through financial subsidiaries. The OCC also is revising its operating subsidiary rule to make conforming changes and streamline procedures for banks that engage in activities through operating subsidiaries.

DATES: Comments must be received by February 14, 2000.

ADDRESSES: Please direct comments to: Docket No. 00–03, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC, 20219. Comments are available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities or Mitchell Plave, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

Prior to the enactment of the Gramm-Leach-Bliley Act, Public Law 106–102, (GLBA or the Act), national banks generally conducted activities in the bank itself, in an operating subsidiary, or in a subsidiary authorized for national banks to own pursuant to a specific statute (*e.g.*, a bank service company authorized under 12 U.S.C. 1861 *et seq.*). Section 5.34 of the OCC's regulations governs national bank operating subsidiaries. Under § 5.34, an operating subsidiary may engage in activities that are part of, or incidental to, the business of banking as determined by the OCC. A national bank may acquire or establish an operating subsidiary, or commence a new activity in an existing operating subsidiary, by following specific filing procedures that vary depending upon the nature of the activity and whether the bank meets certain eligibility standards.

Section 5.34(f) also permits national banks to engage through a special type of operating subsidiary in activities that are part of, or incidental to, the business of banking but that are not permissible for the national bank to conduct directly, if the bank satisfies certain safety and soundness conditions. In addition, the bank must meet the definition of "eligible bank" in § 5.3(g) if the subsidiary is to engage in those activities as principal.

On November 12, 1999, the President signed the GLBA, which comprehensively restructures the statutory framework that governs the financial services industry. Section 121 of the Act adds a new section 5136A to the Revised Statutes that authorizes a national bank to acquire control of, or hold an interest in, a new type of subsidiary called a "financial subsidiary." The GLBA defines a financial subsidiary as a company that is controlled by one or more insured depository institutions, other than a subsidiary that engages solely in activities that national banks may engage in directly (under the same terms and conditions that govern the conduct of these activities by national banks) or a subsidiary that a national bank is specifically authorized to control by the express terms of a Federal statute. A financial subsidiary may engage in specified activities that are financial in nature and in activities that are incidental to financial activities if the bank and the subsidiary meet certain requirements and comply with stated safeguards. A financial subsidiary also may combine these newly authorized activities with activities that are permissible for national banks to engage in directly.

The GLBA does not affect a national bank's authority to own and control an operating subsidiary that engages in activities that are part of, or incidental to, the business of banking and that are permissible for national banks to engage in directly. Thus, once the financial subsidiary provisions of the GLBA take

effect, a national bank may continue to own or establish these operating subsidiaries and also may have financial subsidiaries that engage in new activities that the GLBA authorizes.

Description of the Proposal

Financial Subsidiaries (New § 5.39)

The OCC is issuing this proposal to implement section 121 of the GLBA by establishing a process under which a national bank may obtain OCC approval to engage in activities authorized pursuant to section 5136A of the Revised Statutes through a financial subsidiary by filing a written notice with the OCC. The following is a description of the provisions contained in proposed new § 5.39.

Definitions

Section 5.39(d) defines key terms that are used in the proposal. As the GLBA requires, a number of these terms, such as "affiliate," "company," "control," and "subsidiary," have the same meaning that is set forth in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). Other terms, such as "well managed," "equity capital," "eligible debt," and "financial subsidiary" have the same definitions that are contained in the GLBA. The term "eligible debt," is defined, in part, as unsecured "long term debt" meeting certain requirements. The proposal defines "long term debt" as any debt obligation with an initial maturity of 360 days or more.

Permissible Activities for Financial Subsidiaries

Sections 5.39(e) and (f) provide a simple format describing the types of activities permissible and impermissible for a financial subsidiary. Under § 5.39(e), a financial subsidiary may engage in activities that are financial in nature or incidental to a financial activity that are not permissible for a national bank to conduct directly (expanded financial activities), as well as activities that may be conducted by an operating subsidiary pursuant to § 5.34 (that is, generally activities that are part of, or incidental to, the business of banking that national banks may conduct directly.) There is no requirement, however, that a financial subsidiary also conduct bank-permissible activities.

Section 5.39(e) also lists the activities that are defined in the Act as "financial in nature." Among other things, this list includes activities that the Board of Governors of the Federal Reserve System (Board) has determined under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) to be so closely related to banking or controlling or managing banks as to be a proper incident thereto, and activities that the Board has found under section 4(c)(13) of the BHCA (12 U.S.C. 1843(c)(13)) to be usual in connection with the transaction of banking or other financial operations abroad.

The proposal also recognizes that the Secretary of the Treasury (in consultation with the Board) may determine that additional activities are financial in nature or incidental to a financial activity and therefore are permissible for a financial subsidiary. The Act provides specific procedures, not detailed in this proposal, for coordination between the Secretary of the Treasury and the Board in defining financial and incidental activities under this provision.

Section 5.39(f) sets forth activities that the Act specifically denotes as impermissible for financial subsidiaries. These activities include providing annuities and certain types of insurance as principal, real estate development or real estate investment (unless otherwise expressly authorized by law), and certain activities described in new sections 4(k)(4)(H) and (I) of the Bank Holding Company Act of 1956 (BHCA) as added by the GLBA. At the end of the five-year period beginning on November 12, 1999, however, the Board and the Secretary of the Treasury may find by regulation that the activities described in section 4(k)(4)(H) of the BHCA are permissible for financial subsidiaries.

Qualifications

Section 5.39(g) contains three conditions that a national bank must satisfy to acquire control of, or hold an interest in, a financial subsidiary. First, the national bank and each of its depository institution affiliates must be "well capitalized" and "well managed." Those terms are defined in proposed § 5.39(d) consistent with their definitions in the GLBA. Second, the aggregate consolidated total assets of all financial subsidiaries of the bank may not exceed the lesser of 45 percent of the consolidated total assets of the parent bank or $50 billion. The $50 billion limit is to be adjusted according to an indexing mechanism established jointly by the Secretary of the Treasury and the Board. Third, a bank that is one of the 100 largest insured banks, as determined by the bank's consolidated total assets at the end of the calendar year, must have at least one issue of outstanding "eligible debt" that is rated in one of the three highest investment grade rating categories by a nationally recognized statistical rating organization (eligible debt requirement). If a national bank is one of the second 50 of the 100 largest insured banks, the proposal permits the bank to satisfy the eligible debt requirement if it meets alternative criteria to be set jointly through regulation by the Secretary of the Treasury and the Board. The eligible debt requirement does not apply to a bank that intends to acquire control of, or hold an interest in, a financial subsidiary that engages solely in activities in an agency capacity.

Consistent with the GLBA, the OCC also prohibits a national bank from commencing any expanded financial activity pursuant to section 5136A(a) of the Revised Statutes, or directly or indirectly acquiring control of a company engaged in any expanded financial activity under section 5136A(a) of the Revised Statutes, if the bank or any of its insured depository institution affiliates received a Community Reinvestment Act (CRA) rating of less than "satisfactory record of meeting community credit needs" on its most recent CRA examination prior to when the bank files a notice under § 5.39.

Safeguards

A national bank that establishes or maintains a financial subsidiary must comply with six conditions. First, for purposes of determining regulatory capital, the bank must deduct the aggregate amount of its outstanding equity investment, including retained earnings, in its financial subsidiaries from the assets and tangible equity of the bank. The term "tangible equity" is defined in § 5.39(d) by reference to the definition of that term in 12 CFR 6.2(g). The bank also may not consolidate its assets and liabilities with those of the financial subsidiary for purposes of determining compliance with regulatory capital requirements.

Second, any published financial statement of the national bank must, in addition to providing information prepared in accordance with generally accepted accounting principles, separately present financial information for the bank in a manner that reflects these capital adjustments. The third and fourth conditions require the bank to establish reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and its financial subsidiaries, and to establish procedures to identify and manage financial and operational risks within the bank and the financial subsidiary that adequately protect the bank from these risks.

The fifth condition provides that a financial subsidiary is deemed a

subsidiary of a bank holding company and not a subsidiary of the bank for purposes of the anti-tying prohibitions set forth in 12 U.S.C. 1971 *et seq.*

Finally, consistent with the Act, § 5.39(h)(5) provides that sections 23A and 23B of the Federal Reserve Act (FRA) (12 U.S.C. 371c and 371c–1) apply to certain transactions between a bank and its financial subsidiary. The Act effected this coverage by deeming a financial subsidiary to be an affiliate of the bank and not a subsidiary of the bank for FRA section 23A and 23B purposes. The GLBA exempts from the 10 percent quantitative limit of FRA section 23A(a)(1)(A), however, covered transactions between a bank and any individual financial subsidiary of the bank. Thus, covered transactions between a bank and any one financial subsidiary may exceed 10 percent of the bank's capital and surplus, but are subject to the 20 percent aggregate limit on transactions with all affiliates found in FRA section 23A(a)(1)(B). The proposal also provides that, for purposes of FRA sections 23A and 23B, the bank's investment in a financial subsidiary does not include retained earnings of the financial subsidiary. However, investment in the securities of a financial subsidiary of a bank by an affiliate of the bank are considered to be an investment in those securities by the bank; and any extension of credit by an affiliate of a bank to a financial subsidiary of the bank may be considered an extension of credit by the bank to the financial subsidiary if the Board determines that this treatment is necessary or appropriate to prevent evasions of the FRA or the GLBA.

Procedures

The proposal provides a streamlined process for national banks seeking OCC approval to acquire control of, or hold an interest in, a financial subsidiary, or to commence an expanded financial activity in an existing financial subsidiary. This process is intended to accommodate individual bank preferences by permitting two alternative procedures for obtaining OCC approval.

Under the first option, a national bank may file a "Financial Subsidiary Certification" with the OCC listing the bank's depository institution affiliates and certifying that the bank and each of those affiliates is well capitalized and well managed. Thereafter, at such time as the bank seeks OCC approval to acquire control of, or hold an interest in, a new financial subsidiary, or commence a new expanded financial activity authorized under section 5136A in a financial subsidiary, the bank may file a written notice with the appropriate district office at the time of acquiring control of, or holding an interest in, a financial subsidiary, or commencing a new expanded financial activity authorized pursuant to section 5136A of the Revised Statutes in an existing financial subsidiary. The written notice must be labeled "Financial Subsidiary Notice," must state that the bank's certification remains valid, and describe the activity or activities to be performed in the financial subsidiary as well as cite to the specific authority permitting the expanded financial activity to be conducted by a financial subsidiary. (Where the authority relied on is an agency order or interpretation under section 4(c)(8) or 4(c)(13), respectively, of the Bank Holding Company Act of 1956, a copy of the order or interpretation should be attached.) The written notice also must demonstrate that the aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of 45% of the bank's consolidated total assets or $50 billion, that the bank will remain well capitalized after making the necessary capital adjustments, and, if applicable, that the bank meets the eligible debt requirement.

Alternatively, a bank may choose to seek approval by filing a combined certification and notification with the appropriate OCC district office at least five business days prior to acquiring control of, or an interest in, a financial subsidiary, or commencing a new expanded financial activity authorized pursuant to section 5136A of the Revised Statutes in an existing financial subsidiary. This type of notice would combine the information from the certification and notice described above, and should be labeled "Financial Subsidiary Certification and Notice."

Because the GLBA specifically states that OCC approval shall be based solely upon specific statutory factors, the OCC believes its approval may occur upon a bank's submission of information demonstrating satisfaction of these statutory criteria. Thus, under both of the proposed alternatives, OCC approval occurs upon filing the requisite information within the time frames provided. Appropriate remedies exist under current law and OCC regulations to address any situations where a certification or notification is inaccurate, *e.g.*, § 5.13(h) and 18 U.S.C. 1001.

Failure To Continue To Meet Certain Requirements

A national bank and its affiliated depository institutions must continue to satisfy the qualification requirements in § 5.39(g)(1) and (2) (well managed, well capitalized, and asset size requirements applicable to its financial subsidiaries) and the conditions in § 5.39(h)(1), (2), (3), and (4) after the bank acquires control of, or an interest in, a financial subsidiary. A national bank that fails to continue to satisfy these requirements is subject to several procedural requirements and OCC remedies. For example, the OCC must give notice to the bank promptly upon determining that the bank does not continue to meet these requirements. Under the proposal, the bank is deemed to have received this notice three days after mailing of the letter by the OCC. Not later than 45 days after receipt of this notice, or any additional time as the OCC may permit, the bank must execute an agreement with the OCC to comply with these requirements.

At any time until the conditions described in the notice are corrected, the OCC may impose limitations on the conduct or activities of the national bank or any subsidiary of the national bank that the OCC determines appropriate under the circumstances and consistent with the purposes of section 5136A of the Revised Statutes. The OCC may require the bank to divest control of a financial subsidiary if the bank does not correct the conditions giving rise to the notice within 180 days after its receipt of the notice.

A national bank that does not meet the eligible debt requirement may not purchase, directly or through a subsidiary, any additional equity capital of any financial subsidiary. The term "equity capital" is defined in § 5.39(j)(2), consistent with the GLBA, to include, in addition to any equity investment, any debt instrument issued by a financial subsidiary if the instrument qualifies as capital of the subsidiary under Federal or State law, regulation, or interpretation applicable to the subsidiary.

Finally, as required by the GLBA, the OCC will prohibit a national bank from commencing an expanded financial activity pursuant to section 5136A of the Revised Statutes, or directly or indirectly acquiring control of a company engaged in such activities, if the national bank or any of its insured depository institution affiliates received a CRA rating of less than "satisfactory record of meeting community credit needs" on its most recent CRA examination.

Operating subsidiaries (Revised § 5.34)

Section 5.34 authorizes national banks to engage through operating subsidiaries in activities that are part of,

or incidental to, the business of banking. The proposal changes § 5.34 to be more consistent with the procedural requirements of new § 5.39, to remove unnecessary regulatory burden, and to make other adjustments that are necessary in light of the GLBA.

Current § 5.34 groups permissible operating subsidiary activities into three categories based on the novelty and risk of the activity and prescribes a different approval process depending on the category in which the activity is placed. For example, an adequately capitalized or well capitalized bank that is not in "troubled condition," as defined in § 5.51, may establish or acquire an operating subsidiary to engage in certain activities listed in § 5.34, by providing the OCC a written notice within 10 days after commencing the activity. In addition, a bank that qualifies as an "eligible bank" may obtain expedited approval of an application to establish or acquire an operating subsidiary that will engage in certain additional activities listed in § 5.34.

This proposal changes several of the procedural requirements for national banks that wish to conduct activities through an operating subsidiary. First, the proposal consolidates and moves activities formerly listed in the expedited processing list into the notice category. Second, the proposal expands the list of notice activities to include other activities that the OCC has found to be part of, or incidental to, the business of banking [1] and has approved on a regular basis for national bank operating subsidiaries. Finally, given the expansion of the notice category, a national bank using the notice procedure must be well capitalized and well managed; the requirement that the bank not be in a "troubled condition" within the meaning of § 5.51 is removed to conform more closely to the financial subsidiary requirements in the GLBA.

The proposal also clarifies that "authorized products" referenced in the GLBA are activities permissible for operating subsidiaries under § 5.34. The term "authorized product" is defined at § 5.34(d)(1) to include certain insurance products that national banks may provide as principal pursuant to the GLBA because, as of January 1, 1999, either the OCC had determined that national banks could provide the product as principal or national banks were lawfully providing the product as principal, and as of that date no court had issued a final judgment overturning the OCC's determination that national banks could provide the product as principal. The term "authorized product" does not include title insurance or an annuity the income of which is subject to treatment under section 72 of the Internal Revenue Code of 1986 (26 U.S.C. 72). However, providing title insurance as principal is a permissible activity for an operating subsidiary if the national bank or subsidiary thereof was actively and lawfully underwriting title insurance before November 12, 1999, and no affiliate of the national bank (other than a subsidiary) provides insurance as principal.

The proposal also revises § 5.34 to conform to other changes made by the GLBA. First, the OCC has removed former § 5.34(f) from the rule because the GLBA makes clear that an operating subsidiary may engage only in activities that are permissible for the parent bank to engage in directly, and that an operating subsidiary conducts its activities subject to the same terms and conditions that apply to the conduct of those activities by its parent bank. Second, the proposal removes the former statement that "each operating subsidiary is subject to examination and supervision by the OCC" and clarifies that the OCC's authority to examine and take action against certain subsidiaries is subject to the limitations and requirements of new section 45 of the Federal Deposit Insurance Act and section 115 of the GLBA. The purpose of this change is to recognize the provisions in the GLBA relating to functional regulation of certain types of bank subsidiaries and affiliates.

Comment Solicitation

The OCC requests comment on all aspects of this proposal, including the specific issues that follow.

The OCC seeks comment on the impact of this proposal on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comment on the impact of the proposal on community banks' current resources and available personnel with the requisite expertise, and whether the goals of the proposal could be achieved, for community banks, through an alternative approach.

Second, while as a matter of corporate law a subsidiary of a branch or agency of a foreign bank would technically be a subsidiary of the parent bank, for regulatory purposes the company could be treated as if it were a subsidiary of the branch or agency itself, provided the company is in fact operated in that manner. Thus, the OCC also seeks comment on whether national treatment principles would be furthered if Federal branches and agencies of foreign banks are authorized (as are national banks) to invest in financial and operating subsidiaries, and, if so, how the applicable qualification standards would be applied.

Finally, the OCC requests comment on whether the proposal is written clearly and is easy to understand. On June 1, 1998, the President issued a Memorandum directing each agency in the Executive branch to write its rules in plain language. This directive applies to all new proposed and final rulemaking documents issued on or after January 1, 1999. In addition, Public Law 106–102 requires each federal agency to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comment on how to make this rule clearer. For example, you may wish to discuss:

(1) Whether we have organized the material to suit your needs;

(2) Whether the requirements of the rule are clear; or

(3) Whether there is something else we could do to make the rule easier to understand.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The principal effect of the rule is to provide procedures for implementing section 121 of the GLBA for national banks that wish to engage in activities through financial subsidiaries. The proposal also would reduce regulatory burden by increasing the number of activities that are subject to notice requirements rather than application requirements where a national bank intends to engage in activities through an operating subsidiary.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the

[1] This is not a complete list of activities that are part of, or incidental to, the business of banking. The OCC will review new proposals for activities that may be permissible under this section pursuant to the application procedures contained in § 5.34.

Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposal will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Executive Order 12866 Determination

The Comptroller of the Currency has determined that this rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

Paperwork Reduction Act

The collection of information requirements in this proposal are found in 12 CFR 5.34(b) and (e) and 12 CFR 5.39(b) and (i). These collection of information requirements have been reviewed and approved by the Office of Management and Budget in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)) under OMB Control Number 1557–0215.

List of Subjects in 12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend Chapter I of Title 12 as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for Part 5 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a; and section 5136A of the Revised Statutes (12 U.S.C. 24a).

2. Section 5.34 is revised to read as follows:

§ 5.34 Operating subsidiaries.

(a) *Authority.* 12 U.S.C. 24(Seventh), 93a, and section 5136A of the Revised Statutes (12 U.S.C. 24a).

(b) *Licensing requirements.* A national bank must file a notice or application as prescribed in this section to acquire or establish an operating subsidiary, or to commence a new activity in an existing operating subsidiary.

(c) *Scope.* This section sets forth authorized activities and application or notice procedures for national banks engaging in activities through an operating subsidiary. This section does not apply to financial subsidiaries authorized under § 5.39.

(d) *Definitions.* For purposes of this § 5.34:

(1) *Authorized product* means a product that would be defined as insurance under section 302(c) of the Gramm-Leach-Bliley Act (Public Law 106–102, 113 Stat. 1338, 1407) (GLBA) that, as of January 1, 1999, the OCC had determined in writing that national banks may provide as principal or national banks were in fact lawfully providing the product as principal, and as of that date no court of relevant jurisdiction had, by final judgment, overturned a determination by the OCC that national banks may provide the product as principal. An authorized product does not include title insurance, or an annuity contract the income of which is subject to treatment under section 72 of the Internal Revenue Code of 1986 (26 U.S.C. 72).

(2) *Well capitalized* means the capital level described in 12 CFR 6.4(b)(1).

(3) *Well managed* means, unless otherwise determined in writing by the OCC:

(i) The national bank has received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System in connection with its most recent examination; or

(ii) In the case of any national bank that has not been examined, the existence and use of managerial resources that the OCC determines are satisfactory.

(e) *Standards and requirements*—(1) *Authorized activities.* A national bank may conduct in an operating subsidiary activities that are permissible for a national bank to engage in directly either as part of, or incidental to, the business of banking, as determined by the OCC, or otherwise under other statutory authority, including:

(i) Providing authorized products as principal; or

(ii) Providing title insurance as principal if the national bank or subsidiary thereof was actively and lawfully underwriting title insurance before November 12, 1999, and no affiliate of the national bank (other than a subsidiary) provides insurance as principal. A subsidiary may not provide title insurance as principal if the state had in effect before November 12, 1999, a law which prohibits any person from underwriting title insurance with respect to real property in that state.

(2) *Qualifying subsidiaries.* An operating subsidiary in which a national bank may invest includes a corporation, limited liability company, or similar entity if the parent bank owns more than 50 percent of the voting (or similar type of controlling) interest of the operating subsidiary; or the parent bank otherwise controls the operating subsidiary and no other party controls more than 50 percent of the voting (or similar type of controlling) interest of the operating subsidiary. However, the following subsidiaries are not operating subsidiaries subject to this section:

(i) A subsidiary in which the bank's investment is made pursuant to specific authorization in a statute or OCC regulation (*e.g.*, a bank service company under 12 U.S.C. 1861 *et seq.* or a financial subsidiary under section 5136A of the Revised Statutes); and

(ii) A subsidiary in which the bank has acquired, in good faith, shares through foreclosure on collateral, by way of compromise of a doubtful claim, or to avoid a loss in connection with a debt previously contracted.

(3) *Examination and supervision.* An operating subsidiary conducts activities authorized under this section subject to the same terms and conditions that apply to the conduct of such activities by its parent national bank. If, upon examination, the OCC determines that the operating subsidiary is operating in violation of law, regulation, or written condition, or in an unsafe or unsound manner or otherwise threatens the safety and soundness of the bank, the OCC will direct the bank or operating subsidiary to take appropriate remedial action, which may include requiring the bank to divest or liquidate the operating subsidiary, or discontinue specified activities. OCC authority under this paragraph is subject to the limitations and requirements of section 45 of the Federal Deposit Insurance Act and section 115 of the Gramm-Leach-Bliley Act.

(4) *Consolidation of figures.* Pertinent book figures of the parent bank and its operating subsidiary shall be combined for the purpose of applying statutory limitations when combination is needed to effect the intent of the statute, *e.g.*, for purposes of 12 U.S.C. 56, 60, 84, and 371d.

(5) *Procedures*—(i) *Application required.* (A) Except as provided in paragraph (e)(5)(iv) or (e)(5)(vi) of this section, a national bank that intends to acquire or establish an operating subsidiary, or to perform a new activity in an existing operating subsidiary, must first submit an application to, and receive approval from, the OCC. The application must include a complete description of the bank's investment in the subsidiary, the proposed activities of the subsidiary, the organizational structure and management of the

subsidiary, the relations between the bank and the subsidiary, and other information necessary to adequately describe the proposal. It also must state whether the bank intends to conduct any activity of the operating subsidiary at a location other than the main office or a previously approved branch of the bank. The OCC may require the applicant to submit a legal analysis if the proposal is novel, unusually complex, or raises substantial unresolved legal issues. In these cases, the OCC encourages applicants to have a pre-filing meeting with the OCC.

(B) A national bank must file an application and obtain prior approval before acquiring or establishing an operating subsidiary, or performing a new activity in an existing subsidiary, if the bank controls the subsidiary but owns 50 percent or less of the voting (or similar type of controlling) interest of the subsidiary. These applications are not subject to the filing exemption in paragraph (e)(5)(vi) of this section and are not eligible for the notice procedures in paragraph (e)(5)(iv) of this section.

(ii) *Exceptions to rules of general applicability.* Sections 5.8, 5.10, and 5.11 do not apply to this section. However, if the OCC concludes that an application presents significant and novel policy, supervisory, or legal issues, the OCC may determine that some or all provisions in §§ 5.8, 5.10, and 5.11 apply.

(iii) *OCC review and approval.* The OCC reviews a national bank's application to determine whether the proposed activities are legally permissible and to ensure that the proposal is consistent with safe and sound banking practices and OCC policy and does not endanger the safety or soundness of the parent national bank. As part of this process, the OCC may request additional information and analysis from the applicant.

(iv) *Notice process for certain activities.* A national bank that is "well capitalized" and "well managed" may acquire or establish an operating subsidiary, or perform a new activity in an existing operating subsidiary, by providing the appropriate district office written notice within 10 days after acquiring or establishing the subsidiary, or commencing the activity, if the activity is listed in paragraph (e)(5)(v) of this section. The written notice must include a complete description of the bank's investment in the subsidiary and of the activity conducted and a representation and undertaking that the activity will be conducted in accordance with OCC policies contained in guidance issued by the OCC regarding the activity. Any bank receiving approval under this paragraph is deemed to have agreed that the subsidiary will conduct the activity in a manner consistent with published OCC guidance.

(v) *Activities eligible for notice.* The following activities qualify for the notice procedures, provided the activity is conducted pursuant to the same terms and conditions as would be applicable if the activity was being conducted directly by a national bank:

(A) Holding and managing assets acquired by the parent bank, including investment assets and property acquired by the bank through foreclosure or otherwise in good faith to compromise a doubtful claim, or in the ordinary course of collecting a debt previously contracted;

(B) Providing services to or for the bank or its affiliates, including accounting, auditing, appraising, advertising and public relations, and financial advice and consulting;

(C) Making loans or other extensions of credit, and selling money orders, savings bonds, and travelers checks;

(D) Purchasing, selling, servicing, or warehousing loans or other extensions of credit, or interests therein;

(E) Providing courier services between financial institutions;

(F) Providing management consulting, operational advice, and services for other financial institutions;

(G) Providing check guaranty and verification services;

(H) Providing data processing, data warehousing and data transmission products, services, and related activities and facilities, including associated equipment and technology, for the bank or its affiliates;

(I) Acting as investment adviser or financial adviser or counselor to governmental entities or instrumentalities, businesses, or individuals, including advising registered investment companies and mortgage or real estate investment trusts, furnishing economic forecasts or other economic information, providing investment advice related to futures and options on futures, and providing consumer financial counseling;

(J) Providing tax planning and preparation services;

(K) Providing financial and transactional advice and assistance, including advice and assistance for customers in structuring, arranging, and executing mergers and acquisitions, divestitures, joint ventures, leveraged buyouts, swaps, foreign exchange, derivative transactions, coin and bullion, and capital restructurings;

(L) Underwriting credit life insurance;

(M) Leasing of personal property and acting as an agent or adviser in leases for others;

(N) Providing securities brokerage or acting as a futures commission merchant, and providing related credit and other related services;

(O) Underwriting, dealing, and making a market in bank permissible securities including asset backed securities;

(P) Acting as an insurance agent or broker, including title insurance to the extent permitted under section 303 of the GLBA;

(Q) Reinsuring mortgage insurance on loans originated, purchased, or serviced by the bank, its subsidiaries, or its affiliates, provided that if the subsidiary enters into a quota share arrangement, the subsidiary assumes less than 50% of the aggregate insured risk covered by the agreement. A "quota share agreement" is an agreement under which the reinsurer is liable to the primary insurance underwriter for an agreed upon percentage of every claim arising out of the covered book of business ceded by the primary insurance underwriter to the reinsurer;

(R) Acting as a finder pursuant to 12 CFR 7.1002 to the extent permitted by published OCC precedents [1];

(S) Offering bank permissible correspondent services to others to the extent permitted by published OCC precedents;

(T) Acting as agent or broker in the sale of fixed or variable annuities;

(U) Offering debt cancellation agreements or debt suspension agreements;

(V) Providing real estate settlement, closing, escrow and related services; or

(W) Acting as a transfer or fiscal agent.

(vi) *No application or notice required.* A national bank may acquire or establish an operating subsidiary without filing an application or providing notice to the OCC, if the bank is adequately capitalized or well capitalized and the:

(A) Activities of the new subsidiary are limited to those activities previously reported by the bank in connection with the establishment or acquisition of a prior operating subsidiary;

(B) Activities in which the new subsidiary will engage continue to be legally permissible for the subsidiary; and

(C) Activities of the new subsidiary will be conducted in accordance with

[1] *See, e.g.*, the OCC's monthly publication "Interpretations and Actions." Beginning with the May 1996 issue, the OCC's web site provides access to electronic versions of Interpretations and Actions (www.occ.treas.gov).

any conditions imposed by the OCC in approving the conduct of these activities for any prior operating subsidiary of the bank.

(vii) *Fiduciary powers.* If an operating subsidiary proposes to exercise investment discretion on behalf of customers or provide investment advice for a fee, the national bank must have prior OCC approval to exercise fiduciary powers pursuant to § 5.26.

3. A new § 5.39 is added to subpart C to read as follows:

§ 5.39 Financial subsidiaries.

(a) *Authority.* 12 U.S.C. 93a and section 121 of Public Law 106–102, 113 Stat. 1338, 1373.

(b) *Approval requirements.* A national bank must file a notice as prescribed in this section prior to acquiring a financial subsidiary or engaging in activities authorized pursuant to section 5136A(a)(2)(A)(i) of the Revised Statutes (12 U.S.C. 24a) through a financial subsidiary. When a financial subsidiary proposes to conduct a new activity permitted under § 5.34, the bank shall follow the procedures in § 5.34(e)(5) instead of paragraph (i) of this section.

(c) *Scope.* This section sets forth authorized activities, approval procedures, and, where applicable, conditions for national banks engaging in activities through a financial subsidiary.

(d) *Definitions.* For purposes of this § 5.39:

(1) *Affiliate* has the meaning set forth in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), except that the term "affiliate" for purposes of paragraph (h)(5) of this section shall have the meaning set forth in sections 23A or 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c–1), as applicable.

(2) *Appropriate Federal banking agency* has the meaning set forth in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(3) *Company* has the meaning set forth in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), and includes a limited liability company (LLC).

(4) *Control* has the meaning set forth in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

(5) *Eligible debt* means unsecured long-term debt that is:

(i) Not supported by any form of credit enhancement, including a guaranty or standby letter of credit; and

(ii) Not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

(6) *Financial subsidiary* means any company that is controlled by one or more insured depository institutions, other than a subsidiary that:

(i) Engages solely in activities that national banks may engage in directly and that are conducted subject to the same terms and conditions that govern the conduct of these activities by national banks; or

(ii) A national bank is specifically authorized to control by the express terms of a Federal statute (other than section 5136A of the Revised Statutes), and not by implication or interpretation, such as by section 25 of the Federal Reserve Act (12 U.S.C. 601–604a), section 25A of the Federal Reserve Act (12 U.S.C. 611–631), or the Bank Service Company Act (12 U.S.C. 1861 *et seq.*)

(7) *Insured depository institution* has the meaning set forth in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(8) *Long term debt* means any debt obligation with an initial maturity of 360 days or more.

(9) *Subsidiary* has the meaning set forth in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

(10) *Tangible equity* has the meaning set forth in 12 CFR 6.2(g).

(11) *Well capitalized* with respect to a depository institution means the capital level designated as "well capitalized" by the institution's appropriate Federal banking agency pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o).

(12) *Well managed* means:

(i) Unless otherwise determined in writing by the appropriate Federal banking agency, the institution has received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution and, at least a rating of 2 for management, if such a rating is given; or

(ii) In the case of any depository institution that has not been examined by its appropriate Federal banking agency, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

(e) *Authorized activities.* A financial subsidiary may engage in the following activities:

(1) Activities that are financial in nature and activities incidental to a financial activity, authorized pursuant to 5136A(a)(2)(A)(i) of the Revised Statutes (to the extent not otherwise permitted under paragraph (e)(2) of this section), including:

(i) Lending, exchanging, transferring, investing for others, or safeguarding money or securities;

(ii) Engaging as agent or broker in any state for purposes of insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, death, defects in title, or providing annuities as agent or broker;

(iii) Providing financial, investment, or economic advisory services, including advising an investment company as defined in section 3 of the Investment Company Act (15 U.S.C. 80a–3);

(iv) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly;

(v) Underwriting, dealing in, or making a market in securities;

(vi) Engaging in any activity that the Board of Governors of the Federal Reserve System has determined, by order or regulation in effect on November 12, 1999, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in the order or regulation, unless the order or regulation is modified by the Board of Governors of the Federal Reserve System);

(vii) Engaging, in the United States, in any activity that a bank holding company may engage in outside the United States and the Board of Governors of the Federal Reserve System has determined, under regulations prescribed or interpretations issued pursuant to section 4(c)(13) of the Bank Holding Company Act of 1956 (BHCA) (12 U.S.C. 1843(c)(13)) as in effect on November 11, 1999, to be usual in connection with the transaction of banking or other financial operations abroad; and

(viii) Activities that the Secretary of the Treasury in consultation with the Board of Governors of the Federal Reserve System, as provided in section 5136A of the Revised Statutes, determines to be financial in nature or incidental to a financial activity; and

(2) Activities that may be conducted by an operating subsidiary pursuant to § 5.34.

(f) *Impermissible activities.* A financial subsidiary may not engage as principal in the following activities:

(1) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability or death (except to the extent permitted under sections 302 or 303(c) of the Gramm-Leach-Bliley Act (GLBA), 113 Stat. 1407–1409) or providing or issuing

annuities the income of which is subject to tax treatment under section 72 of the Internal Revenue Code (26 U.S.C. 72);

(2) Real estate development or real estate investment, unless otherwise expressly authorized by law; and

(3) Activities authorized for bank holding companies by virtue of section 4(k)(4)(H) or (I) of the Bank Holding Company Act, except activities described in section 4(k)(4)(H) that may be permitted in accordance with section 122 of the GLBA, 113 Stat. 1381.

(g) *Qualifications.* A national bank may control a financial subsidiary or hold an interest in a financial subsidiary if:

(1) The national bank and each depository institution affiliate of the national bank are well capitalized and well managed;

(2) The aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of 45 percent of the consolidated total assets of the parent bank or $50 billion (or such greater amount as is determined according to an indexing mechanism jointly established by regulation by the Secretary of the Treasury and the Board of Governors of the Federal Reserve System); and

(3) A national bank that is one of the 100 largest insured banks, determined on the basis of the bank's consolidated total assets at the end of the calendar year, has at least one issue of outstanding eligible debt that is currently rated in one of the three highest investment grade rating categories by a nationally recognized statistical rating organization. If the national bank is one of the second 50 largest insured banks, it may either satisfy this requirement or satisfy alternative criteria the Secretary of the Treasury and the Board of Governors of the Federal Reserve System establish jointly by regulation. This paragraph (g)(3) does not apply if the financial subsidiary is engaged solely in activities in an agency capacity.

(h) *Safeguards.* The following safeguards apply to a national bank that establishes or maintains a financial subsidiary:

(1) For purposes of determining regulatory capital:

(i) The national bank must deduct the aggregate amount of its outstanding equity investment, including retained earnings, in its financial subsidiaries from the assets and tangible equity of the bank; and

(ii) The national bank may not consolidate the assets and liabilities of a financial subsidiary with those of the bank;

(2) Any published financial statement of the national bank shall, in addition to providing information prepared in accordance with generally accepted accounting principles, separately present financial information for the bank in the manner provided in paragraph (1) of this section;

(3) The national bank must have reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and the financial subsidiaries of the bank;

(4) The national bank must have procedures for identifying and managing financial and operational risks within the bank and the financial subsidiary that adequately protect the national bank from such risks;

(5) Sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c–1) apply to transactions involving a financial subsidiary in the following manner:

(i) A financial subsidiary shall be deemed to be an affiliate of the bank and shall not be deemed to be a subsidiary of the bank;

(ii) The restrictions contained in section 23A(a)(1)(A) of the Federal Reserve Act shall not apply with respect to covered transactions between a bank and any individual financial subsidiary of the bank;

(iii) The bank's investment in the financial subsidiary shall not include retained earnings of the financial subsidiary;

(iv) Any purchase of, or investment in, the securities of a financial subsidiary of a bank by an affiliate of the bank will be considered to be a purchase of or investment in such securities by the bank; and

(v) Any extension of credit by an affiliate of a bank to a financial subsidiary of the bank may be considered an extension of credit by the bank to the financial subsidiary if the Board of Governors of the Federal Reserve System determines that such treatment is necessary or appropriate to prevent evasions of the Federal Reserve Act or the Gramm-Leach-Bliley Act.

(6) A financial subsidiary shall be deemed a subsidiary of a bank holding company and not a subsidiary of the bank for purposes of the anti-tying prohibitions set forth in 12 U.S.C. 1971 *et seq.*

(i) *Procedures to engage in activities through a financial subsidiary.* A national bank that intends to acquire control of, or hold an interest in, a financial subsidiary, or to commence a new activity in an existing financial subsidiary, may obtain OCC approval through the procedures set forth in paragraph (i)(1) or (i)(2) of this section.

(1) *Certification with subsequent notice.* (i) At any time, a national bank may file a "Financial Subsidiary Certification" with the appropriate district office listing the bank's depository institution affiliates and certifying that the bank and each of those affiliates is well capitalized and well managed.

(ii) Thereafter, at such time as the bank seeks OCC approval to acquire control of, or hold an interest in, a new financial subsidiary, or commence a new activity authorized under section 5136A(a)(2)(A)(i) of the Revised Statutes in an existing subsidiary, the bank may file a written notice with the appropriate district office at the time of acquiring control of, or holding an interest in, a financial subsidiary, or commencing such activity in an existing subsidiary. The written notice must be labeled "Financial Subsidiary Notice" and must:

(A) State that the bank's Certification remains valid;

(B) Describe the activity or activities conducted by the financial subsidiary;

(C) Cite the specific authority permitting the activity to be conducted by the financial subsidiary. (Where the authority relied on is an agency order or interpretation under section 4(c)(8) or 4(c)(13), respectively, of the Bank Holding Company Act of 1956, respectively, a copy of the order or interpretation should be attached);

(D) Certify that the bank will be well capitalized after making adjustments required by paragraph (h)(1) of this section;

(E) Demonstrate the aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of 45% of the bank's consolidated total assets or $50 billion; and

(F) If applicable, certify that the bank meets the eligible debt requirement in paragraph (g)(3) of this section.

(2) *Combined certification and notice.* A national bank may file a combined certification and notice with the appropriate district office at least five business days prior to acquiring control of, or holding an interest in, a financial subsidiary, or commencing a new activity authorized pursuant to section 5136A(a)(2)(A)(i) of the Revised Statutes in an existing subsidiary. The written notice must be labeled "Financial Subsidiary Certification and Notice" and must:

(A) List the bank's depository institution affiliates and certify that the bank and each depository institution affiliate of the bank is well capitalized and well managed;

(B) Describe the activity or activities to be conducted in the financial subsidiary;

(C) Cite the specific authority permitting the activity to be conducted by the financial subsidiary. (Where the authority relied on is an agency order or interpretation under section 4(c)(8) or 4(c)(13), respectively, of the Bank Holding Company Act of 1956, respectively, a copy of the order or interpretation should be attached);

(D) Certify that the bank will remain well capitalized after making the adjustments required by paragraph (h)(1) of this section;

(E) Demonstrate the aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of 45% of the bank's consolidated total assets or $50 billion; and

(F) If applicable, certify that the bank meets the eligible debt requirement in paragraph (g)(3) of this section

(3) *Exceptions to rules of general applicability.* Section 5.8, 5.10, 5.11, and 5.13 do not apply to activities authorized under this section.

(4) *Community Reinvestment Act (CRA).* A national bank may not apply under this paragraph (i) to commence a new activity authorized under section 5136A(a)(2)(A)(i) of the Revised Statutes, or directly or indirectly acquire control of a company engaged in any such activity, if the bank or any of its insured depository institution affiliates received a CRA rating of less than "satisfactory record of meeting community credit needs" on its most recent CRA examination prior to when the bank would file a notice under this section.

(j) *Failure to continue to meet certain qualification requirements*—(1) *Qualifications and safeguards.* A national bank, or, as applicable, its affiliated depository institutions, must continue to satisfy the qualification requirements set forth in paragraphs (g)(1) and (2) of this section and the safeguards in paragraphs (h)(1), (2), (3) and (4) of this section following its acquisition of control of, or an interest in, a financial subsidiary. A national bank that fails to continue to satisfy these requirements will be subject to the following procedures and requirements:

(i) The OCC shall give notice to the national bank promptly upon determining that the national bank does not continue to meet the requirements in paragraphs (g)(1) or (2) of this section or the safeguards in paragraphs (h)(1), (2), (3), or (4) of this section. The bank shall be deemed to have received such notice three business days after mailing of the letter by the OCC;

(ii) Not later than 45 days after receipt of the notice under paragraph (j)(1)(i) of this section, or any additional time as the OCC may permit, the national bank shall execute an agreement with the OCC to comply with the requirements in paragraphs (g)(1) and (2) and (h)(1), (2), (3), and (4) of this section;

(iii) The OCC may impose limitations on the conduct or activities of the national bank or any subsidiary of the national bank as the OCC determines appropriate under the circumstances and consistent with the purposes of section 5136A of the Revised Statutes; and

(iv) The OCC may require a national bank to divest control of a financial subsidiary if the national bank does not correct the conditions giving rise to the notice within 180 days after receipt of the notice provided under paragraph (j)(1)(i) of this section.

(2) *Eligible debt rating requirement.* A national bank that does not continue to meet the qualification requirement set forth in paragraph (g)(3) of this section may not directly or through a subsidiary, purchase or acquire any additional equity capital of any financial subsidiary until the bank meets the requirement in paragraph (g)(3) of this section. For purposes of this paragraph (j)(2), the term "equity capital" includes, in addition to any equity investment, any debt instrument issued by the financial subsidiary if the instrument qualifies as capital of the subsidiary under federal or state law, regulation, or interpretation applicable to the subsidiary.

Dated: January 14, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 00–1330 Filed 1–19–00; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–82–AD]

Airworthiness Directives; Eurocopter France Model AS–350B, BA, B1, B2, C, D, and D1, and AS–355E, F, F1, F2 and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD), applicable to Aerospatiale (Societe Nationale Industrielle Aerospatiale) (SNIAS) (now known as Eurocopter France) Model AS 350 and AS 355 series helicopters that currently requires repetitive inspections of the main rotor head components, the main gearbox (MGB) suspension bars, and the ground resonance prevention system components at intervals not to exceed 400 hours time-in-service (TIS). This action would require the same inspections, but at intervals not to exceed 500 hours TIS. This proposal is prompted by reports of confusion and unnecessary costs associated with the difference in the current 400 hours TIS inspection interval and the current manufacturer's master service recommendation of 500 hours TIS inspection interval. The actions specified by the proposed AD are intended to eliminate confusion and unnecessary costs and to prevent ground resonance due to reduced structural stiffness, which could lead to failure of a main rotor head or MGB suspension component and subsequent loss of control of the helicopter.

DATES: Comments must be received by March 20, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–82–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5490, 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. 98–SW–82–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 Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–82–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

Following the issuance of our emergency priority letter AD on July 30, 1986, on March 3, 1987, the FAA issued AD 86–15–10, Amendment 39–5517 (52 FR 13233, April 22, 1987), to require an initial inspection within 10 hours time-in-service and repetitive inspections of the main rotor head components, the MGB suspension bars, and the ground resonance prevention system components at intervals not to exceed 300 hours TIS. That action was prompted by three reports of main rotor head component damage and MGB suspension bar damage in Model AS 355 helicopters that exhibited severe vibrations on approach or landing. That condition, if not corrected, could result in failure or unacceptable deterioration of the main rotor head, MGB suspension, or ground resonance prevention components which could result in failure of a main rotor head or MGB suspension component, and subsequent loss of control of the helicopter. On February 8, 1990, the FAA revised AD 86–15–10 (55 FR 5833, February 20, 1990), to require the same actions, except the repetitive inspections were required at intervals not to exceed 400 hours TIS. That action was prompted by reports of confusion and unnecessary costs caused by the differences in inspection intervals between AD 86–15–10 and the manufacturer's service bulletins that were incorporated by reference into that AD.

Since the issuance of that AD, no further incidents have occurred. The master maintenance interval has shifted from 400 to 500 hours TIS. Since flight safety will not be adversely impacted, and to alleviate any confusion between the AD and the master maintenance interval, the FAA proposes to revise the AD to match the master maintenance interval.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Direction Generale De L'Aviation Civile (DGAC) has kept the FAA informed of the situation described above. The FAA has reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France AS–350B, BA, B1, B2, C, D, and D1, and AS–355E, F, F1, F2 helicopters of the same type design, the proposed AD would revise AD 86–15–10 R1 to require repetitive inspections of the main rotor head components, the MGB suspension bars, and the ground resonance prevention system components at intervals not to exceed 500 hours TIS.

The FAA has determined that this regulation is relieving in nature and imposes no additional costs or regulatory burden on any person.

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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), 40114, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–5517 (52 FR 13233, April 22, 1987) and Amendment 39–6515 (55 FR 5833, February 20, 1990), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 98-SW–82-AD. Revises AD 86–15–10, Amendment 39–5517 and AD 86–15–10 R1, Amendment 39–6515.

Applicability: Model AS–350B, BA, B1, B2, C, D, and D1, and AS–355E, F, F1, F2 helicopters, certificated in any 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 (f) 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 as indicated, unless accomplished previously.

To prevent ground resonance due to reduced structural stiffness, which could lead to failure of a main rotor head or main gearbox (MBG) suspension component and

subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS):

(1) For Model AS–350B, BA, B1, B2, C, D, and D1 helicopters, inspect the main rotor head components, the MGB suspension bars (struts), and the landing gear ground resonance prevention components (aft spring blades and hydraulic shock absorbers) in accordance with paragraph CC.3 of Aerospatiale Service Bulletin (SB) No. 01.17a (not dated).

(2) For Model AS–355E, F, F1, F2 helicopters, inspect the main rotor head components, the MGB suspension bars (struts), and the landing gear ground resonance prevention components (aft spring blades and hydraulic shock absorbers) in accordance with paragraph CC.3 of SB No. 01.14a (not dated).

(b) Rework or replace damaged components in accordance with SB No. 01.17a or SB No. 01.14a, as applicable.

(c) Repeat the inspections and rework required by paragraphs (a) and (b) of this AD at intervals not to exceed 500 hours TIS.

(d) If the helicopter is subjected to a hard landing or to high surface winds, when parked without effective tiedown straps installed, repeat the inspections required by paragraph (a) of this AD for the main rotor head star arms and the MGB suspension bars before further flight.

(e) In the event of a landing which exhibits abnormal self-sustained dynamic vibrations (ground resonance type vibrations), repeat all the inspections contained in paragraph (a) of this AD.

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

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

(g) 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 January 11, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–1370 Filed 1–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AC09

Establishing Oil Value for Royalty Due on Federal Leases; Correction

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice; correction.

SUMMARY: On December 30, 1999, MMS published a "Further supplementary proposed rule" (64 FR 73820) concerning the valuation for royalty purposes of crude oil produced from Federal leases. This notice corrects the email address for submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff; telephone, (303) 2313432; FAX, (303) 2313385; email, David.Guzy@mms.gov; mailing address, Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 802250165.

Correction

In the **Federal Register** of December 30, 1999, in FR Doc. 9933613, page 73838, column 2, the first sentence is revised to read:

You may also comment via the Internet to RMP.comments@mms.gov.

Dated: January 13, 2000.

R. Dale Fazio,

Acting Associate Director for Royalty Management.

[FR Doc. 00–1257 Filed 1–19–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

32 CFR Part 323

[Defense Logistics Agency Reg. 5400.21]

Defense Logistics Agency Privacy Program

AGENCY: Defense Logistics Agency, DoD.

ACTION: Proposed rule.

SUMMARY: The Defense Logistics Agency proposes to exempt a system of records (S500.30 CAAS, Incident Investigation/Police Inquiry Files) from certain provisions of the Privacy Act. The exemptions are intended to increase the value of the system of records for law enforcement purposes, to comply with prohibitions against the disclosure of certain kinds of information, and to protect the privacy of individuals identified in the system of records.

DATES: Comments must be received on or before March 20, 2000, to be considered by this agency.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: Executive Order 12866, 'Regulatory Planning and Review'

It has been determined that 32 CFR part 323 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more; or adversely affect in a material way the economy; a section 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 entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

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

Public Law 96–354, 'Regulatory Flexibility Act' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, 'Paperwork Reduction Act' (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

List of subjects in 32 CFR part 323

Privacy.

Accordingly, 32 CFR part 323 is proposed to be amended as follows:

PART 323—DEFENSE LOGISTICS AGENCY PRIVACY PROGRAM

1. The authority citation for 32 CFR Part 323 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

2. Appendix H to Part 323 is proposed to be amended by adding paragraph f. as follows:

3. Appendix H to Part 323-DLA Exemption Rules.

* * * * *

f. *ID: S500.30 CAAS (Specific exemption).*

1. *System name:* Incident Investigation/Police Inquiry Files.

2. *Exemption:* (i) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

(ii) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

3. *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5), subsections (c)(3), (d)(1) through (d)(4), (e)(1), (e)(4)(G), (H), and (I), and (f).

4. *Reasons:* (i) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutive interest by DLA or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(ii) From subsections (d)(1) through (d)(4), and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(iv) From subsections (e)(4)(G) and (H) because this system of records is compiled for law enforcement purposes and is exempt from the access provisions of subsections (d) and (f).

(v) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. DLA will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

Dated: January 13, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–1315 Filed 1–20–00; 8:45 am]

BILLING CODE 5001–10–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[NE 071–1071b; FRL–6521–5]

Approval and Promulgation of Implementation Plans and Operating Permits Programs, and Approval Under Section 112(l); State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Nebraska on February 5, 1999. This revision consists of updates to *Title 129—Nebraska Air Quality Regulations,* Chapters 1, 2, 5, 6, 7, 8, 10, 17, 22, 25, 34, 35, 41, and Appendix II. The state also requested that EPA approve revisions adopted by the Lincoln-Lancaster County Health Department, Lincoln, Nebraska, and the city of Omaha in rulemaking actions taken by them in 1998. Approval of this SIP revision will make these rule revisions Federally enforceable. EPA is also approving revisions to the agency's part 70 operating permits programs.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received in writing by February 22, 2000.

ADDRESSES: Comments may be mailed to Wayne A. Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: December 14, 1999.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 00–619 Filed 1–19–00; 8:45 am]

BILLIING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6523–9]

RIN 2060–AH81

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: On April 22, 1994 and June 6, 1994, the EPA issued the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks." This rule is commonly known as the Hazardous Organic NESHAP or the HON. Today's action proposes amendments to the definition of the term "process vent" and proposes to add procedures for identifying "process vents" in order to ensure consistent interpretation of the term. The EPA is also proposing revisions to several provisions to the rule to reflect the terminology used in the revised definition of process vent. These changes are being proposed to reduce the burden associated with developing operating permits for facilities subject to the rule. Today's action also proposes to add provisions to allow off-site control of process vent emissions and to add provisions for establishing a new compliance date under certain circumstances. The EPA is also proposing to add to appendix C of part 63 another procedure for use in determining compliance with wastewater treatment requirements. The EPA is also proposing corrections and clarifications to other provisions of the rule to ensure that the rule is implemented as intended.

These proposed amendments to the rule will not change the basic control requirements of the rule or the level of health protection it provides. The rule requires new and existing major sources to control emissions of hazardous air pollutants to the level reflecting application of the maximum achievable control technology.

DATES: Comments must be received on or before February 22, 2000, unless a hearing is requested by January 31, 2000. If a hearing is requested, you must submit your comments on or before March 6, 2000.

ADDRESSES: Address your comments to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–19 (see docket section below), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. If possible, please submit two copies of your written comments. You may also submit comments electronically in WordPerfect® version 5.1, 6.1, or Corel 8 file format (or ASCII) by electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov.

Public Hearing. If a public hearing is held, EPA will hold the hearing at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Janet Eck, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–7946.

Docket. Docket No. A–90–19 contains the supporting information for the original NESHAP and this action. You may inspect this docket and copy materials between 8:00 a.m. and 5:30 p.m., Monday through Friday. The EPA's Air and Radiation Docket and Information Center is located at Waterside Mall, Room M–1500, first floor, 401 M Street, SW, Washington, DC 20460. The telephone number for the Air Docket and Information Center is (202) 260–7548 or 260–7549. You may have to pay a reasonable fee for copying materials.

FOR FURTHER INFORMATION CONTACT: Dr. Janet S. Meyer, Coatings and Consumer Products Group, at (919) 541–5254 (meyer.jan@epamail.epa.gov). The mailing address for the contact is Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized file of the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file, because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record for judicial review. (See the Act section 307(d)(7)(A).)

Electronic Comments. If you submit comments by e-mail, your comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. You may also submit comments on a diskette in WordPerfect® version 5.1, 6.1, or Corel 8 file format (or ASCII). You must identify the docket number A–90–19 at the beginning of your comments. You should not submit confidential business information (CBI) through e-mail. You may file electronic comments online at many Federal depository libraries.

Regulated Entities. The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry	Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in table 1 of 40 CFR part 63, subpart F.

This table is not intended to be exhaustive but, rather, provides a guide for readers regarding entities likely to be interested in the revisions to the regulation affected by this action. This action is expected to be of interest to owners and operators subject to this rule who have process vents that may be affected by these rule amendments and to those owners or operators who are sending vent streams (gas streams) to another facility for disposal. Entities potentially regulated by the HON are those which produce as primary intended products any of the chemicals listed in table 1 of 40 CFR part 63, subpart F and are located at facilities that are major sources as defined in section 112 of the Clean Air Act (Act). Potentially regulated entities generally are companies that manufacture industrial organic chemicals and cyclic organic crude and intermediates. To determine whether your facility is

regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.100. If you have questions regarding the applicability of this action to a particular entity, consult Janet Meyer (See **FOR FURTHER INFORMATION CONTACT**).

Outline. The information presented in the preamble is organized as follows:

I. Background on the Rule

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA (we) published in the **Federal Register** the NESHAP for the synthetic organic chemical manufacturing industry (SOCMI), and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR part 63, and are commonly referred to as the hazardous organic NESHAP, or the HON. We have published several amendments to clarify various aspects of the rule since the April 22, 1994 **Federal Register** publication of the rule. See the following **Federal Register** documents for more information: September 20, 1994 (59 FR 48175); October 24, 1994 (59 FR 53359); October 28, 1994 (59 FR 54131); January 27, 1995 (60 FR 5321); April 10, 1995 (60 FR 18020); April 10, 1995 (60 FR 18026); December 12, 1995 (60 FR 63624); February 29, 1996 (61 FR 7716); June 20, 1996 (61 FR 31435); August 26, 1996 (61 FR 43698); December 5, 1996 (61 FR 64571); January 17, 1997 (62 FR 2721); August 22, 1997 (62 FR 44608); and December 9, 1998 (63 FR 67787).

In June 1994, the Chemical Manufacturers Association (CMA) and Dow Chemical Company (Dow) filed petitions for review of the promulgated rule in the U.S. Court of Appeals for the District of Columbia Circuit, *Chemical Manufacturers Association* v. *EPA*, 94–1463 and 94–1464 (D.C. Cir.) and *Dow Chemical Company* v. *EPA*, 94–1465 (D.C. Cir). The petitioners raised over 75 technical issues on the rule's structure and applicability. The petitioners raised issues regarding details of the technical requirements, drafting clarity, and structural errors in the drafting of certain sections of the rule. On August 26, 1996, we proposed clarifying and correcting amendments to subparts F, G, H, and I of part 63 to address the issues raised by CMA and Dow on the April 1994 rule. On December 5, 1996 and January 17, 1997, we took final action on the amendments proposed on August 26, 1996. On August 22, 1997, we proposed corrections to the definition of "enhanced biological treatment systems or enhanced biological treatment process" and conforming edits to appendix C of part 63 to reflect these changes to the definition. On December 9, 1998, we took final action on the amendments proposed on August 22, 1997.

II. Proposed Process Vent Changes

A. Process Vent Definition and Identification of Gas Streams that Meet the Definition

In today's amendments, we are proposing to: (1) revise the definition of the term "process vent"; and (2) add a new section 63.107 to subpart F to provide instructions for identifying gas streams that meet the definition of the term "process vent." These proposed changes are intended to make it easier to implement the rule and to ensure consistent interpretation of the term "process vent." We expect the proposed changes to reduce the burden associated with permitting facilities under the Operating Permit Program while maintaining the intended applicability of the rule.

Currently, the rule defines a "process vent" as:

> * * * a gas stream containing greater than 0.005 weight percent total organic hazardous air pollutants that is continuously discharged during operation of the unit from an air oxidation reactor, other reactor, or distillation unit (as defined in this section) within a chemical manufacturing process unit that meets all applicability criteria specified in § 63.100(b)(1) through (b)(3) of this subpart. Process vents are gas streams that are discharged to the atmosphere (with or without passing through a control device) either directly or after passing through one or more recovery devices. Process vents exclude relief valve discharges, gaseous streams routed to a fuel gas system(s), and leaks from equipment regulated under subpart H of this part.

Our intent in this definition is to define a "process vent" from its point of origination within a chemical manufacturing process unit—"from an air oxidation reactor, other reactor, or distillation unit"—to where it is ultimately discharged to the atmosphere. Once a process vent is identified under the HON, applicability of control requirements to the gas stream is determined after the last recovery device (if any recovery devices are present) but prior to the inlet of any control device that is present and prior to release to the atmosphere. The objective of this approach is to ensure that applicability of the rule remains with the operation creating the gas stream.

In recent months, industry representatives have stated that they understand the definition to define a process vent as the discharge point to the atmosphere. These industry representatives have raised concerns that our interpretation of the definition would significantly alter the information that must be submitted as part of an operating permit application and included in an operating permit. Specifically, industry representatives have expressed concerns that because a process vent is an "emission point," the operating permit rule would require submittal of information on all gas streams originating from HON process units and all processes receiving these gas streams. Because HON process units frequently send gas streams to numerous other process units throughout a plant site, they have argued that it would be very burdensome to provide information on every gas stream originating from a HON process unit. Industry representatives have also questioned whether this language could result in some people classifying process equipment (such as downstream distillation units and reactors) as control equipment.

We considered the implementation issues associated with the existing definition of "process vent" and concluded that a new approach toward identification of gas streams subject to the control requirements would be appropriate. This approach consists of: (1) Defining a process vent as a discharge point instead of as a gas stream; (2) adding a section to subpart

F to ennumerate characteristics of gas streams that when discharged would be subject to the process vent provisions; and (3) adding additional reporting requirements to § 63.151 and § 63.152 to ensure that the point of origination of a gas stream is identified as well as the point of discharge. This group of amendments is expected to achieve the outcome that was originally intended while addressing implementation problems.

1. New Definition of Process Vent

We are proposing to revise the definition of "process vent" to read:

* * * the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream has the characteristics specified in § 63.107(b) through (h) of this subpart or meets the criteria specified in § 63.107(i) of this subpart. For purposes of §§ 63.113 through 63.118, all references to the characteristics of a process vent (e.g., flow rate, total HAP concentration, or TRE index value) shall mean the characteristics of the gas stream.

Under this definition, the emission points that would be identified as process vents in the permit application and the operating permit would be the points of discharge to the atmosphere of a gas stream (meeting certain criteria) created by a HON chemical manufacturing process unit.

2. Section 63.107—Identification of Process Vents

We are proposing to add a new section, § 63.107, to subpart F to specify the characteristics that distinquish those gas streams that were intended to be regulated as process vents from gas streams that were never intended to be regulated as process vents. In order to do this, we have identified: (1) Those characteristics that a gas stream must have in order for the discharge to be subject to the process vent provisions; (2) those characteristics that would exclude a gas stream from such applicability; and (3) criteria for prevention of circumvention. We do not intend for proposed § 63.107 to impose any recordkeeping requirement for the determination of process vents associated with chemical manufacturing process units subject to the HON. Our intent is for this section to ennumerate the characteristics of gas streams that on ultimate discharge would be regulated as a process vent.

Characteristics of Process Vents. Proposed § 63.107 specifies that the gas stream must originate from an air oxidation reactor, distillation unit, or other reactor. This proposed section includes the same flow and concentration criteria used in the existing definition of process vent. Paragraphs (b) through (g) of this proposed section also provide a more complete description of the flow characteristics of the gas stream than is currently provided by the definition. These paragraphs address the flow characteristics of the gas stream, the manner of discharge of the gas stream, and the location of discharge of the gas stream.

Exclusions from the process vent definition. The proposed § 63.107 also specifies gas streams that on ultimate discharge would not be subject to the process vent provisions of the rule. These exclusions are listed in proposed paragraph (h). They include items previously excluded from the definition such as relief valve discharges and gas streams routed to fuel gas systems. We have also included in paragraph (h) an exclusion for productive uses of gas streams and an exclusion for gas streams that are regulated under other sections of the rule.

In paragraph (h)(5), we have provided that if a gas stream is sent to another process for reaction or other productive use in another process, it is not considered to be a gas stream which would be subject to the HON control requirements. In such cases, the control requirements would be determined with respect to the process that ultimately discharges the gas stream to the atmosphere. For example, if a HON process unit sends a gas stream containing butadiene to a process unit producing polybutadiene rubber, the gas stream would be subject to requirements of 40 CFR part 63, subpart U (Group I Polymers and Resins) assuming that other applicability criteria for that rule are met.

Paragraph (h)(6) provides that gas streams that are transferred for fuel value are also not considered to be process vents. In this case, the gas stream is being used as, or with, primary fuel for process heaters or other combustion devices and as such will be efficiently combusted.

Also, to avoid potential misunderstandings, we are clarifying that the following gas streams are not considered process vents at the discharge point: (1) Gas streams discharged to the atmosphere from control devices subject to § 63.113, (2) gas streams from storage vessels, (3) gas streams from transfer operations, (4) gas streams from waste management units, and (5) gas streams from process analyzers. These gas streams were not intended to be addressed by the process vent requirements of the rule. These gas streams are being explicitly excluded in this proposed approach to remove any potential ambiguity concerning applicability of the process vent requirements.

Activities of concern. We are also proposing to add a new paragraph § 63.107(i), which lists certain activities of concern to the EPA. The listed activities are similar to (and if not listed in paragraph (i), might have been mistaken for) certain productive uses that are excluded from the definition of "process vent." To avoid possible misunderstandings, paragraph (i) provides that the listed activities do not avoid the "process vent" requirements of subpart G. In other words, if there would have been a process vent in the absence of these activities, there is still a process vent.

For example, streams that change from the gas phase to the liquid phase are normally not subject to "process vent" requirements. However, it may be possible for an owner or operator to temporarily liquefy a gas stream without a valid process purpose simply to avoid classifying the emission point as a process vent. The proposed paragraph (i) specifies that, in such a case, the emission point is still a process vent.

As a second example, gas streams are often routed, for a valid process purpose, through other process equipment before discharge. In such cases, although some standards under part 63 may classify the emissions from other process equipment as "process vent" emissions, the HON does not. However, we are concerned that an owner or operator might route a gas stream to a piece of equipment, such as a storage vessel, without a valid process purpose simply to avoid having the process vent requirements apply. Paragraph (i) provides that any routing of a gas stream through equipment without a process purpose does not avoid the "process vent" requirements. In this regard, we also wish to clarify that for purposes of paragraph (i), providing inert "padding" for a storage vessel is not considered to be a process purpose.

As a third example, gas streams that are used as fuels are normally not subject to the "process vent" requirements of the HON. However, we are concerned that an owner or operator might interpret this to allow routing a gas stream to a substandard flare or incinerator (one that was not designed to achieve the destruction efficiency required by subpart G) and saying the stream is not a process vent. Regardless of whether combustion of the gas stream in a substandard flare or incinerator is a fuel use, it is also a form of emission control that does not comply with the

standards of subpart G. Consequently, paragraph (i) specifies that streams used in this manner are not exempt from any "process vent" requirements that would otherwise apply. We wish also to clarify that the wording "a flare that does not meet the criteria in section 63.11(b) or an incinerator that does not reduce emissions of organic hazardous air pollutants by 98 percent or to a concentration of 20 ppm by volume" in paragraph (i) is intended to describe the design characteristics of the flare or incinerator, not the actual performance at any given moment. An excursion, in which a flare or incinerator temporarily fails to achieve those requirements, would not cause the gas stream to trigger the process vent requirements.

B. Reporting Requirements Associated with Proposed Change to the Definition of Process Vent

We are also proposing to amend § 63.151(e) and to add a new paragraph, § 63.152(d)(4). These two paragraphs would require owners or operators to identify, for each process vent at the source, the chemical manufacturing process unit that creates the process vent, the type of unit operation that creates the vent stream, and either the last recovery device, if Group 2 process vent, or the control device and other equipment used for compliance. We consider submittal of this information to be an important part of the proposed change to define a process vent as a point of discharge to the atmosphere. This information is necessary to allow effective enforcement of the revised definition.

C. Miscellaneous Conforming Edits

Today's proposed amendments also include proposed amendments to several provisions and definitions in the rule to reflect today's proposed definition of process vent. The proposed amendments include:

- Revisions to the definition of "Group 1 process vent," "Group 2 process vent," and "vent stream" to reflect the new definition of process vent as a point of discharge to the atmosphere.
- Revisions to paragraphs (a)(3) and (c) of § 63.113 to use the defined terms "process vent" and "halogenated vent streams" instead of the undefined terms "vent" and "halogenated Group 1 process vents."
- Revisions to the second sentence in § 63.114(a)(3) to use the defined term "process vent" instead of the term "vent," which is not defined in the rule.
- Revisions to § 63.114(d) to reflect the proposed revisions to the definition of process vent. The proposed changes are: (1) To monitor any bypass line for potential by-passes that could divert the gas stream to the atmosphere instead of monitoring for diversions from a control device; and (2) to specify that this obligation applies between the origin of the gas stream and the point where the gas stream reaches the process vent. These changes are a necessary part of the revised approach toward definition of a process vent.
- Revisions to several paragraphs in § 63.115 and § 63.116 and to § 63.117(a)(6), § 63.117(a)(8), and § 63.118(e)(1) to use the term "vent stream" instead of "process vent stream." This change is being proposed because the gas stream is not a process vent and to use a defined term.
- Revisions to § 63.117, paragraph (a) introductory text to refer to the defined term "Group 1 process vents" instead of "Group 1 process vent streams."
- Revision of paragraph (a)(4)(iv) of § 63.117 to refer to "vent streams introduced with combustion air * * * " This revision is being proposed to reflect the proposed change in terminology.

III. Off-Site Control or On-Site Third Party Control of Process Vent Emissions

Today's proposed amendments include provisions to address the transfer off-site or to a third party on-site for disposal gas streams that have the characteristics of a process vent (specified in proposed § 63.107(b) through (h)) or meet the criteria in proposed § 63.107(i) and that have the characteristics of Group 1 process vents. We would add these proposed amendments to 40 CFR 63.113 as a new paragraph (i). Presently, the rule does not address situations where a gas stream is sent to another facility or a third party for disposal. Consequently, there is some ambiguity concerning who is responsible for compliance activities. We are proposing to add these provisions to address this oversight in the original drafting of the rule.

The proposed provisions to allow off-site or on-site third party control would require the owner/operator transferring the gas stream to comply with the provisions specified in 40 CFR 63.114(d) prior to transfer. The owner or operator may not transfer the gas stream unless the transferee has submitted to EPA a written certification that the transferee will manage and control, in accordance with subpart G, any gas streams that meet the characteristics of a Group 1 process vent at the point of transfer that were received from a source subject to the requirements of subparts F and G. The proposed provisions require the owner or operator to notify the third party that the gas stream has to be handled and controlled in accordance with the requirements of the rule.

The proposed provisions would require that statements of compliance with the rule by a third party need only be submitted to EPA; the provisions do not contain or envision any requirement that EPA approve the written statements before transfers of such gas streams to off-site facilities are permitted. The proposed provisions provide, however, that EPA may take enforcement action against the transferee in the event that the transferee violates the pertinent HON process vent provisions.

We are proposing to clarify this compliance approach in recognition that in some instances gas streams subject to the HON process vent provisions are now being sent to another facility or a third party for disposal. We are doing this to provide a means to allow transfers of control responsibility without imposing liability for actions of another party on the owner or operator of the HON source.

Definition of point of transfer. We are also proposing to add a definition of "point of transfer" to subpart G. This proposed definition is used to specify the location where the applicability of control requirements is determined (i.e., where the total resource effectiveness (TRE) index value is determined) in situations where a gas stream is sent to a third party for disposal. This term is used in the proposed provisions for off-site control or on-site control not owned or operated by the source (§ 63.113(i)).

Reporting requirements associated with off-site or third party treatment option. Today's proposed action also includes proposed amendments to § 63.152 (b)(6) and (c)(4)(iv), and adds a paragraph (d)(4) to require reporting of the name and location of the transferee, the identification of the Group 1 process vent, and changes in the identity of the transferee. These reports are necessary to permit effective enforcement of the proposed provisions in § 63.113(i) for third party disposal of gas streams.

IV. Compliance Schedules

We are proposing to amend § 63.100 by adding a paragraph (q) to allow establishment of site-specific compliance dates under three circumstances. The first circumstance concerns situations where the transferee does not elect to submit a certification and ceases to accept the gas stream for disposal. The second circumstance concerns situations where the transferee had previously submitted a written certification and later revokes the written certification. The third

circumstance applies to cases where the inability to meet the applicable compliance date arises due to today's proposed amendments and is not one of the previously described situations.

For all three of these requests, the owner or operator must submit a proposed compliance schedule and a justification for the time requested. For cases where the need for additional time to comply with the rule arose solely due to today's proposed amendments, the owner or operator must also submit an explanation of why they need a new compliance date in addition to the previously mentioned proposed compliance schedule and justification. In addition, for cases when the transferee revokes the certification, the owner or operator must also submit an explanation of why they need a new compliance date and a description of the measures that will be taken to minimize excess emissions until the new compliance date. In your description of measures to minimize emissions, you must include a schedule when each measure will be first implemented and how and to what extent the measure will reduce emissions. For the last two cases, we would review the request for the compliance extension for the right to have additional time as well as the actual length of the compliance extension. In the first case, we would review only the length of compliance extension requested.

We are proposing these amendments in recognition that the provisions concerning third party control of gas streams sent for disposal are potentially imposing new requirements. We are proposing to address these compliance timing issues through review of individual requests since the time required for sources to comply with these new provisions will depend on site-specific factors. The proposed requirement for mitigating measures to reduce emissions for situations where the transferee revokes certification is intended to ensure that all reasonable measures are taken to ensure that emissions are not increased.

We further recognize that the proposed amendments to the definition of process vent and the proposed § 63.107 may also affect the compliance status of some facilities. The intent of the proposed provisions allowing owners or operators to request a compliance schedule for these cases is intended to efficiently manage the effect of these proposed rule changes.

V. Miscellaneous Corrections and Clarifications

We are also proposing to amend several additional paragraphs in subparts F and G to correct drafting errors and address oversights. These problems were identified during the review of the rule to address the implementation issues associated with the rule's definition of process vent. In addition, we are proposing amendments to some of the wastewater provisions to correct drafting errors and oversights in those sections of the rule.

A. Subpart F

Section 63.100(e). We are proposing to revise § 63.100(e) by adding a new first sentence to the paragraph that states that the source is the collection of all chemical manufacturing process units at a major source that meet the applicability criteria in § 63.100(b)(1) through (b)(3). We are also proposing several minor edits to § 63.100(e) to reflect this additional sentence. We are doing this to make it clearer that the source is comprised of all the equipment and operations associated with the process units subject to the rule. We expect that this proposed revision should reduce questions concerning which equipment is considered to be in the source and thereby simplify reconstruction determinations.

Batch process vent changes. We are proposing to amend § 63.100(j)(4) and to add a definition of "batch process vent" to § 63.101 to correct a drafting error. We are revising § 63.100(j)(4) to refer to "batch process vents" instead of the term "process vent." This change is necessary because, in the rule, the term "process vent" only applies to continuous discharges from specific types of equipment. As such, it was improperly applied to the case being addressed in § 63.100(j)(4). To describe the type of operation that we intended to exclude by the provision in § 63.100(j)(4), we are proposing to define "batch process vent" as:

Batch process vent means gaseous venting to the atmosphere from a batch operation.

Our intent with the process vent provisions of the rule was to address operations that created continuous gaseous discharges during the operation of the process unit.

B. Subpart G

Section 63.110(a). We are proposing to amend § 63.110(a) to include in-process equipment subject to § 63.149 of subpart G. We overlooked the need to amend this paragraph in preparation of the January 17, 1997 amendments to the rule. Today's action would correct that error.

Miscellaneous conforming edits to process vent provisions (§§ 63.113 to 63.118). We are also proposing to amend several paragraphs in subpart G to improve consistency in terminology. These changes are:

- Revision of § 63.113(e) to refer to the defined term "TRE index value" instead of "TRE index."
- Revision of § 63.113(g) to refer to "total organic HAP concentration" instead of "concentration." This proposed change would correct unclear language in this paragraph.
- Revision of the term "gas stream flow" in the introductory language to § 63.114(a)(4)(ii) and in § 63.114(a)(4)(ii)(C) to read "gas flow rate."

We are also proposing to revise § 63.118(a)(3) and (f)(3) to require records for periods when the gas stream is diverted to the atmosphere instead of records for periods when the gas stream is diverted from the control device. These revisions will make the recordkeeping requirement consistent with the monitoring requirement. We overlooked the need for these changes when we made the January 17, 1997 amendments to the rule that revised the wording of the monitoring requirement.

Miscellaneous amendments to wastewater provisions in §§ 63.132 through 63.147 and tables to subpart G. We are proposing changes to these sections of subpart G to address a number of minor drafting errors and oversights in the January 17, 1997 amendments to the rule. The sections and the associated proposed revisions are:

- § 63.132(a)(3) and (b)(4)—these paragraphs currently send the reader to the recordkeeping and reporting provisions in §§ 63.146 and 63.147. However, at this time there is no explicit statement that Group 2 wastewater streams are also subject to the recordkeeping and reporting requirements despite table 15 of subpart G requiring such information. Today's proposal would explicitly specify these requirements for Group 2 wastewater streams and would add cross references for them to § 63.132(a)(3) and (b)(4).
- § 63.138(i)—Today's proposed amendments are to clarify that in some cases, process wastewater streams included in the 1 megagram (Mg) exemption from treatment requirements in § 63.138(b) and (c) are also exempt from the suppression requirements in §§ 63.133 through 63.137. In cases where the mass flow rate is determined at the point of determination, it was never our intent to require suppression

of these wastewater streams. We intended to require suppression of the partially treated streams that are part of the 1 Mg exemption option provided in § 63.138(i)(2). The proposed amendments would also clarify that process wastewater streams included in the 1 Mg exemption must be identified in the Notification of Compliance Status for both options presented in § 63.138(i). The current text inadvertently omitted stating this requirement explicitly for the option that requires all Group 1 wastewater streams at the source to have a mass flow rate less than 1 Mg per year (§ 63.138(i)(1)). (Identification of all Group 1 and Group 2 wastewater streams is currently required to be included in the Notification of Compliance in Table 15.)

- § 63.146(b)(1)—The proposal would add a statement of the reporting requirements for Group 2 wastewater streams. The proposed text is consistent with the information presently required by Table 15 to subpart G. Paragraph (b)(1) is presently a reserved paragraph in subpart G.
- § 63.147(b)(8)—The proposed amendment would clarify the recordkeeping requirements for Group 2 wastewater streams. The proposed addition to this section is consistent with the information presently required by Table 15 to subpart G.
- § 63.147(d) introductory text, paragraphs (d)(2) and (d)(3)—The proposed amendments would clarify requirements for non-regenerative carbon adsorbers. Section 63.147(d) only specifies the records to keep in lieu of daily averages for regenerative carbon adsorbers. Due to an oversight, the present rule text does not specify the required records for non-regenerative carbon adsorbers. Presumably, without today's correction, facilities operating non-regenerative carbon adsorbers would have to keep daily averages, which is not EPA's intent. Today's amendments would provide an alternative to daily averages for non-regenerative carbon adsorbers. The proposed amendments would also make this section of the rule consistent with Table 13 to subpart G.
- Table 12 to subpart G—The proposed amendments would remove "design" and the reference to § 63.138(d) from item 2 of the table. We intended that the continuous monitoring requirements specified in item 2 apply to all steam strippers used to comply with the wastewater provisions in subpart G, not just design steam strippers. Without this change, owners or operators of sources using steam strippers to comply with the wastewater treatment requirements are required to request approval of the monitoring parameters. It was not EPA's intent to require approval for these parameters.
- Table 20 to subpart G—The proposed amendments would add requirements for non-regenerative carbon absorbers. These amendments are necessary because we omitted non-regenerative carbon adsorbers from this table. See discussion accompanying § 63.147(d) for further explanation of the need for this amendment.

Section 63.151(b)(1)(iii). We are proposing to correct a drafting error in § 63.151(b)(1)(iii). This paragraph in the rule requires identification of the kinds of emission points within the chemical manufacturing process units that are subject to subpart G. The proposed amendment to § 63.151(b)(1)(iii) would replace the phrase "within the chemical manufacturing process unit" with the phrase "within the source." This change is necessary because wastewater streams are not included in the definition of the chemical manufacturing process unit, but they are part of the source regulated by the HON. Consequently, this reporting requirement does not accomplish its intended purpose. Therefore, we are proposing to revise § 63.151(b)(1)(iii) to require identification of the kinds of emission points within the source that are subject to subpart G.

C. Clarification of Compliance Demonstration Requirements for Flares

We are proposing amendments to § 63.116(a), § 63.128(b), § 63.14(j), and § 63.180(e) to clarify that a compliance demonstration for flares must be conducted using the provisions found in § 63.11(b). Specifically, we are now specifying that the owner or operator must (1) conduct a visible emission test, (2) determine the net heating value of the gas being combusted, and (3) determine the actual exit velocity. In each case, we are specifying specific procedures required in 63.11(b) for the determination. We are adding this more explicit language to the rule to address questions concerning the obligation to do these compliance determinations. We intend this change to remove any doubt concerning the applicability of these requirements.

D. Appendix C to Part 63

We are proposing to amend appendix C to part 63 to add a concentration measurement procedure for determining the fraction biodegraded (f_{bio}) in biological treatment units that are not thoroughly mixed, and thus, have multiple zones of mixing. As part of these proposed revisions, we are proposing to add a Form XIII to appendix C to part 63, and we are proposing conforming edits to section I to refer to the new procedure in section III.E.

The purpose of adding this new procedure, called Multiple Zone Concentration Measurements, to appendix C is to provide an alternative concentration measurement test that can be used for units with multiple zones of mixing. The present concentration measurement procedure in appendix C, called the Inlet and Outlet Concentration Measurement Procedure, can only be used for thoroughly mixed treatment units. To use this new multiple zone procedure, you would identify zones with substantially uniform characteristics and would measure representative organic compound concentrations within the biological treatment unit as well as the inlet and outlet of the biological treatment unit. The estimated mass transfer coefficient for each compound is determined using the characteristics of each zone. You calculate f_{bio} for each compound and each zone using Form XIII.

In addition to adding the Multiple Zone Concentration Measurements Procedure to appendix C, we are also proposing corrections to a term in Equation App. C–6 and to clarify that Equation App. C–4 is the solution to Equation App. C–3.

VI. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether a 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 lead to a rule that may:

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

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

(3) Materially alter the budgetary impact of entitlements, 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.

It has been determined that this proposed rule is not a "significant regulatory action" within the meaning of the Executive Order and is therefore not subject to OMB review. These proposed changes to the HON are primarily technical and administrative and do not raise any novel legal or policy issues. These proposed changes are not expected to impose significant new costs. This proposed action will not have an annual effect on the economy of $100 million or other adverse economic impacts, not create any inconsistencies with other actions by other agencies, not alter any budgetary impacts, or raise any novel legal or policy issues.

B. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed amendments to the rule would not significantly or uniquely affect the communities of Indian tribal governments. The proposal would amend the definition of "process vent" and would make other technical and administrative changes to the rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

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

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

D. Executive Order 13132 on Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns, and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

These proposed amendments to the final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's proposed amendments would not impose any enforceable duties on these entities. The proposal would amend the definition of "process vent" and would make other technical and administrative changes to the rule. Thus, the requirements of section 6 of the Executive Order do not apply to these proposed amendments to the final rule.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed or final rules with "Federal mandates" that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative

other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's proposed action does not contain a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate or to the private sector in any 1 year. Therefore, the requirements of sections 202 and 205 of the UMRA do not apply to this action. The EPA has likewise determined that the action proposed today does not include any regulatory requirements that might significantly or uniquely affect small governments. Thus, today's action is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility/Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires the EPA to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. The EPA is required to prepare a regulatory flexibility analysis and coordinate with small entity stakeholders if the Agency determines that a rule will have a significant economic impact on a substantial number of small entities.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these proposed amendments to the rule. The EPA has also determined that these amendments will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions. See the April 22, 1994 **Federal Register** (59 FR 19449) for the basis for this determination. The proposed changes are primarily technical and administrative, and are not expected to impose significant new costs. The EPA does not anticipate that the proposed changes will create any significant additional burden for any of the regulated entities.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the rule under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0282. An Information Collection Request (ICR) document was prepared by the EPA (ICR No. 1414.03) and a copy may be obtained from Sandy Farmer, OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St. SW, Washington, DC 20460 or by calling (202) 260–2740.

An agency may not conduct or sponsor, and a person is not required to respond to an information collection request unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Today's proposed amendments to the rule should have a very minor effect on the information collection burden estimates made previously. Based on discussions with industry representatives, EPA believes that this action would result in less than a 2 percent increase in the estimated information collection burden. This potential increase would include the burden associated with identification of and submittal of compliance documentation for previously unreported process vents subject to this rule. The potential increase would also include the burden associated with preparation of a supplemental report to identify the point of origination of the reported process vents as well as the discharge point. The EPA also estimates that a small (less than 2 percent) number of facilities may be required to install controls as a result of today's proposed changes. The EPA considers these changes to the rule to represent a clarification of the definition of process vent and the reporting requirements for process vents. Thus, EPA considers these potential increases in the burden estimate to be well within the uncertainty of the analysis. Consequently, the ICR has not been revised for these proposed amendments to the rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, § 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed action includes amendments to appendix C to add another procedure for determining fraction biodegraded. Therefore, we conducted a search to identify potentially applicable voluntary consensus standards for this case. However, we identified no such standards. Therefore, EPA proposes to add this additional procedure to appendix C. The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

In the event commenters identify potentially-applicable voluntary consensus standards, EPA will carefully evaluate whether these procedures are viable alternatives to the proposed procedure. However, EPA does not anticipate that there will be any standards identified that are equivalent in terms of stringency and other criteria.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 10, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart F—National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

2. Section 63.100 is amended by revising paragraph (e) introductory text, by revising paragraph (j)(4), and by adding paragraph (q) to read as follows:

§ 63.100 Applicability and designation of source.

* * * * *

(e) The source to which this subpart applies is the collection of all chemical manufacturing process units and the associated equipment at a major source that meet the criteria specified in paragraphs (b)(1) through (b)(3) of this section. The source includes the process vents; storage vessels; transfer racks; waste management units; maintenance wastewater; heat exchange systems; equipment identified in § 63.149; and 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 that collection of chemical manufacturing process units. The source also includes equipment required by, or utilized as a method of compliance with, subparts F, G, or H of this part which may include control devices and recovery devices.

* * * * *

(j) * * *

(4) Batch process vents within a chemical manufacturing process unit.

* * * * *

(q) If the owner or operator of a process vent, or of a gas stream transferred subject to § 63.113(i), is unable to comply with the provisions of §§ 63.113 through 63.118 by the applicable compliance date specified in paragraph (k),(l), or (m) of this section for the reasons stated in paragraph (q)(1),(q)(3), or (q)(5) of this section, the owner or operator shall comply with the applicable provisions in §§ 63.113 through 63.118 as expeditiously as practicable, but in no event later than the date approved by the Administrator pursuant to paragraph (q)(2), (q)(4), or (q)(6) of this section, respectively. For requests under paragraph (q)(1) or (q)(3) of this section, the date approved by the Administrator may be earlier than, and shall not be later than, the later of [DATE 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] or 3 years after the transferee's refusal to accept the stream for disposal. For requests submitted under paragraph (q)(5) of this section, the date approved by the Administrator may be earlier than, and shall not be later than, 3 years after the date of promulgation of the amendments to this subpart or to subpart G of part 63 which created the need for an extension of the compliance.

(1) If the owner or operator has been sending a gas stream for disposal as described in § 63.113(i) prior to [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], and the transferee does not submit a written certification as described in § 63.113(i)(2) and ceases to accept the gas stream for disposal, the owner or operator shall comply with paragraph (q)(2) of this section.

(2)(i) An owner or operator directed to comply with paragraph (q)(2) of this section shall submit to the Administrator for approval a compliance schedule, along with a justification for the schedule.

(ii) The compliance schedule and justification shall be submitted no later than 90 days after the transferee ceases to accept the gas stream for disposal.

(iii) The Administrator shall approve the compliance schedule or request changes within 120 days of receipt of the compliance schedule and justification.

(3) If the owner or operator has been sending the gas stream for disposal as described in § 63.113(i) to a transferee who had submitted a written certification as described in § 63.113(i)(2), and the transferee revokes its written certification, the owner or operator shall comply with paragraph (q)(4) of this section. During the period between the date when the owner or operator receives notice of revocation of the transferee's written certification and the compliance date established under paragraph (q)(4) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions to the extent practical. For purposes of this paragraph (q)(3) of this section, the term "excess emissions" means emissions in excess of those that would have occurred if the transferee had continued managing the gas stream in compliance with the requirements in §§ 63.113 through 63.118. The measures to be taken shall be identified in the applicable start-up, shutdown, and malfunction plan. If the measures that can be reasonably taken will change over time, so that a more effective measure which could not reasonably be taken initially would be reasonable at a later date, the Administrator may require the more effective measure by a specified date (in addition to or instead of any other measures taken sooner or later than that date) as a condition of approval of the compliance schedule.

(4)(i) An owner or operator directed to comply with paragraph (q)(4) of this section shall submit to the Administrator for approval the documents specified in paragraphs (q)(4)(i)(A) through (E) of this section no later than 90 days after the owner or operator receives notice of revocation of the transferee's written certification.

(A) A request for determination of a compliance date.

(B) A justification for the request for determination of a compliance date.

(C) A compliance schedule.

(D) A justification for the compliance schedule.

(E) A description of the measures that will be taken to minimize excess emissions until the new compliance date, and the date when each measure will first be implemented. The owner or operator shall describe how, and to what extent, each measure will minimize excess emissions, and shall justify any period of time when measures are not in place.

(ii) The Administrator shall approve or disapprove the request for determination of a compliance date and the compliance schedule, or request changes, within 120 days after receipt of the documents specified in paragraphs (q)(4)(i)(A) through (E) of this section. Upon approving the request for determination and compliance schedule, the Administrator shall specify a reasonable compliance date consistent with the introductory text in paragraph (q) of this section.

(5) If the owner's or operator's inability to meet otherwise applicable compliance deadlines is due to amendments of this subpart or of subpart G of part 63 promulgated on or after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] and neither condition specified in paragraph (q)(1) or (q)(3) of this section is applicable, the owner or operator shall comply with paragraph (q)(6) of this section.

(6)(i) An owner or operator directed to comply with this paragraph shall submit to the Administrator for approval a request for determination of a compliance date, a compliance schedule, a justification for the determination of a compliance date, and a justification for the compliance schedule.

(ii) The documents required to be submitted under paragraph (q)(6)(i) of this section shall be submitted no later than 120 days after publication of the amendments of this subpart or of subpart G of part 63 which necessitate the request for an extension.

(iii) The Administrator shall approve or disapprove the request for a determination of a compliance date, or request changes, within 120 days after receipt of the request for determination of a compliance date, the compliance schedule, and the two justifications. If the request for determination of a compliance date is disapproved, the compliance schedule is disapproved and the owner or operator shall comply by the applicable date specified in paragraph (k),(l), or (m) of this section. If the request for the determination of a compliance date is approved, the Administrator shall specify, at the time of approval, a reasonable compliance date consistent with the introductory text in paragraph (q) of this section.

3. Section 63.101 is amended by adding in alphabetical order the definition of "Batch process vent" and by revising the definition of "Process vent" to read as follows:

§ 63.101 Definitions.

* * * * *

Batch process vent means gaseous venting to the atmosphere from a batch operation.

* * * * *

Process vent means the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream has the characteristics specified in § 63.107(b) through (h) or meets the criteria specified in § 63.107(i). For purposes of §§ 63.113 through 63.118, all references to the characteristics of a process vent (e.g., flow rate, total HAP concentration, or TRE index value) shall mean the characteristics of the gas stream.

* * * * *

4. Subpart F is amended by adding a new § 63.107 to read as follows:

§ 63.107 Identification of Process Vents Subject to this Subpart.

(a) The owner or operator shall use the criteria specified in this section to determine whether there are any process vents associated with an air oxidation reactor, distillation unit, or reactor that is in a source subject to this subpart. A process vent is the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream has the characteristics specified in paragraphs (b) through (h) of this section or meets the criteria specified in paragraph (i) of this section.

(b) Some, or all, of the gas stream originates as a continuous flow from an air oxidation reactor, distillation unit, or reactor during operation of the chemical manufacturing process unit.

(c) The discharge to the atmosphere (with or without passing through a control device) meets at least one of the conditions specified in paragraphs (c)(1) through (c)(3) of this section.

(1) Is directly from an air oxidation reactor, distillation unit, or reactor; or

(2) Is from an air oxidation reactor, distillation unit, or reactor after passing solely (*i.e.*, without passing through any other unit operation for a process purpose) through one or more recovery devices within the chemical manufacturing process unit; or

(3) Is from a device recovering only mechanical energy from a gas stream that comes either directly from an air oxidation reactor, distillation unit, or reactor, or from an air oxidation reactor, distillation unit, or reactor after passing solely (*i.e.*, without passing through any other unit operation for a process purpose) through one or more recovery devices within the chemical manufacturing process unit.

(d) The gas stream contains greater than 0.005 weight percent total organic hazardous air pollutants at the point of discharge to the atmosphere (or at the point of entry into a control device, if any).

(e) The air oxidation reactor, distillation unit, or reactor is part of a chemical manufacturing process unit that meets the criteria of § 63.100(b).

(f) The gas stream is in the gas phase from the point of origin at the air oxidation reactor, distillation unit, or reactor to the point of discharge to the atmosphere (or to the point of entry into a control device, if any).

(g) The gas stream is discharged to the atmosphere either on-site, off-site, or both.

(h) The gas stream is not any of the items identified in paragraphs (h)(1) through (h)(9) of this section.

(1) A relief valve discharge.

(2) A leak from equipment subject to subpart H of this part.

(3) A gas stream going to a fuel gas system as defined in § 63.101.

(4) A gas stream exiting a control device used to comply with § 63.113.

(5) A gas stream transferred to other processes (on-site or off-site) for reaction or other use in another process (*i.e.*, for chemical value as a product, isolated intermediate, byproduct, or coproduct or for heat value).

(6) A gas stream transferred for fuel value (*i.e.*, net positive heating value), use, reuse, or for sale for fuel value, use, or reuse.

(7) A storage vessel vent or transfer operation vent subject to § 63.119 or § 63.126.

(8) A vent from a waste management unit subject to §§ 63.132 through 63.137.

(9) A gas stream exiting a process analyzer.

(i) The gas stream would meet the characteristics specified in paragraphs (b) through (g) of this section, but, for purposes of avoiding applicability, has been deliberately interrupted, temporarily liquefied, routed through any item of equipment for no process purpose, or disposed of in a flare that does not meet the criteria in § 63.11(b), or an incinerator that does not reduce emissions of organic hazardous air pollutants by 98 percent or to a concentration of 20 ppm by volume, whichever is less stringent.

Subpart G—National Emission Standards for Organic Hazardous Air Pollutants from Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater

5. Section 63.110 is amended by revising paragraph (a) to read as follows:

§ 63.110 Applicability.

(a) This subpart applies to all process vents, storage vessels, transfer racks, wastewater streams, and/or in-process equipment subject to § 63.149 within a source subject to subpart F of this part.

* * * * *

6. Section 63.111 is amended by adding in alphabetical order the definition of "Point of transfer" and by revising the definitions of "Group 1 process vent," "Group 2 process vent," and "Vent stream" to read as follows:

§ 63.111 Definitions.

* * * * *

Group 1 process vent means a process vent for which the vent stream flow rate is greater than or equal to 0.005 standard cubic meter per minute, the total organic HAP concentration is greater than or equal to 50 ppm by volume, and the total resource effectiveness index value, calculated according to § 63.115, is less than or equal to 1.0.

Group 2 process vent means a process vent for which the vent stream flow rate is less than 0.005 standard cubic meter per minute, the total organic HAP concentration is less than 50 ppm by volume or the total resource effectiveness index value, calculated according to § 63.115, is greater than 1.0.

* * * * *

Point of transfer means:

(1) If the transfer is to an off-site location for control, the point where the conveyance crosses the property line; or

(2) If the transfer is to an on-site location not owned or operated by the

owner or operator of the source, the point where the conveyance enters the operation or equipment of the transferee.

* * * * *

Vent stream, as used in the process vent provisions, means the gas stream flowing through the process vent.

* * * * *

7. Section 63.113 is amended by:

a. Revising paragraph (a) introductory text.

b. Revising the second sentence in paragraph (a)(3).

c. Revising paragraph (c) introductory text and paragraph (c)(1) introductory text.

d. Revising paragraphs (e) and (g).

e. Adding a new paragraph (i).

The revisions and addition read as follows:

§ 63.113 Process vent provisions—reference control technology.

(a) The owner or operator of a Group 1 process vent as defined in this subpart shall comply with the requirements of paragraph (a)(1), (a)(2), or (a)(3) of this section. The owner or operator who transfers a gas stream that has the characteristics specified in § 63.107 (b) through (h) or meets the criteria specified in § 63.107(i) to an off-site location or an on-site location not owned or operated by the owner or operator of the source for disposal shall comply with the requirements of paragraph (i) of this section.

* * * * *

(3) * * * If the TRE index value is greater than 1.0, the process vent shall comply with the provisions for a Group 2 process vent specified in either paragraph (d) or (e) of this section, whichever is applicable.

* * * * *

(c) Halogenated vent streams from Group 1 process vents that are combusted shall be controlled according to paragraph (c)(1) or (c)(2) of this section.

(1) If a combustion device is used to comply with paragraph (a)(2) of this section for a halogenated vent stream, then the gas stream exiting the combustion device shall be conveyed to a halogen reduction device, such as a scrubber, before it is discharged to the atmosphere.

* * * * *

(e) The owner or operator of a Group 2 process vent with a TRE index value greater than 4.0 shall maintain a TRE index value greater than 4.0, comply with the provisions for calculation of TRE index in § 63.115 and the reporting and recordkeeping provisions in § 63.117(b), § 63.118(c), and § 63.118(h), and is not subject to monitoring or any other provisions of §§ 63.114 through 63.118.

* * * * *

(g) The owner or operator of a Group 2 process vent with a total organic HAP concentration less than 50 ppm by volume shall maintain a total organic HAP concentration less than 50 ppm by volume; comply with the Group determination procedures in § 63.115(a), (c), and (e); the reporting and recordkeeping requirements in § 63.117(d), § 63.118(e), and § 63.118(j); and is not subject to monitoring or any other provisions of §§ 63.114 through 63.118.

* * * * *

(i) *Off-site control or on-site control not owned or operated by the source.* This paragraph applies to gas streams that have the characteristics specified in §§ 63.107(b) through (h) of subpart F of this part or meet the criteria specified in § 63.107(i) of subpart F of this part; that are transferred for disposal to an on-site control device (or other compliance equipment) not owned or operated by the owner or operator of the source generating the gas stream, or to an off-site control device or other compliance equipment; and that have the characteristics (e.g., flow rate, total organic HAP concentration, or TRE index value) of a Group 1 process vent, determined at the point of transfer.

(1) The owner or operator transferring the gas stream shall:

(i) Comply with the provisions specified in § 63.114(d) for each gas stream prior to transfer.

(ii) Notify the transferee that the gas stream contains organic hazardous air pollutants that are to be treated in accordance with the provisions of this subpart. The notice shall be submitted to the transferee initially and whenever there is a change in the required control.

(2) The owner or operator may not transfer the gas stream unless the transferee has submitted to the EPA a written certification that the transferee will manage and treat any gas stream transferred under this paragraph (i) of this section and received from a source subject to the requirements of this subpart in accordance with the requirements of either §§ 63.113 through 63.118, or § 63.102(b), or subpart D of this part if alternative emission limitations have been granted the transferor in accordance with those provisions. The certifying entity may revoke the written certification by sending a written statement to the EPA and the owner or operator giving at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the regulatory provisions listed in this paragraph. Upon expiration of the notice period, the owner or operator may not transfer the gas stream to the transferee. Records retained by the transferee shall be retained in accordance with § 63.10(b).

(3) By providing this written certification to the EPA, the certifying entity accepts responsibility for compliance with the regulatory provisions listed in paragraph (i)(2) of this section with respect to any transfer covered by the written certification. Failure to abide by any of those provisions with respect to such transfers may result in enforcement action by the EPA against the certifying entity in accordance with the enforcement provisions applicable to violations of these provisions by owners or operators of sources.

(4) Written certifications and revocation statements to the EPA from the transferees of such gas streams shall be signed by a responsible official of the certifying entity, provide the name and address of the certifying entity, and be sent to the appropriate EPA Regional Office at the addresses listed in 40 CFR 63.13. Such written certifications are not transferable by the transferee.

8. Section 63.114 is amended by revising paragraphs (a)(3), (a)(4)(ii), and (d) to read as follows:

§ 63.114 Process vent provisions—monitoring requirements.

(a) * * *

(3) Where a boiler or process heater of less than 44 megawatts design heat input capacity is used, the following monitoring equipment is required: a temperature monitoring device in the firebox equipped with a continuous recorder. This requirement does not apply to gas streams that are introduced with primary fuel or are used as the primary fuel.

(4) * * *

(ii) A flow meter equipped with a continuous recorder shall be located at the scrubber influent for liquid flow. Gas flow rate shall be determined using one of the procedures specified in paragraphs (a)(4)(ii)(A) through (C) of this section.

(A) The owner or operator may determine gas flow rate using the design blower capacity, with appropriate adjustments for pressure drop.

(B) If the scrubber is subject to regulations in 40 CFR parts 264 through 266 that have required a determination of the liquid to gas (L/G) ratio prior to the applicable compliance date for this subpart specified in § 63.100(k), the owner or operator may determine gas

flow rate by the method that had been utilized to comply with those regulations. A determination that was conducted prior to the compliance date for this subpart may be utilized to comply with this subpart if it is still representative.

(C) The owner or operator may prepare and implement a gas flow rate determination plan that documents an appropriate method which will be used to determine the gas flow rate. The plan shall require determination of gas flow rate by a method which will at least provide a value for either a representative or the highest gas flow rate anticipated in the scrubber during representative operating conditions other than start-ups, shutdowns, or malfunctions. The plan shall include a description of the methodology to be followed and an explanation of how the selected methodology will reliably determine the gas flow rate, and a description of the records that will be maintained to document the determination of gas flow rate. The owner or operator shall maintain the plan as specified in § 63.103(c).

* * * * *

(d) The owner or operator of a process vent shall comply with paragraph (d)(1) or (d)(2) of this section for any bypass line, between the origin of the gas stream (i.e., at an air oxidation reactor, distillation unit, or reactor as identified in § 63.107(b)) and the point where the gas stream reaches the process vent as described in § 63.107, that could divert the gas stream directly to the atmosphere. 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 § 63.118(a)(3). The flow indicator shall be installed at the entrance to any bypass line that could divert the gas stream 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 gas stream is not diverted through the bypass line.

* * * * *

9. Section 63.115 is amended by:

a. Revising paragraph (a) introductory text.

b. Revising paragraph (b) introductory text.

c. Revising paragraph (c) introductory text,

(c)(4)(i), and (c)(4)(ii).

d. Revising paragraph (d)(1) introductory text and

(d)(1)(iii)(D)(*4*).

e. Revising paragraph (d)(2) introductory text, (d)(2)(i) and (d)(2)(ii) introductory text, and (d)(2)(ii)(C).

f. Adding paragraph (f).

The revisions and addition read as follows:

§ 63.115 Process vent provisions—methods and procedures for process vent group determination.

(a) For purposes of determining vent stream flow rate, total organic HAP or TOC concentration or TRE index value, as specified under paragraph (b), (c), or (d) of this section, the sampling site shall be after the last recovery device (if any recovery devices are present) but prior to the inlet of any control device that is present and prior to release to the atmosphere.

* * * * *

(b) To demonstrate that a vent stream flow rate is less than 0.005 standard cubic meter per minute in accordance with the Group 2 process vent definition of this subpart, the owner or operator shall measure flow rate by the following procedures:

* * * * *

(c) Each owner or operator seeking to demonstrate that a vent stream has an organic HAP concentration below 50 ppm by volume in accordance with the Group 2 process vent definition of this subpart shall measure either total organic HAP or TOC concentration using the following procedures:

* * * * *

(4) * * *

(i) Method 25A of 40 CFR part 60, appendix A shall be used only if a single organic HAP compound is greater than 50 percent of total organic HAP, by volume, in the vent stream.

(ii) The vent stream composition may be determined by either process knowledge, test data collected using an appropriate EPA method, or a method or data validated according to the protocol in Method 301 of appendix A of this part. Examples of information that could constitute process knowledge include calculations based on material balances, process stoichiometry, or previous test results provided the results are still relevant to the current vent stream conditions.

* * * * *

(d) * * *

(1) Engineering assessment may be used to determine vent stream flow rate, net heating value, TOC emission rate, and total organic HAP emission rate for the representative operating condition expected to yield the lowest TRE index value.

* * * * *

(iii) * * *

(D) * * *

(*4*) Estimation of maximum expected net heating value based on the vent stream concentration of each organic compound or, alternatively, as if all TOC in the vent stream were the compound with the highest heating value.

* * * * *

(2) Except as provided in paragraph (d)(1) of this section, vent stream flow rate, net heating value, TOC emission rate, and total organic HAP emission rate shall be measured and calculated according to the procedures in paragraphs (d)(2)(i) through (v) of this section and used as input to the TRE index value calculation in paragraph (d)(3) of this section.

(i) The vent stream volumetric flow rate (Qs), in standard cubic meters per minute at 20 °C, shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate. If the vent stream tested passes through a final steam jet ejector and is not condensed, the vent stream volumetric flow shall be corrected to 2.3 percent moisture.

(ii) The molar composition of the vent stream, which is used to calculate net heating value, shall be determined using the following methods:

* * * * *

(C) Method 4 of 40 CFR part 60, appendix A to measure the moisture content of the vent stream.

* * * * *

(f) Notwithstanding any other provisions of this subpart, in any case where a process vent includes one or more gas streams that are not from a source subject to this subpart (hereafter called "non-HON streams" for purposes of this paragraph), and one or more gas streams that meet the criteria in § 63.107(b) through (h) or the criteria in § 63.107(i) (hereafter called "HON streams" for purposes of this paragraph), the owner or operator may elect to comply with paragraphs (f)(1) through (f)(3) of this section.

(1) The owner or operator may determine the characteristics (flow rate, total organic HAP concentration, and TRE index value) for each HON stream, or combination of HON streams, at a representative point as near as practical to, but before, the point at which it is combined with non-HON streams.

(2) If one or more of the HON streams, or combinations of HON streams, has the characteristics (determined at the location specified in paragraph (f)(1) of this section) associated with a Group 1 process vent, the combined vent stream is a Group 1 process vent. Except as specified in paragraph (f)(3) of this section, if none of the HON streams, or combinations of HON streams, when determined at the location specified in paragraph (f)(1) of this section has the characteristics associated with a Group 1 process vent, the combined vent stream is a Group 2 process vent regardless of the TRE index value determined at the location specified in § 63.115(a). If the combined vent stream is a Group 2 process vent as determined by the previous sentence, but one or more of the HON streams, or combinations of HON streams, has a TRE index value greater than 1 but less than or equal to 4, the combined vent stream is a process vent with a TRE index value greater than 1 but less than or equal to 4. In this case, the owner or operator shall monitor the combined vent stream as required by § 63.114(b).

(3) Paragraphs (f)(1) and (f)(2) of this section are not intended to apply instead of any other subpart of part 63. If another subpart of part 63 applies to one or more of the non-HON streams contributing to the combined vent stream, that subpart may impose emission control requirements such as, but not limited to, requiring the combined vent stream to be classified and controlled as a Group 1 process vent.

10. Section 63.116 is amended by:

a. Revising paragraph (a).

b. Revising paragraph (b)(2).

c. Revising paragraphs (c)(1)(i)(B) and (c)(4)(iv).

d. Revising paragraph (d) introductory text.

The revisions read as follows:

§ 63.116 Process vent provisions—performance test methods and procedures to determine compliance.

(a) When a flare is used to comply with § 63.113(a)(1), the owner or operator shall comply with paragraphs (a)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4).

(2) Determine the net heating value of the gas being combusted using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

(b) * * *

(2) A boiler or process heater into which the gas stream is introduced with the primary fuel or is used as the primary fuel.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(B) If a 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, 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 vent streams and primary and secondary fuels introduced into the boiler or process heater.

* * * * *

(4) * * *

(iv) If the vent stream 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 (minus methane and ethane) across the device shall be determined by comparing the TOC (minus methane and ethane) or total organic HAP in all combusted vent streams and primary and secondary fuels with the TOC (minus methane and ethane) or total organic HAP exiting the combustion device, respectively.

(d) An owner or operator using a combustion device followed by a scrubber or other halogen reduction device to control halogenated vent streams in compliance with § 63.113(c)(1) shall conduct a performance test to determine compliance with the control efficiency or emission limits for hydrogen halides and halogens.

* * * * *

11. Section 63.117 is amended by revising paragraphs (a) introductory text, (a)(4)(iv), (a)(6) introductory text, and (a)(8) to read as follows:

§ 63.117 Process vents provisions—reporting and recordkeeping requirements for group and TRE determinations and performance tests.

(a) Each owner or operator subject to the control provisions for Group 1 process vents in § 63.113(a) or the provisions for Group 2 process vents with a TRE index value greater than 1.0 but less than or equal to 4.0 in § 63.113(d) shall:

* * * * *

(4) * * *

(iv) For a boiler or process heater with a design heat input capacity of less than 44 megawatts and where the vent stream is introduced with combustion air or used as a secondary fuel and is not mixed with the primary fuel, the percent reduction of organic HAP or TOC, or the concentration of organic HAP or TOC (ppm by volume, by compound) determined as specified in § 63.116(c) at the outlet of the combustion device on a dry basis corrected to 3 percent oxygen.

* * * * *

(6) Record and report the following when using a scrubber following a combustion device to control a halogenated vent stream:

* * * * *

(8) Record and report the halogen concentration in the vent stream determined according to the procedures specified in § 63.115(d)(2)(v).

* * * * *

12. Section 63.118 is amended by revising paragraphs (a)(3), (e)(1), and (f)(3) to read as follows:

§ 63.118 Process vents provisions—Periodic reporting and recordkeeping requirements.

(a) * * *

(3) Hourly records of whether the flow indicator specified under § 63.114(d)(1) was operating and whether a diversion was detected at any time during the hour, as well as records of the times and durations of all periods when the gas stream is diverted to the atmosphere or the monitor is not operating.

* * * * *

(e) * * *

(1) Any process changes as defined in § 63.115(e) that increase the organic HAP concentration of the vent stream,

* * * * *

(f) * * *

(3) Reports of the times and durations of all periods recorded under paragraph (a)(3) of this section when the gas stream is diverted to the atmosphere through a bypass line.

* * * * *

13. Section 63.128 is amended by revising paragraph (b) to read as follows:

§ 63.128 Transfer operations provisions—test methods and procedures.

* * * * *

(b) When a flare is used to comply with § 63.126(b)(2), the owner or operator shall comply with paragraphs (b)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4). The observation period shall be as specified in paragraph (b)(1)(i) or (ii) of this section instead of the 2-hour period specified in § 63.11(b)(4).

(i) If the loading cycle is less than 2 hours, then the observation period for that run shall be for the entire loading cycle.

(ii) If additional loading cycles are initiated within the 2-hour period, then visible emission observations shall be conducted for the additional cycles.

(2) Determine the net heating value of the gas being combusted, using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

* * * * *

14. Section 63.132 is amended by revising paragraphs (a)(3) and (b)(4) to read as follows:

§ 63.132 Process wastewater provisions—general.

(a) * * *

(3) *Requirements for Group 2 wastewater streams.* For wastewater streams that are Group 2 for table 9 compounds, comply with the applicable recordkeeping and reporting requirements specified in §§ 63.146(b)(1) and 63.147(b)(8).

(b) * * *

(4) *Requirements for Group 2 wastewater streams.* For wastewater streams that are Group 2 for both table 8 and table 9 compounds, comply with the applicable recordkeeping and reporting requirements specified in §§ 63.146(b)(1) and 63.147(b)(8).

* * * * *

15. Section 63.138 is amended by:

a. Revising paragraphs (i) introductory text and (i)(2)(iii);

b. Adding a sentence to the end of paragraph (i)(1) introductory text and adding a senteuce to the end of paragraph (i)(2)(i) introductory text;

c. Amending paragraph (i)(2) introductory text by revising the reference "(i)(2)(iv)" to read "(i)(3)"; and

d. Redesignating paragraph (i)(2)(iv) as paragraph (i)(3).

The revision additions read as follows:

§ 63.138 Process wastewater provisions—performance standards for treatment processes managing Group 1 wastewater streams and/or residuals removed from Group 1 wastewater streams.

* * * * *

(i) *One megagram total source mass flow rate option.* A wastewater stream is exempt from the requirements of paragraphs (b) and (c) of this section if the owner or operator elects to comply with either paragraph (i)(1) or (i)(2) of this section, and complies with paragraph (i)(3) of this section.

(1) * * * The owner or operator who meets the requirements of this paragraph (i)(1) of this section is exempt from the requirements of §§ 63.133 through 63.137.

* * * * *

(2) * * *

(i) * * * When determining the total source mass flowrate for the purposes of paragraph (i)(2)(i)(B) of this section, the concentration and flow rate shall be determined at the location specified in paragraph (i)(2)(i)(B) of this section and not at the location specified in § 63.144(b) and (c).

* * * * *

(iii) The owner or operator of each waste management unit that receives, manages, or treats a partially treated wastewater stream prior to or during treatment shall comply with the requirements of §§ 63.133 through 63.137, as applicable. For a partially treated wastewater stream that is stored, conveyed, treated, or managed in waste management unit meeting the requirements of §§ 63.133 through 63.137, the owner or operator shall follow the procedures in paragraph (i)(2)(i)(B) of this section to calculate mass flow rate. A wastewater stream, either untreated or partially treated, where the mass flow rate has been calculated following the procedures in paragraph (i)(2)(i)(A) of this section are exempt from the requirements of §§ 63.133 through 63.137.

* * * * *

16. Section 63.145 is amended by revising paragraph (j) to read as follows:

§ 63.145 Process wastewater provisions—test methods and procedures to determine compliance.

* * * * *

(j) When a flare is used to comply with § 63.139(c), the owner or operator shall comply with paragraphs (j)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4).

(2) Determine the net heating value of the gas being combusted, using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

* * * * *

17. Section 63.146 is amended by adding paragraph (b)(1) to read as follows:

§ 63.146 Process wastewater provisions—reporting.

* * * * *

(b) * * *

(1) *Requirements for Group 2 wastewater streams.* This paragraph does not apply to Group 2 wastewater streams that are used to comply with § 63.138(g). For Group 2 wastewater streams, the owner or operator shall include the information specified in paragraphs (b)(1)(i) through (iv) of this section in the Notification of Compliance Status Report. This information may be submitted in any form. Table 15 of this subpart is an example.

(i) Process unit identification and description of the process unit.

(ii) Stream identification code.

(iii) For existing sources, concentration of table 9 compound(s) in ppm, by weight. For new sources, concentration of table 8 and/or table 9 compound(s) in ppm, by weight. Include documentation of the methodology used to determine concentration.

(iv) Flow rate in liter per minute.

* * * * *

18. Section 63.147 is amended by revising paragraphs (b) introductory text, (d) introductory text, and (d)(2), and by adding paragraphs (b)(8) and (d)(3) to read as follows:

§ 63.147 Process wastewater provisions—recordkeeping.

* * * * *

(b) The owner or operator shall keep in a readily accessible location the records specified in paragraphs (b)(1) through (8) of the section.

* * * * *

(8) *Requirements for Group 2 wastewater streams.* This paragraph (b)(8) of this section does not apply to Group 2 wastewater streams that are used to comply with § 63.138(g). For all other Group 2 wastewater streams, the owner or operator shall keep in a readily accessible location the records specified in paragraphs (b)(8)(i) through (iv) of this section in the Notification of Compliance Status Report.

(i) Process unit identification and description of the process unit.

(ii) Stream identification code.

(iii) For existing sources, concentration of table 9 compound(s) in ppm, by weight. For new sources,

concentration of table 8 and/or table 9 compound(s) in ppm, by weight. Include documentation of the methodology used to determine concentration.

(iv) Flow rate in liter per minute.

* * * * *

(d) The owner or operator shall keep records of the daily average value of each continuously monitored parameter for each operating day as specified in § 63.152(f), except as provided in paragraphs (d)(1) through (3) of this section.

* * * * *

(2) *Regenerative carbon adsorbers.* For regenerative carbon adsorbers, the owner or operator shall keep the records specified in paragraphs (d)(2)(i) and (ii) of this section instead of daily averages.

(i) Records of the total regeneration stream mass flow for each carbon bed regeneration cycle.

(ii) Records of the temperature of the carbon bed after each regeneration cycle.

(3) *Non-regenerative carbon adsorbers.* For non-regenerative carbon adsorbers using organic monitoring equipment, the owner or operator shall keep the records specified in paragraph (d)(3)(i) of this section instead of daily averages. For non-regenerative carbon adsorbers replacing the carbon adsorption system with fresh carbon at a regular predetermined time interval that is less than the carbon replacement interval that is determined by the maximum design flow rate and organic concentration in the gas stream vented to the carbon adsorption system, the owner or operator shall keep the records specified in paragraph (d)(3)(ii) of this section instead of daily averages.

(i)(A) Record of how the monitoring frequency, as specified in table 13 of this subpart, was determined.

(B) Records of when organic compound concentration of adsorber exhaust was monitored.

(C) Records of when the carbon was replaced.

(ii)(A) Record of how the carbon replacement interval, as specified in table 13 of this subpart, was determined.

(B) Records of when the carbon was replaced.

* * * * *

19. Section 63.151 is amended by revising paragraphs (b)(1)(iii) and (e)(1) to read as follows:

§ 63.151 Initial notification.

* * * * *

(b) * * *

(1) * * *

(iii) An identification of the kinds of emission points within the source that are subject to this subpart;

* * * * *

(e) * * *

(1) A list designating each emission point complying with §§ 63.113 through 63.149 and whether each emission point is Group 1 or Group 2, as defined in § 63.111. For each process vent within the source, provide the information listed in paragraphs (e)(1)(i) through (iv) of this section.

(i) The chemical manufacturing process unit(s) that is the origin of all or part of the vent stream that exits the process vent.

(ii) The type(s) of unit operations (i.e., an air oxidation reactor, distillation unit, or reactor) that creates the vent stream that exits the process vent.

(iii) For a Group 2 process vent, the last recovery device, if any.

(iv) For a Group 1 process vent, the control device, or other equipment used for compliance.

* * * * *

20. Section 63.152 is amended by adding a new paragraph (b)(6), revising paragraph (c)(4)(iv), and adding a new paragraph (d)(4) to read as follows:

§ 63.152 General reporting and continuous records.

* * * * *

(b) * * *

(6) An owner or operator complying with § 63.113(i) shall include in the Notification of Compliance Status, or where applicable, a supplement to the Notification of Compliance Status, the name and location of the transferee, and the identification of the Group 1 process vent.

* * * * *

(c) * * *

(4) * * *

(iv) For gas streams sent for disposal pursuant to § 63.113(i) or for process wastewater streams sent for treatment pursuant to § 63.132(g), reports of changes in the identity of the transferee.

* * * * *

(d) * * *

(4) If an owner or operator transfers for disposal a gas stream that has the characteristics specified in § 63.107(b) through (h) or meets the criteria specified in § 63.107(i) to an off-site location or an on-site location not owned or operated by the owner or operator of the source and the vent stream was not included in the information submitted with the Notification of Compliance Status or a previous periodic report, the owner or operator shall submit a supplemental report. The supplemental report shall be submitted no later than [180 DAYS AFTER THE DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] or with the next periodic report, whichever is later. The report shall provide the information listed in paragraphs (d)(4)(i) through (iv) of this section.

(i) The chemical manufacturing process unit(s) that is the origin of all or part of the vent stream that exits the process vent.

(ii) The type(s) of unit operations (i.e., an air oxidation reactor, distillation unit, or reactor) that creates the vent stream that exits the process vent.

(iii) For a Group 2 process vent, the last recovery device, if any.

(iv) For a Group 1 process vent, the identity of the transferee.

* * * * *

21. The appendix to subpart G is amended by revising tables 12 and 20 to read as follows:

Appendix to Subpart G—Tables and Figures

* * * * *

TABLE 12.—MONITORING REQUIREMENTS FOR TREATMENT PROCESSES

To comply with	Parameters to be monitored	Frequency	Methods
1. Required mass removal of Table 8/and or Table 9 compound(s) from wastewater treated in a properly operated biological treatment unit § 63.138(f) § 63.138(g).	Appropriate parameters as specified in § 63.143(c) and approved by permitting authority.	Appropriate frequency as specified in § 63.143 and as approved by permitting authority.	Appropriate methods as specified in § 63.143 and as approved by permitting authority.
2. Steam stripper	Steam flow rate	Continuously	Integrating steam flow monitoring device equipped with a continuous recorder.

TABLE 12.—MONITORING REQUIREMENTS FOR TREATMENT PROCESSES—Continued

To comply with	Parameters to be monitored	Frequency	Methods
	Wastewater feed mass flow rate ..	Continuously	Liquid flow meter installed at stripper influent and equipped with a continuous recorder.
	Wastewater feed temperature	Continuously	Liquid temperature monitoring device installed at stripper influent and equipped with a continuous recorder.
3. Alternative monitoring parameters.	Other parameters may be monitored upon approval from the Administrator in accordance with the requirements specified in § 63.151(f).		

* * * * * * *

TABLE 20.—WASTEWATER—PERIODIC REPORTING REQUIREMENTS FOR CONTROL DEVICES USED TO COMPLY WITH §§ 63.13–63.139

Control device	Reporting requirements
Thermal incinerator	1. Report all daily average[a] temperatures that are outside the range established in the NCS[b] or operating permit and all operating days when insufficient monitoring data are collected.[c]
Catalytic incinerator	1. Report all daily average[a] temperatures that are outside the range established in the NCS[b] or operating permit. 2. Report all daily average[a] temperature differences across the catalyst bed that are outside the range established in the NCS[b] or operating permit. 3. Report all operating days when insufficient monitoring data are collected.[c]
Boiler or process heater with a design heat input capacity less than 44 megawatts and vent stream is not mixed with the primary fuel.	1. Report all daily average[a] firebox temperatures that are outside the range established in the NCS[b] or operating permit and all operating days when insufficient monitoring data are collected.[c]
Flare	1. Report the duration of all periods when all pilot flames are absent.
Condenser	1. Report all daily average[a] exit temperatures that are outside the range established in the NCS[b] or operating permit and all operating days when insufficient monitoring data are collected.[c]
Carbon adsorber (regenerative)	1. Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is outside the range established in the NCS[b] or operating permit. 2. Report all carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration is outside the range established in the NCS[b] or operating permit. 3. Report all operating days when insufficient monitoring data are collected.[c]
Carbon adsorber (non-regenerative)	1. Report all operating days when inspections not done according to the schedule developed as specified in table 13 of this subpart. 2. Report all operating days when carbon has not been replaced at the frequency specified in table 13 of this subpart.
All control devices	1. Report the times and durations of all periods when the vent stream is diverted through a bypass line or the monitor is not operating, or 2. Report all monthly inspections that show the valves are moved to the diverting position or the seal has been changed.

[a] The daily average is the average of all values recorded during the operating day, as specified in § 63.147(d).
[b] NCS = Notification of Compliance Status described in § 63.152.
[c] The periodic reports shall include the duration of periods when monitoring data are not collected for each excursion as defined in § 63.152(c)(2)(ii)(A).

* * * * *

Subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks

22. Section 63.180 is amended by revising paragraph (e) to read as follows:

§ 63.180 Test methods and procedures.

* * * * *

(e) When a flare is used to comply with § 63.172(d), the owner or operator shall comply with paragraphs (e)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4).

(2) Determine the net heating value of the gas being combusted, using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

* * * * *

Appendix C—[Amended]

23. Appendix C to part 63 is amended by:

a. Revising the third paragraph in section I;

b. Revising the introductory text to section III;

c. In section III.D.1, revising Eqn App.C–4 and the paragraph preceding it;

d. In section III.D.2, revising Eqn App.C–6 and the paragraph preceding it;

e. Adding section III.E;

f. Adding references 7 and 8 to the References section;

g. Revising Figure 1;

h. Adding Form XIII.

The additions and revisions read as follows:

Appendix C to Part 63—Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit

I. Purpose

* * * * *

Unless otherwise specified, the procedures presented in this appendix are designed to be applied to thoroughly mixed treatment units. A thoroughly mixed treatment unit is a unit that is designed and operated to approach or achieve uniform biomass distribution and organic compound concentration throughout the aeration unit by quickly dispersing the recycled biomass and the wastewater entering the unit. Detailed discussion on how to determine if a biological treatment unit is thoroughly mixed can be found in reference 7. Systems that are not thoroughly mixed treatment units should be subdivided into a series of zones that have uniform characteristics within each zone. The number of zones required to characterize a biological treatment system will depend on the design and operation of the treatment system. Detailed discussion on how to determine the number of zones in a biological treatment unit and examples of determination of f_{bio} can be found in reference 8. Each zone should then be modeled as a separate unit. The amount of air emissions and biodegradation from the modeling of these separate zones can then be added to reflect the entire system.

* * * * *

III. Procedures for Determination of f_{bio}

The first step in the analysis to determine if a biological treatment unit may be used without being covered and vented through a closed-vent system to an air pollution control device, is to determine the compound-specific f_{bio}. The following procedures may be used to determine f_{bio}:

(1) EPA Test Method 304A or 304B (appendix A, part 63)—Method for the Determination of Biodegradation Rates of Organic Compounds,

(2) Performance data with and without biodegradation,

(3) Inlet and outlet concentration measurements,

(4) Batch tests,

(5) Multiple zone concentration measurements.

All procedures must be executed so that the resulting f_{bio} is based on the collection system and waste management units being in compliance with the regulation. If the collection system and waste management units meet the suppression requirements at the time of the test, any of the procedures may be chosen. If the collection system and waste management units are not in compliance at the time of the performance test, then only Method 304A, 304B, or the batch test shall be chosen. If Method 304A, 304B, or the batch test is used, any anticipated changes to the influent of the full-scale biological treatment unit that will occur after the facility has enclosed the collection system must be represented in the influent feed to the benchtop bioreactor unit, or test unit.

Select one or more appropriate procedures from the five listed above based on the availability of site specific data and the type of mixing that occurs in the unit (thoroughly mixed or multiple mixing zone). If the facility does not have site-specific data on the removal efficiency of its biological treatment unit, then Procedure 1 or Procedure 4 may be used. Procedure 1 allows the use of a benchtop bioreactor to determine the first-order biodegradation rate constant. An owner or operator may elect to assume the first order biodegradation rate constant is zero for any regulated compound(s) present in the wastewater. Procedure 4 explains two types of batch tests which may be used to estimate the first order biodegradation rate constant. An owner or operator may elect to assume the first order biodegradation rate constant is zero for any regulated compound(s) present in the wastewater. Procedure 3 would be used if the facility has, or measures to determine, data on the inlet and outlet individual organic compound concentration for the biological treatment unit. Procedure 3 may only be used on a thoroughly mixed treatment unit. Procedure 5 is the concentration measurement test that can be used for units with multiple mixing zones. Procedure 2 is used if a facility has or obtains performance data on a biotreatment unit prior to and after addition of the microbial mass. An example where Procedure 2 could be used is an activated sludge unit where measurements have been taken on inlet and exit concentration of organic compounds in the wastewater prior to seeding with the microbial mass and start-up of the unit. The flow chart in figure 1 outlines the steps to use for each of the procedures.

* * * * *

D. Batch Tests (Procedure 4)

* * * * *

1. * * *

Equation App. C–3 can be integrated to obtain the following equation:

$$-t = \frac{VK_s}{A}\ln\left(\frac{s}{s_0}\right) + \frac{Q_m X V^2}{AB}\ln\left(\frac{A+Bs}{A+Bs_0}\right) \qquad \text{(Eqn App. C-4)}$$

Where:

$A = GK_{eq}K_s + Q_m VX$

$B = GK_{eq}$

S_o=test compound concentration at t=0

* * * * *

2. * * *

Equation App. C–5 can be solved analytically to give:

$$t = \frac{-\left(V_g K_{eq} + V_l\right)}{V_l Q_m X}\left[\left(s - s_0\right) + K_s \ln\left(\frac{s}{s_0}\right)\right] \qquad \text{(Eqn App. C-6)}$$

E. Multiple Zone Concentration Measurements (Procedure 5)

Procedure 5 is the concentration measurement method that can be used to determine the f_{bio} for units that are not thoroughly mixed and thus have multiple zones of mixing. As with the other procedures, proper determination of f_{bio} must be made on a system as it would exist under the rule. For purposes of this calculation, the biological unit must be divided [1] into zones with uniform characteristics within each zone. The number of zones that is used depends on the complexity of the unit. Reference 8, "Technical Support Document for the Evaluation of Aerobic Biological Treatment Units with Multiple Mixing Zones," is a source for further information concerning how to determine the number of zones that should be used for evaluating your unit. The following information on the biological unit must be available to use this procedure: basic unit variables such as inlet and recycle wastewater flow rates, type of agitation, and operating conditions; measured representative organic compound concentrations in each zone and the inlet and outlet; and estimated mass transfer coefficients for each zone. The estimated mass transfer coefficient for each compound in each zone is obtained from Form II using the characteristics of each zone. A computer model may be used. If the Water7 model

[1] This is a mathematical division of the actual unit; not addition of physical barriers.

or the most recent update to this model is used, then use Form II–A to calculate KL. The TOXCHEM or BASTE model may also be used to calculate KL for the biological treatment unit, with the stipulations listed in Procedure 304B. Compound concentration measurements for each zone are used in Form XIII to calculate the f_{bio}. A copy of Form XIII is completed for each of the compounds of concern treated in the biological unit.

* * * * *

References

* * * * *

7. Technical Support Document for Evaluation of Thoroughly Mixed Biological Treatment Units. November 1998.

8. Technical Support Document for the Evaluation of Aerobic Biological Treatment Units with Multiple Mixing Zones.

* * * * *

BILLING CODE 6560–50–U

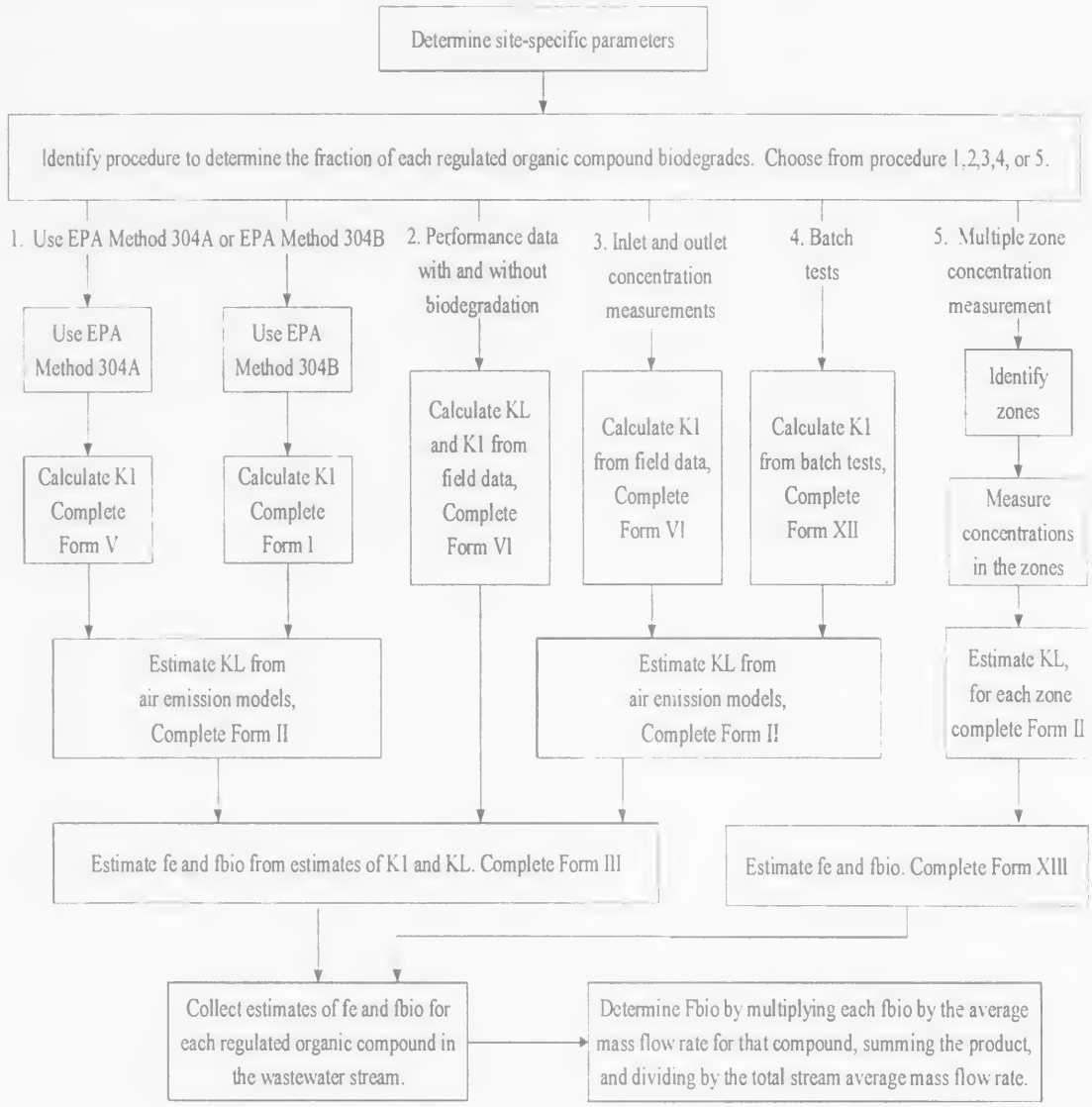

Figure 1. ALTERNATIVE EXPERIMENTAL METHODS FOR DETERMINING THE FRACTION OF ORGANIC COMPOUND BIODEGRADED (Fbio) IN A BIOLOGICAL TREATMENT UNIT

FORM XIII. DATA FORM FOR THE ESTIMATION OF MULTIPLE ZONE BIODEGRADATION FROM UNIT CONCENTRATIONS

NAME OF THE FACILITY for site specific biorate determination		
COMPOUND for site specific biorate determination		
Number of zones in the biological treatment unit	1	
VOLUME of full-scale system (cubic meters)	2	
Average DEPTH of the full-scale system (meters)	3	
FLOW RATE of wastewater treated in the unit (m3/s)	4	
Recycle flow of wastewater added to the unit, if any (m3/s)	5	
Concentration in the wastewater treated in the unit (mg/L)	6	
Concentration in the recycle flow, if any (mg/L)	7	
Concentration in the effluent (mg/L)	8	

TOTAL INLET FLOW (m3/s) line 4 plus the number on line 5	9	
TOTAL RESIDENCE TIME (s) line 2 divided by line 9	10	
TOTAL AREA OF IMPOUNDMENT (m2) line 2 divided by line 3	11	

Zone number	Concentration for zone, Ci (mg/L)	Area of the zone, A (m2)	Estimate of KL in the zone (m/s) from Form II	AIR STRIPPING KL A Ci (g/s)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
TOTALS sum for each zone	12		13	

Removal by air stripping (g/s). Line 13	14	
Loading in effluent (g/s) Line 8 times line 9	15	
Total loading (g/s). (Line 5 * line 7) + (line 4* line 6)	16	
Removal by biodegradation (g/s) Line 16 minus (line 14 + line 15)	17	
Fraction biodegraded: Divide line 17 by line 16..	18	
Fraction air emissions: Divide line 14 by line 16	19	
Fraction remaining in unit effluent: Divide line 15 by line 16	20	

1/11/99

[FR Doc. 1070 Filed 1–19–00; 8:45am]
BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL–6527–4]

Proposed Exclusion From the Definition of Solid Waste; Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period extension.

SUMMARY: In response to requests from the public, EPA is extending the public comment period for the proposed rule regarding a variance from EPA's hazardous waste management requirements for certain materials reclaimed by the World Resources Company (WRC) from metal-bearing sludges. The proposed rule was published December 9, 1999 (64 FR 68968). The comment period has been extended an additional 30 days and will end March 8, 2000.

DATES: Written comments must be submitted to EPA by March 8, 2000.

ADDRESSES: Commenters must submit an original and two copies of comments referencing docket number F–99–WRCP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA address below.

Comments may also be submitted electronically to: *rcra-docket@epamail.epa.gov*. Comments in electronic format should also be identified by the docket number F–99–WRCP–FFFFF. All electronic comments should be submitted as an ANCII file and should not use any special characters or any form of encryption.

Commenters should not submit any Confidential Business Information (CBI) by e-mail. An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Public Comments and supporting materials are available for public viewing at the RCRA Information Center (RIC) located at: Crystal Gateway 1, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. To review docket materials it is recommended that a member of the public make an appointment by calling (703) 603-9230. Members of the public may make a maximum of 100 copies from the regulatory docket at no charge. Additional copies cost $0.15/page. For instructions on how to access the docket index see the Supplementary Information Section.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/ Superfund/ EPCRA/UST Hotline at (800) 424–9346 (toll free) or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this rulemaking contact Ms. Marilyn Goode, U.S. EPA, MC 5304W, Ariel Rios Building, 1200 Pennsylvania Avenue, Washington, DC 20460. E-mail: *goode.marilyn@epa.gov*. Phone: (703) 308–8800.

SUPPLEMENTARY INFORMATION: The Index to the docket is available on the Internet. Access it by following these directions:

WWW: *http://www.epa.gov/epaoswer/osw/hazwaste.htm#id*

FTP: FTP: *ftp.epa.gov*

Login: Anonymous

Password: Your Internet Address

Files are located in /pub/epaoswer

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is a paper record maintained at the address in **ADDRESSES** at the beginning of this notice. EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form.

Dated: January 11, 2000.

Elizabeth Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 00–1364 Filed 1–19–00; 8:45 am]

BILLIING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket Nos. 00–10; FCC 00–16]

Establishment of a Class A Television Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes regulations to establish a Class A television license for qualifying low power television stations in accordance with the Community Broadcasters Protection Act of 1999. The measure of primary Class A regulatory status afforded in the Act will provide stability and a brighter future to many low power television stations that provide valuable local programming services in their communities, but without constraining the implementation of the digital television service.

DATES: Comments must be filed on or before February 10, 2000. Reply comments must be filed on or before February 22, 2000. Written comments by the public on the proposed information collections are due February 10, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection on or before March 20, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, Room TW–A306, SW, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Kim Matthews, Legal Branch, Policy and Rules Division, Mass Media Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Alternatively, comments may also be filed by using the Commission's Electronic Comment Filing System (ECFS), via the Internet to http://www.fcc.gov.e-file/ecfs.html. In addition to filing comments with the Secretary, a copy of any comments on the information collection contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Virginia Huth, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to vhuth@eop.gov.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Policy and Rules Division,

Mass Media Bureau (202) 418–2120. For additional information concerning the information collection contained in this document, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* FCC 00–16, adopted January 13, 2000, and released January 13, 2000. The full text of this Commission Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12 St. S.W., Washington, D.C. The complete text of this *Notice* may also be purchased from the Commission's copy contractor, International Transcription Services, 445 Twelfth Street, S.W., CY–B402, (202) 857–3800. It is also available on the Commission's web page at www.fcc.gov/Bureaus/Mass_Media/Orders/2000/fcc00016.txt.

Synopsis of the Notice of Proposed Rule Making

1. On November 29, 1999, Congress enacted the Community Broadcasters Protection Act of 1999 ("CBPA"). The CBPA requires the Commission, within 120 days after the date of enactment, to prescribe regulations establishing a Class A television license available to licensees of qualifying low-power television ("LPTV") stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees, and that Class A licensees be accorded primary status as a television broadcaster as long as the station continues to meet the requirements set forth in the statute for a qualifying low-power station. In addition to other matters, the CBPA sets out certain certification and application procedures for low-power television licensees seeking to obtain Class A status, prescribes the criteria low-power stations must meet to be eligible for a Class A license, and outlines the interference protection Class A applicants must provide to analog (or "NTSC"), digital ("DTV"), LPTV, and TV translator stations. We are initiating this proceeding to implement the Community Broadcasters Protection Act.

2. On September 22, 1999, the Commission adopted a Notice of Proposed Rule Making ("September 22 Notice"), 64 FR 56,999 (1999), considering a wide range of issues related to the establishment of a form of primary status for certain low-power television stations. That Notice responded to a petition for rule making filed by the Community Broadcasters Association ("CBA"). Initial comments on the September 22 Notice were due December 21, 1999. In light of passage of the Community Broadcasters Protection Act, which addresses many of the same issues raised in the earlier Notice and the CBA petition, we are terminating today our earlier proceeding, and are initiating this new proceeding to implement the CBPA.

3. From its creation by the Commission in 1982, the low power television service has been a "secondary spectrum priority" service whose members "may not cause objectionable interference to existing full service stations, and * * * must yield to facilities increases of existing full service stations or to new full service stations where interference occurs." Currently, there are some 2,200 licensed LPTV stations in approximately 1000 communities, operating in all 50 states. These stations serve both rural and urban audiences. Because they operate at reduced power levels, LPTV stations serve a much smaller geographic region than full-service stations and can be fit into areas where a higher power station cannot be accommodated in the Table of Allotments. In many cases, LPTV stations may be the only television station in an area providing local news, weather, and public affairs programming. Even in some well-served markets, LPTV stations may provide the only local service to residents of discrete geographical communities within those markets. Many LPTV stations air "niche" programming, often locally produced, to residents of specific ethnic, racial, and interest communities within the larger area, including programming in foreign languages.

4. The LPTV service has significantly increased the diversity of broadcast station ownership. Stations are operated by such diverse entities as community groups, schools and colleges, religious organizations, radio and TV broadcasters, and a wide variety of small businesses. The service has also provided first-time ownership opportunities for minorities and women.

5. The Community Broadcasters Protection Act, Congress found that the future of low-power television is uncertain. Because LPTV stations have secondary regulatory status, they can be displaced by full-service stations that seek to expand their own service area, or by new full-service stations seeking to enter the same market. The statute finds that this regulatory status affects the ability of LPTV stations to raise necessary capital. In addition, Congress recognized that the conversion to digital television further complicates the uncertain future of LPTV stations. To facilitate the transition from analog to digital television, the Commission has provided a second channel for each full service television licensee in the country that will be used for digital broadcasting during the period of conversion to an all-digital broadcast service. In assigning DTV channels, we maintained the secondary status of LPTV stations and TV translators and, in order to provide all full-service stations with a second channel, were compelled to establish DTV allotments that will displace a number of LPTV stations. Although the Commission has taken a number of steps to mitigate the impact of the DTV transition on stations in the LPTV service, that transition will have significant adverse effects on many stations, particularly LPTV stations operating in urban areas where there are few, if any, available replacement channels.

6. Congress sought in the Community Broadcasters Protection Act to address some of these issues by providing certain low power television stations "primary" regulatory status. Congress also recognized, however, that, because of the emerging DTV service, not all LPTV stations could be guaranteed a certain future. Congress indicated its recognition of the importance and engineering complexity of the FCC's plan to convert full-service stations to digital format, and protected the ability of these stations to provide both digital and analog service.

7. Section (f)(1)(A) of the CBPA requires the Commission, within 120 days after the date of enactment (November 29, 1999), to prescribe regulations establishing a Class A television service. The CBPA establishes a two-part certification and application procedure for LPTV stations seeking Class A status. First, the CBPA directs the Commission to send a notice to all LPTV licensees describing the requirements for Class A designation. Within 60 days of the date of enactment, licensees intending to seek Class A designation are required to submit to the Commission a certification of eligibility based on the applicable qualification requirements.

8. The CBPA provides that, absent a material deficiency in a licensee's certification of eligibility, the Commission shall grant the certification of eligibility to apply for Class A status. The CBPA further provides that licensees have 30 days after final regulations implementing the CBPA are adopted by the Commission in which to submit an application for Class A

designation. The Commission has 30 days after receipt of an application to act on applications that meet applicable interference and other criteria.

9. One issue not addressed by the statute is whether LPTV stations must apply for a Class A license within the time frame established in the legislation, or whether the Commission may continue to accept and approve applications from qualifying LPTV stations to convert to Class A status in the future. Section (f)(1)(B) of the statute states that licensees intending to seek Class A designation "shall" submit a certification of eligibility within 60 days after the date of enactment of the Act. Section (f)(1)(C) provides that consistent with the requirements set forth in section (f)(2)(A), a licensee may submit an application for Class A designation within 30 days after the Commission adopts rules in this docket. However, section (f)(2)(B) of statute also gives the Commission discretion to determine that the public interest, convenience and necessity would be served by treating a station as a qualifying LPTV station, or that a station should be considered to qualify for such status for other reasons. We ask commenters to address whether the statute permits the Commission to continue to accept applications to convert to Class A in the future. In addition, in the event the Commission concludes it does have this authority, we invite commenters to discuss whether the Commission should, as a matter of policy, allow LPTV stations to apply to convert to Class A status after the application period provided for in the Act.

10. The statute requires the Commission to "preserve the service areas of low-power television licensees pending the final resolution of a Class A application." Since the inception of the LPTV service, the service areas of LPTV stations have been defined in terms of protected signal contours. LPTV are protected from interference from other LPTV and TV translator stations to the following signal contours: 62 dBu for stations on channels 2–6; 68 dBu for stations on channels 7–13; and 74 dBu for stations on channels 14–69, calculated using the Commission's F(50,50) signal propagation curves. Consistent with the proposal in the *September 22 Notice*, we propose herein to use the same protected areas now afforded LPTV stations for analog Class A television. This would preserve existing service provided by LPTV stations and minimize disruption or preclusion of other services. The CBPA also provides for digital Class A operations for which we have no readily available contour values other than those values that define DTV noise-limited service: 28 dBu for channels 2–6; 36 dBu for channels 7–13; and 41 dBu for channels 14–69, calculated as a predicted F(50,90) field strength. We invite comment on the protected service area of Class A stations and, in particular, on whether other field strength values might be better suited for analog and digital Class A service.

11. The CBPA also provides that if, after granting certification of eligibility for Class A license, technical problems arise requiring an engineering solution to a full-power DTV station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make the modifications necessary to (i) ensure replication of the full-power digital television applicant's service area as provided for in §§ 73.622 and 73.623 of the Commission's regulations, and (ii) to permit maximization of a full-power digital television applicant's service area consistent with these sections, if the applicant has filed an application for maximization or a notice of its intent to seek maximization by December 31, 1999, and filed a "bona fide" application for maximization by May 1, 2000.

12. We propose to preserve the service area of LPTV licensees from the date the Commission receives an acceptable certification of eligibility for Class A status; that is, a certification that is complete and that, on its face, indicates eligibility for Class A status pursuant to the eligibility criteria established by statute and any other criteria ultimately approved in this proceeding. This timing appears most consistent with the CBPA's dual certification and application scheme for Class A status. Thus, the service area of an LPTV station would be protected, to the extent provided in the CBPA and our rules, from the date a certification for eligibility is filed with the Commission, as long as the certification is ultimately granted by the Commission. The CBPA permits the Commission to establish alternative criteria for Class A eligibility if it determines that the public interest, convenience and necessity would be served thereby, or for other reasons. We invite comment later in this Notice on what those alternative criteria should be. There may be instances in which a certification of eligibility may be granted but the corresponding Class A application may not be granted because the alternative eligibility showing cannot be approved. We further note that a Class A application could be denied if a certification of eligibility were later determined to be incorrect.

13. Thus, with certain exceptions, we believe that the statute requires that we act to preserve the service areas of LPTV stations that have been granted a certificate of eligibility for Class A status. We further believe that this requirement can be met by protecting the protected LPTV signal contours against predicted interference from NTSC, DTV, LPTV, and TV translator stations authorized after the enactment date of the Act (November 29, 1999). We interpret the statute as creating three exceptions to the LPTV service preservation requirement: (1) DTV stations seeking to replicate their analog TV service areas within the station's allotted engineering parameters, (2) DTV stations who filed a maximization application or statement of intent to maximize their service areas by December 31, 1999 and a maximization application by May 1, 2000 and (3) DTV stations that encounter technical problems that necessitate adjustments to the stations' DTV allotment parameters, including channel changes. We believe that the statute prohibits us from authorizing any other analog or digital station proposals that would be predicted to interfere with the protected contours of LPTV stations subsequent to the date the station has filed its certification for Class A eligibility, as long as the certification is ultimately granted. We invite comment on this tentative conclusion.

14. We propose the following methods of protecting the service contours of Class A stations and LPTV stations whose contours are to be preserved from interference under the certification of eligibility provisions. Where a full-service NTSC application or rule making proposal must protect a Class A station, the protection should be based on a contour overlap approach similar to that used for LPTV applications protecting the Grade B contour of NTSC stations; *i.e.*, according to the criteria given in § 74.705 of the LPTV rules. The interference predictions would be based on the facilities proposed in the application. Petitioners for analog channels must identify reference NTSC facilities (location, effective radiated power, antenna height above average terrain and, if desired, horizontal antenna radiation pattern) for the purpose of showing the necessary contour protection. It is necessary to consider a variation on this approach for situations that may occur due to the manner in which LPTV stations have been authorized. Secondary LPTV stations must accept interference from full-service TV stations, and predicted

interference from full-service stations is not considered in the LPTV application process. Therefore, it is possible that the authorized facilities of full-service stations would be predicted to interfere with protected Class A/LPTV service contours. Such stations may later file applications to modify their facilities; for example, to relocate the sites of transmitting antennas or increase power. In such an event, we would consider the full-service modification application proposal to be acceptable provided it did not increase the amount of predicted interference to the Class A/LPTV station; *i.e.,* by further reducing the required separation between the stations or by further decreasing the interference protection ratios. We request comment on this approach or other approaches we should consider. We note that protection based on minimum distance separations between Class A and NTSC TV stations would be simpler, but would provide less flexibility. We also note that Class A stations can propose DTV operations and we seek comment on the approach that should be used to protect digital Class A operations.

15. Class A stations and certified eligible LPTV stations are also entitled to protection from some DTV stations, except as provided in the statute. For example, petitioners for a new DTV allotment would have to protect the contours of licensed or Class A-designated stations. We seek comment on whether we should use the approach described above for Class A protection from NTSC station proposals, but with desired-to-undesired signal strength (D/U) ratios applicable to protection of analog signals from DTV signals. In this regard, we could apply the co-channel and first adjacent channel, and possibly other, D/U ratios for "DTV-into-analog TV" given in § 73.623(c) of our rules. Alternatively, we seek comment on protecting licensed Class A and Class A-designated service areas from DTV station proposals in the manner in which DTV applicants protect full-service NTSC stations. If we were to adopt this approach, should we permit the same *de minimis* interference allowances to Class A service that are now permitted for DTV protection of NTSC stations? For either alternative approach, petitioners for DTV allotments would need to identify reference facilities that would satisfy the required method of protection. We invite comment on these matters and other approaches to protecting Class A service from DTV station proposals. As above, we note that a Class A station may choose digital operation and we seek comment on the method that should govern protection to digital Class A service.

16. We propose that LPTV and TV translator application proposals protect licensed Class A contours and the contours of LPTV stations that have filed certifications of eligibility in the manner that LPTV and translators stations now protect each other, as provided in § 74.707 of the LPTV rules. This approach is also based on D/U ratio compliance at points along the protected signal contour. We propose that applications to modify Class A stations (subsequent to receiving initial Class A licenses) protect existing Class A service in the same manner. We further propose to apply this approach to applicants for new Class A stations that would not qualify for this status within 90-days of enactment of the CBPA; that is, if we were to extend Class A application filing opportunities beyond the 30-day period permitted in the CPBA. We invite comment on these matters and ask in which manner we should protect the service of digital Class A stations from analog or digital LPTV, TV translators and other Class A stations.

17. Section (f)(1)(E) of the CBPA provides for protection of a DTV station that has been granted a construction permit to maximize or significantly enhance its service area and later files an application for a change in facilities that reduces its service area. In such a case, the statute provides that the protected contour of the DTV station is the reduced service area. We believe that the protection of the reduced coverage area would become effective upon grant of the application that requested the reduced facilities and that, in these circumstances, Class A stations would no longer need to protect the service area produced by the "replication" facilities established in the initial DTV Table of Allotments. We expect that few, if any, DTV stations will follow this course, but those licensees considering it should be aware of the consequences. We seek comment on this interpretation.

18. The CBPA provides that an LPTV station may qualify for Class A status if, during the 90 days preceding the date of enactment of the statute: (1) The station broadcast a minimum of 18 hours per day; (2) the station broadcast an average of at least 3 hours per week of programming produced within the market area served by the station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; (3) the station was in compliance with the Commission's requirements for LPTV stations; and (4) from and after the date of its application for a Class A license, the station is in compliance with the Commission's operating rules for full-power television stations. Alternatively, section (f)(2)(B) of the CBPA provides that a station may qualify for Class A status if "the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission."

19. The statute's requirement that, during the 90 days preceding the date of enactment of Community Broadcasters Protection Act, LPTV stations must have broadcast a minimum of 18 hours/day is straightforward. The statute also prescribes that, during this period, LPTV stations must have broadcast an average of at least 3 hours per week of programming produced within the "market area" served by the station. As the statute does not define "market area," we propose to define it as the station's protected service area. As discussed above, we have proposed to define the Class A protected service area as the protected area now afforded LPTV stations. We ask commenters to address whether the protected service area ultimately adopted by the Commission should also be used to define "market area" in connection with the local programming criterion. With respect to a group of commonly controlled stations, we propose to define the "market area" of such stations as the area covered by the protected service area of all stations in the commonly-owned group. We are not inclined to include repeated programming or locally produced commercials as contributing to the mandatory 3 hours of locally produced programming, and invite comment on this tentative conclusion.

20. To qualify for Class A status, the CBPA also provides that, during the 90 days preceding enactment of the statute, a station must have been in compliance with the Commission's requirements for LPTV stations. In addition, beginning on the date of its application for a Class A license and thereafter, a station must be in compliance with the Commission's operating rules for full-power stations. Consistent with this mandate, we intend to apply to Class A applicants and licensees all part 73 rules, except for those which are inconsistent with the manner in which LPTV stations are authorized or the lower power at which these stations operate. Thus, for example, Class A stations must comply

with the part 73 requirements for informational and educational children's programming and the limits on commercialization during children's programming, the political programming rules, and the public inspection file rule. We intend to exempt Class A licensees only from part 73 rules that clearly cannot apply, either due to technical differences in the operation of low-power and full-power stations, or for other reasons. For example, some Class A stations may not be able to comply with the requirement of § 73.685(a) that stations provide a specified level of coverage to their community of license. We request comment on this provision and any other part 73 requirements that, for technical or other reasons, either cannot apply to Class A stations or must be modified with respect to such stations. We also invite commenters to address whether the Commission should group the new Class A service under the part 73 rules, governing full-service facilities, or the part 74 rules, governing low-power stations.

21. Section (f)(2)(B) of the CBPA permits the Commission to establish alternative eligibility criteria for Class A designation if "the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission." We invite comment on the circumstances that might warrant a determination that a station that does not meet the eligibility criteria set forth in section (f)(2)(A) of the statute nonetheless should be considered qualified for Class A status. For example, under what circumstances should we permit stations that fall short with respect to one or more of the statutorily prescribed qualification criteria to nonetheless apply for a Class A license (e.g., a station that has broadcast less than 18 hours/day or less than an average of 3 hours/week of programming produced in the market during the 90 days preceding enactment of the statute)? If so, how far may a station have deviated from these minimum requirements to still be considered eligible for Class A status? In addition, we invite comment on whether we should establish a different set of criteria for certain types of stations, such as foreign language stations or translators that have converted to low power status and meet whatever alternative eligibility criteria we might adopt.

22. Section (f)(3) of the CBPA provides that no LPTV station "authorized as of date of the enactment of the Community Broadcasters Protection Act of 1999 may be disqualified for a Class A license based on common ownership with any other medium of mass communication." Thus, stations authorized as of November 29, 1999 may seek Class A status without regard to the station owner's interest in any other media entity. We request comment on the appropriate interpretation of this provision. Does the ownership exemption confer a right to convert only; that is, does it guarantee only that stations authorized as of November 29, 1999 may convert to Class A status regardless of other cross media interests held by the owner? In this regard, we note that section (f)(3) states that stations authorized as of the date of the Act shall not be "disqualified for a Class A license;" that is, that such stations have the right to convert regardless of other media interests. Alternatively, does the exemption also confer a right to transfer the station regardless of the buyer's cross media interests? As the exemption applies to "stations" authorized as of November 29, 1999, conversions after transfer may be covered, but the statute is less clear as to transfers of stations already converted to Class A. Finally, does the exemption insulate an owner from application of the common ownership rules with respect to any new cross media interests acquired after conversion of the LPTV to Class A? We also request comment as to what, if any, ownership restrictions should apply to LPTV stations authorized after November 29, 1999 and seeking Class A status. The statute and legislative history are silent on this point. Our inclination is to treat all LPTV stations seeking Class A status equally; thus, no LPTV station, regardless of when authorized, would be disqualified from Class A status based on common ownership with other media entities. We invite comment on this tentative conclusion.

23. The CBPA provides that the Commission is not required to issue an additional DTV license to a Class A station licensee or to a licensee of a TV translator, but the Commission "shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the [DTV] application." We seek comment on this provision and how to implement it. Does this provision mean that the Commission does not need to identify a paired DTV channel for each Class A station or TV translator, but that the Commission should authorize a paired channel for DTV operation if the Class A or TV translator station licensee identifies and applies for an acceptable channel? We note that this interpretation might create an apparent inequity with respect to full service permittees and licensees that do not have a paired DTV channel because they received their initial station construction permit after the April 3, 1997 date used to define eligibility for the initial paired DTV licenses.

24. Section (f)(6)(A) of the Act provides that the Commission may not grant a Class A license to an LPTV station for operation between 698 and 806 megahertz (television broadcast channels 52–69). Thus, only LPTV stations operating on channels in the core spectrum (television broadcast channels 2 through 51) are eligible for Class A status. That section also provides, however, that the Commission shall provide to LPTV stations assigned to and temporarily operating between 698 and 806 megahertz the opportunity to meet the qualification requirements for a Class A license. If a qualified Class A applicant is assigned a channel within the core spectrum, the statute further provides that the Commission shall issue a Class A license simultaneously with the assignment of the in-core channel. This provision does not address when a station operating outside the core channels becomes eligible for contour protection. We are inclined to provide protection to such stations only when the station is assigned a channel within the core spectrum and the Commission issues a Class A license. To provide interference protection before the station is assigned an in-core channel appears inconsistent with the Act's prohibition on awarding Class A status to stations outside the core. We request comment on this proposal. We also request comment on whether Class A status and contour protection should commence with the grant of a construction permit on the in-core channel or a license to cover construction.

25. The Act provides that the Commission may not grant a Class A license to an LPTV station operating on any of the 175 additional channel allotments referenced in paragraph 45 of the Commission's February 23, 1998 Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order in MM Docket 87–268, 63 FR 13,546 (1998). In that Order, the Commission expanded the DTV core spectrum to include all channels 2–51, and noted that this expansion would add approximately 175 additional

channels for DTV stations and other new digital data services, many in top markets. The Act requires the Commission to identify the channel, location and applicable technical parameters of those 175 channels within 18 months. At this time, we note that these additional 175 DTV allotments will be part of the spectrum reclaimed at the end of the transition when existing stations end their dual channel analog TV/DTV operation and begin providing only DTV service on a single channel. Some stations will be continuing DTV operation on their DTV channel. Other stations will convert to DTV operation on their analog channel. In either case, the channel on which these stations discontinue operation may become available for other parties. The protection of these DTV allotments that will become available after the transition is effectively provided now because either analog TV or DTV stations are currently authorized and protected on these channels at these locations. We seek comment on our interpretation of this provision. Specifically, are other steps necessary to protect a particular set of 175 additional DTV channel allotments and, if so, how should we go about identifying them? Alternatively, should we interpret the CBPA to prohibit the authorization of Class A service on TV channels 2–6, which were added to the permanent core spectrum in the DTV proceeding?

26. The Act provides that a Class A license or modification of license may not be granted where the station would cause interference to certain NTSC, DTV, LPTV, and TV translator stations and land mobile radio operations.

27. With respect to NTSC facilities, section (f)(7)(A) the CBPA provides that a Class A license or modification of license may not be granted where the station will cause interference "within the predicted Grade B contour (as of the date of enactment of the * * * [CBPA] * * * or as proposed in a change application filed on or before such date) of any television station transmitting in analog format." We invite comment on how to interpret the phrase "transmitting in analog format." We are inclined to include among the NTSC facilities that Class A stations must protect both stations actually transmitting in analog format and those which have been authorized to construct facilities capable of transmitting in analog format (i.e., construction permits). Under this interpretation, pending applications for new NTSC full power stations would not be protected, nor would allotment proposals for such facilities, modified allotment proposals for channel or other technical changes, or the facilities in modification applications filed after November 29, 1999. We request comment on this tentative conclusion. In this regard, we note that the statute does explicitly protect LPTV and TV translator applications filed prior to the date on which a Class A application is filed.

28. In September 1999, we held our first broadcast auction involving mutually exclusive applications for new NTSC stations. Under the deadlines established in the CBPA, applications for initial Class A licenses are due to be filed by late April 2000. It is unlikely all of these new NTSC stations will be authorized as of that date. In addition, there are still pending before the Commission applications and channel allotment rule making petitions involving channels 60–69 and requests for waiver of the 1987 TV filing freeze, which account for approximately 180 potential new NTSC stations. Some of these applications have been on file with the Commission for more than ten years. We note that these long pending applications are protected against new full service analog applications. They would not be protected against Class A service under this interpretation of the statute.

29. Consistent with the September 22 Notice, we propose that applicants for Class A stations should protect the NTSC Grade B contour in the manner given in § 74.705 of the LPTV rules. LPTV stations have been engineered to protect the Grade B contour of full-service stations, and continuation of the current standards would be more appropriate than a new and different form of interference protection such as minimum distance separations between stations. We tentatively conclude that Class A applicants should be permitted to utilize all means for interference analysis afforded to LPTV stations in the DTV proceeding, including the Longley-Rice terrain-dependent propagation model. We invite comment on these proposals.

30. With respect to digital television, the statute provides that Class A applicants must protect the DTV service areas provided in the DTV Table of Allotments and the areas protected in the Commission's digital television regulations (47 CFR 73.622(e) and (f)). Thus, Class A stations may not interfere with DTV broadcasters' ability to replicate insofar as possible their NTSC service areas. Although not addressed in the statute, we believe it would be appropriate for Class A applicants to determine noninterference to DTV in the same manner as applicants for full service NTSC facilities. In this manner, Class A facilities would not be permitted to increase the population receiving interference within a DTV broadcaster's replicated service area and any additional area associated with its DTV license or construction permit. We would not permit Class A stations to cause *de minimis* levels of interference to DTV service, other than a 0.5% rounding allowance. Criteria for protecting DTV service are given in §§ 73.622 and 73.623 of our rules and in OET Bulletin 69. We seek comment on these proposals.

31. The CBPA also requires Class A applicants to protect the digital television service areas of stations subsequently granted by the Commission prior to the filing of a Class A application. We interpret this provision not to apply to applications for initial Class A licenses that have filed acceptable certifications of eligibility, but rather to applications seeking to modify Class A facilities, such as power increases. Should we conclude that stations have an ongoing right to convert to Class A status, these Class A applicants would face the same requirement; that is, they would not be required to protect new DTV stations granted by the Commission after the Class A station has filed an acceptable certification of eligibility. Section (f)(1)(D) of the Act, which requires the Commission to preserve the service areas of LPTV licensees upon certification of eligibility except in the case of "technical problems" in connection with DTV replication and maximization, does not include an exception to service area protection for new DTV service. We believe that the exclusion of new DTV service in section (f)(1)(D) means that new DTV entrants must preserve the service areas of LPTV stations that have been granted a certification of eligibility. We invite comment on this interpretation. Class A applicants who have filed acceptable certifications of eligibility also would not be required to protect the DTV application and allotment proposals of new DTV entrants. We invite comment on these interpretations.

32. Finally, the statute provides that a Class A application for license or license modification may not be granted where the proposal would interfere with stations seeking to "maximize power" under the Commission's rules, if such station has complied with the notification requirements in section (f)(1)(D) of the statute. Section (f)(1)(D) requires that, to be protected against Class A applicants, DTV stations must file an application for maximization or a notice of intent to seek maximization by December 31, 1999, and file a bona

fide application for maximization by May 1, 2000. We seek comment on whether the term "maximize" in the statute refers only to situations in which stations seek power and/or antenna height greater than the allotted values. Alternatively, does "maximization" also refer to stations seeking to extend their service area beyond the NTSC replicated area by relocating their station from the allotted site?

33. The statutory language is ambiguous regarding the protection to be accorded by Class A applicants to DTV stations seeking to replicate or maximize power. Section (f)(1)(D), entitled "Resolution of Technical Problems," directs the Commission to preserve the service areas of LPTV licensees pending final resolution of a Class A application. That section further provides that if, after certification of eligibility for a Class A license, "technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary (1) to ensure replication of the full-power digital television applicant's service area * * *; and (ii) to permit maximization of a full-power digital television applicant's service area * * *" (if the applicant has complied with the notification and application requirements established by that section). Although section (f)(1)(D) appears to tie replication and maximization to resolution of technical problems, section (7) appears to require all applicants for a Class A license or modification of license to demonstrate protection to stations seeking to replicate or maximize power, as long as the station seeking to maximize has complied with the notification and application requirements of (f)(1)(D), without reference to any need to resolve technical problems on the part of the DTV station. Despite the reference in section (f)(1)(D) to technical problems, we believe it would be more consistent with the statutory schemes both for Class A LPTV service and for digital full service broadcasting to require Class A applicants to protect all stations seeking to replicate or maximize DTV power, as provided in section (f)(7)(ii), regardless of the existence of "technical problems." Stations seeking to maximize must comply with the notification requirements in paragraph (f)(1)(D). This interpretation seems most consistent with the intent of Congress to protect the ability of DTV stations to replicate and maximize service areas. We invite commenters to address this proposed interpretation of the statute, and to suggest any alternative method of resolving the conflicting references to replication and maximization in sections (f)(1)(D) and (f)(7) of the statute.

34. Finally, we also seek comment on how the maximization rights in the statute can be applied to full power stations that maximize their DTV facilities but subsequently move their digital operations to their original analog channel after the transition. Some of these stations may not be in a position to file maximization applications on their analog channels by the deadline prescribed in the statute. Can these stations preserve the right to maximize on their analog channels should they revert to those channels at the end of the transition? If so, how can the right to replicate the station's maximized DTV service area be preserved on the analog channel? As a corollary issue, we also seek comment on how the maximization allowance in the CBPA applies to full power stations for which the DTV channel allotment or both the NTSC and DTV channel allotments lie outside the DTV core spectrum (channels 2–51). Can these stations preserve their right to replicate their maximized DTV service area on a new in-core channel once that channel has been assigned?

35. As noted above, section (1)(D) of the CBPA directs the Commission to preserve the service areas of LPTV licensees, upon certification of eligibility, pending final resolution of a Class A application. However, that section also permits modifications to a full power station's allotted parameters or channel assignment in the DTV Table of Allotments, where made necessary by "technical problems" requiring an "engineering solution," to ensure both replication and maximization of the DTV service area.

36. We discussed in our September 22 Notice the issue of channel changes and adjustments to station facilities necessary to correct unforeseen technical problems among DTV stations. For example, it was necessary in some cases to make DTV Table allotments on adjacent channels at noncollocated antenna sites in the same markets, which raised concerns among broadcasters over possible adjacent channel interference. In addition to changing some of those allotments, we stated that we would address these concerns by tightening the DTV emission mask and by "allowing flexibility in our licensing process and for modification of individual allotments to encourage adjacent channel co-locations * * *." We also provided broadcasters with flexibility to deal with allotment problems, for example, by permitting allotment exchanges in the same or adjacent markets. Section (1)(D) appears to give full power stations the flexibility to make these kinds of necessary adjustments to DTV allotment parameters, including channel changes, even after certification of an LPTV station's eligibility for Class A status.

37. The statute does not address certain questions regarding DTV allotment adjustments, some of which were posed in the September 22 Notice. Should a station requesting an adjustment to the DTV Table that would impinge upon the service area of a Class A station be required to show that the modification can only be made in this manner? If the modification requires displacement of the Class A station, should the affected Class A be permitted to exchange channels with the DTV station, provided it could meet interference protection requirements on the exchanged channel?

38. The CBPA also requires Class A stations to protect previously authorized LPTV and low-power TV translator stations (license and/or construction permit), as well as previously filed applications for these facilities. Specifically, section (f)(7)(B) of the statute provides that the Commission may not grant an application for a Class A license or modification of license unless the applicant shows that the Class A station will not cause interference within the protected contour of any LPTV or low-power TV translator station that was licensed, or for which a construction permit was issued, or for which a pending application was filed, prior to the date the Class A application was filed. We propose, as we did in our September 22 Notice, to require that Class A stations protect the LPTV and TV translator protected contours on the basis of the standards given in § 74.707 of the LPTV rules, *i.e.*, on the basis of compliance with certain desired-to-undesired signal strength ratios.

39. Section (f)(7)(C) of the CBPA provides that the Commission may not grant a Class A license or modification of license where the Class A station will cause interference within the protected contour 80 miles from the geographic center of the areas listed in § 22.625(b)(1) or 90.303 of the Commission's rules (47 CFR 22.625(b)(1), 90.303) for frequencies in the 470–512 megahertz band identified in § 22.621 or 90.303 of our rules (47 CFR 22.621, 90.303), or in the 482–488 megahertz band in New York. This provision protects land mobile radio services which have been allocated the

use of TV channels 14–20 in certain urban areas of the country, as well as Channel 16 in New York City metropolitan area. As we did in the September 22 Notice, we propose that these land mobile operations be protected by Class A applicants in the manner prescribed in § 74.709 of the LPTV rules.

40. We seek comment on whether the requirement to protect channel 16 in the New York metropolitan area applies to low power television station WEBR-LP, licensed to K Licensee, Inc. for New York City. In 1995, the Commission adopted an Order granting a conditional waiver for public safety land mobile use of Channel 16 in New York City. The waiver was granted for a period of at least five years or until any television broadcast licensee in the New York City metropolitan area initiated use of channel 16 for DTV operations, whichever is longer. The Order, at paragraph 16, stated that "the potential for adjacent channel interference to public safety operations on Channel 16 from LPTV operations on Channel 17 can be eliminated through engineering approaches and that Channel 16 can be utilized by public safety entities despite the close proximity of the LPTV operations." The Commission concluded that "We therefore will specify in the grant of the Waiver Request that LPTV station W17BM [now WEBR–LP] has no responsibility to protect land mobile operations on adjacent TV Channel 16 other than from spurious emissions that exceed those permitted by our rules." We note that we have no records of complaints of interference from Channel 17 to land mobile operations. In a Senate colloquy, Senator Burns, the prime sponsor of the Community Broadcasters Protection Act of 1999, stated his clarification of the meaning of section 5008(f)(7)(C)(ii) of the Bill with Senators Moynihan and Hatch. Senator Burns stated that this section was not intended to prevent LPTV station WEBR–LP (formerly W17BM) from qualifying for a Class A license, because the Commission waiver explicitly absolved WEBR–LP from any responsibility to protect the channel 16 land mobile operations other than from spurious emissions. Senators Hatch and Moynihan concurred with Senator Burns in this regard. In view of this colloquy, and the terms of the conditional grant, we are inclined to agree that station WEBR–LP is excepted from the requirement to show interference protection to use of channel 16 in the New York City metropolitan area. We seek comment in this regard.

41. We invite comment on the various Class A interference protection requirements. In particular, we ask whether, under the CBPA, we may distinguish for the purpose of interference protection requirements between applicants for initial Class A designation and applicants for new Class A technical facilities, for example, if we were to authorize new facilities by extending Class A filing opportunities to new entrants. We note that applications for initial designation will be filed by LPTV licensees who have already met the interference criteria to protect authorized full-service and other stations as a requirement for obtaining their licenses. Moreover, we propose that initial Class A applications may not include requests to modify these facilities.

42. We propose to grant initial Class A status to qualified LPTV stations as a modification of a station's license. The statute requires that we award Class A licenses within 30 days after receipt of acceptable applications. Accordingly, to ensure that we grant Class A licenses in a timely manner, we propose that initial Class A applications be limited to the conversion of existing facilities to Class A status, with no accompanying changes in those facilities. In this manner, there should be no possibility of mutual exclusivity between Class A conversion applications. Licensed LPTV stations also holding construction permits to modify their facilities should file Class A applications to modify their licensed facilities. Station licensees must subsequently file Class A license applications to cover the modified facilities authorized in their construction permits, and must provide all required interference protection showings in these applications. We also propose that applications for Class A stations be accepted for filing on the basis of the "substantially complete" acceptance standard used for LPTV applications. Under this standard, applicants have an opportunity to correct deficiencies identified by the processing staff.

43. In the September 22 Notice we proposed that all Class A applications be filed on FCC Form 301, including all required exhibits. Because the initial Class A status will be awarded as a modification of license, we ask which license application form, full-service FCC Form 302 or LPTV Form 347, would be the most appropriate vehicle for this purpose. If the Class A service is incorporated under part 73 of the rules, we propose that Class A facilities modification applications be filed on FCC Form 301. If it is placed under part 74, we propose that Class A construction permit applications be filed on FCC Form 346. We propose to apply to Class A applications the electronic filing policies and procedures applicable to the services whose application forms are being used for Class A. Initial Class A applications will be filed in April 2000, and we envision that at that time Class A applicants will have the option to file paper applications if they so desire. We invite comment on these matters.

44. In the September 22 Notice, we stated that the current LPTV minor change definition may be too restrictive, and we sought a revised definition for Class A stations that would permit additional flexibility to change facilities outside of filing windows, while also assuring that these changes would not interfere with other services. For the reasons given in that Notice, we propose to define Class A minor facilities modifications more in the manner of full-service TV stations. We propose to routinely grant Class A facilities changes that meet the current LPTV definition, but would permit other more expansive changes on a first-come first-served basis provided the proposed facilities would not conflict with previously authorized or proposed facilities. Under this approach, Class A stations could seek authorization for increased power, up to the limits of the service, outside of the window and auction procedures, provided their proposals met all interference protection requirements. This approach would be more consistent with the minor change provisions for full service radio and TV stations and we propose it for Class A stations. Channel changes would continue to be major changes.

45. The statute appears to contemplate facilities changes to Class A stations in the future, and provides that the Commission shall not grant such applications unless they provide the same protection to existing analog television facilities and to DTV service areas that an existing LPTV station converting to Class A status must provide. See section (f)(7). Among other things, this restriction requires that a modification to a Class A station protect the Grade B contour of an existing television station as that contour existed on November 29, 1999. If this provision alone were applied to Class A minor change applications as we have proposed to define them here, it would permit a Class A station to implement changes, such as substantial power increases, that do not protect the maximum facilities of full service stations allowed by the NTSC operating rules.

46. This approach was beneficial for LPTV stations because it allowed them to increase their facilities, yet had it no

real adverse effect on full service stations because LPTV stations were all secondary. If a full service station were to subsequently seek to improve its facilities in a manner inconsistent with the upgraded LPTV station facilities, the LPTV station would have to yield if interference was caused to the reception of the full service station. Now that Class A LPTV stations have gained primary status, however, using "contour protection" as a basis for granting changes to their facilities could preclude a full service station from increasing its power or antenna height in the future. Moreover, if Class A stations may make preclusive changes based on protecting only the existing service of full service stations rather than their maximum facilities, it may not be appropriate to continue to insist that full service stations protect one another on the basis of maximum facilities. On the other hand, we recognize that, as a practical matter, the proximity of full service stations to DTV stations or allotments may permanently prevent them from increasing their facilities. In certain congested regions of the country many, if not most, NTSC stations may be constrained in this manner. Thus, under this approach, applicants for Class A facilities increases may be required to protect NTSC service areas that could not be achieved through authorized facilities, unnecessarily precluding them from increasing their facilities or making more difficult the location of replacement channels for displaced stations. We invite comment on these issues and how we should address them. Should we require Class A stations to protect the maximum facilities of full service stations? If so, should we apply a reciprocal rule as well based on protection to the maximum facilities of Class A stations; *i.e.*, based on the power limits in the LPTV service? That is, should we oblige full service stations that seek to change their facilities to protect the maximum facilities of a Class A station considering that both stations have primary status? If we do require protection of the maximum facilities of Class A stations, what LPTV antenna height above average terrain should be used for this purpose?

47. Alternatively, should we simply adopt a "first come, first served" approach as between Class A and full service stations, as we proposed in the September 22 Notice, granting the modification application of whichever licensee files first? If we were to permit Class A modification applications that protect only the actual facilities of full service stations, should we permit full service stations an opportunity to file modification applications that could be mutually exclusive with the Class A application? Similarly, should we, despite our proposal that the Class A modification applications be considered minor, subject them to a petition to deny filing period?

48. We propose that the above provisions also be used for digital Class A stations. For example, the on-channel digital conversion of a Class A station would be filed as a minor change application. Facilities changes for analog or digital Class A stations not meeting the definition for minor changes would be subject to filing windows and the auction process. We invite comment on how we should define major and minor Class A TV facilities changes and on other ways to streamline the authorization of Class A TV service. If we were to adopt a more inclusive definition of minor facilities changes for Class A stations, we would be inclined to apply this definition to television translator and non Class A LPTV stations due to the technical and application processing similarities between the LPTV and proposed Class A services and to provide additional flexibility to these stations.

49. Through additional protections for Class A stations, we hope to reduce their risk of channel displacement or termination. However, it could be necessary for a Class A station to seek operations on a different channel, in order to avoid or eliminate an interference conflict. In that event, we propose that displaced Class A stations be permitted to apply for replacement channels on a first-come, first-served basis, not subject to mutually exclusive applications. We believe there is a need for displacement relief procedures for Class A stations, and we propose to adopt procedures similar to those used in the LPTV service, which have worked well over the years. Class A stations causing or receiving interference with NTSC TV, DTV or any other service or predicted to cause prohibited interference would be entitled to apply for a channel change and/or other related facilities changes on a first-come first-served basis. Given the protected status of Class A stations and the significant facilities changes implicit in displacement applications, we propose that displacement applications filed by Class A licensees be treated as major changes, with the specific exception that such applications would be permitted to be filed at any time that displacement status could be demonstrated. Thus, like displacement applications by LPTV stations, Class A displacement applications would not have to be filed in a window. Applications of Class A stations would not be mutually exclusive unless filed on the same day. Mutually exclusive applications would be subject to the auction procedures. We seek comment on these matters.

50. The Act provides a priority to LPTV stations that are displaced by the facilities proposed in Class A applications, and states that these LPTV stations "shall have priority over other low-power stations in the assignment of available channels." We interpret this provision to mean that the channel displacement applications of LPTV stations displaced by Class A stations would have a higher priority than any other nondisplacement LPTV applications. In this regard, we note that in the LPTV service, displacement applications to avoid DTV interference conflicts are given priority over all other types of nondisplacement applications, regardless of when these were filed, and we propose to extend this policy to include LPTV stations displaced by Class A stations. We seek comment on whether we should adopt a similar policy for prioritizing Class A facilities modification applications, and whether some or all of the LPTV displacement relief provisions should apply to Class A. Should there be a limitation on how far a station should be permitted to relocate its antenna site to avoid or eliminate an interference conflict or would some form of a minimum coverage requirement provide a natural limit on this distance? Should we consider reasons for displacement other than electromagnetic interference, such an unavoidable loss of antenna site? The CBPA stipulates that we may not grant Class A facilities modification applications that do not protect against interference the facilities proposed in earlier filed LPTV and TV translator applications. Thus, we apparently cannot grant a processing priority to a Class A displacement application over an earlier filed LPTV or TV translator application. If a Class A station and a non-Class A LPTV station file mutually exclusive displacement applications, should we favor the Class A application? In this regard, we believe there may be merit to awarding a priority to Class A stations in view of their part 73 regulatory obligations. We invite comment on all of these issues.

51. The CBPA provides that Class A station licenses may not be granted to LPTV stations that operate between 698 to 806 MHz (TV channels 52–69). In the DTV proceeding, channels 2–51 were established as the permanent "core" spectrum, permitting the recovery of

channels 52–59 at the end of the DTV transition period. Accordingly, we propose to grant Class A status only to qualifying stations authorized on channels 2–51.

52. The CBPA stipulates that its provisions do not preempt or otherwise affect section 337 of the Communications Act. Section 337 addresses two matters relevant to Class A television, the first of which involves the reallocation and licensing of TV channels 60–69. These channels are not available to Class A stations. Second, it contains certain provisions for LPTV stations already authorized to operate on TV channels 60–69. In the Balanced Budget Act of 1997 ("Budget Act"), Congress required that the Commission "seek to assure" that a qualifying LPTV station authorized on a channel from channel 60 to channel 69 be assigned a channel below channel 60 to permit its continued operation. In the DTV proceeding, we amended our rules to permit all LPTV stations on channels 60 to 69 to file displacement relief applications requesting a channel below channel 60, even where there is no predicted or actual interference conflict. We have received more than 300 hundred applications from LPTV and TV translator stations operating on these channels. These applications have a higher priority than all other nondisplacement applications for LPTV and TV translators, regardless of when the applications were filed. Other LPTV and TV translator stations on channels 60–69 have so far not elected to file displacement applications, but may do so at any time provided they protect the proposed facilities of earlier-filed displacement applications. The Commission has not selected channels for qualifying LPTV stations; however, it has provided the opportunity for affected stations to seek channels below channel 60 on a priority basis. We invite comment on whether the actions we have taken in this regard meet the Congressional mandate and what, if any, further actions should be taken. Should we give special consideration to the processing of displacement applications from qualifying stations in the LPTV service seeking to vacate use of a channel above channel 59? Should these applications be given priority where they are mutually exclusive with other displacement applications that do not qualify under the terms of the Budget Act? The CPBA does not permit the authorization of Class A stations on channels 52–59, while section 337 provides for these channels as replacement channels for LPTV stations on channels 60–69. We see no conflict between these provisions and believe that our proposals in this proceeding are consistent with both the CPBA and section 337. We invite comments on these matters.

53. We recognize that this spectrum limitation could adversely affect stations above channel 51. LPTV and TV translator operators on channels 60–69 have a presumption of displacement and may seek replacement channels at any time without further qualification. However, station operators on channels 52–59 may seek displacement relief only where there is an actual or potential interference conflict, including a conflict with a DTV co-channel allotment. Nonetheless, these operators face displacement when channels 52—59 are reclaimed, and would be barred from becoming Class A stations if they could not secure a replacement channel below channel 52. Thus, we ask if the presumption of displacement should be extended to LPTV and TV translator stations authorized on these channels, giving these operators an immediate opportunity to seek replacement channels while such channels might still available. We recognize this could lead to additional competition for replacement channels, channels that may be needed now by LPTV and translator stations facing displacement. We invite comment on whether we should extend a presumption of channel displacement to LPTV and TV translator stations authorized for channels 52–59.

54. We believe the current LPTV station power levels are sufficient to preserve existing service, and we believe that further increases could hinder the implementation of digital television and could limit the number of Class A stations that could be authorized. Although the CBA petition asked for higher power levels for Class A stations, our current belief is that any further power increases should await a fuller understanding of the coverage and interference potential of full service digital television stations.

55. Another issue to be resolved is whether to require Class A stations to provide some requisite level of coverage over their community. In its amended petition, CBA proposed that a certain minimum field strength be placed over at least 75% of the community of license. Several commenters opposed this proposal, believing that coverage of population was more important than geographic area or that a certain percentage (75%) of a station's minimum field strength contour must be over the station's community of license. We question whether a minimum coverage requirement should be imposed on Class A stations. Such stations may not operate with sufficient power to serve large communities, and we have expressed reservations about increasing power limits for Class A stations beyond the current limits in the LPTV service. Those Class A stations that are intended to serve an entire community that is otherwise unserved or underserved would appear to have ample incentive to provide a requisite level of service to the residents of the whole of that community without a Commission requirement to do so. Other stations, by their very nature, might intend to serve only a narrow segment of their community. We also recognize that some LPTV stations do not place a contour over the community named on their license. We invite comment on whether we should impose a coverage requirement on these stations.

56. We seek comment on whether to require any certain signal level or other measure of Class A reception quality to any particular geographical area or population. Alternatively, if we do adopt a coverage requirement, should it be couched in terms of a certain proportion of the Class A station's signal contour having to be placed over at least some part of its community of license? This type of requirement would serve to maintain a connection between the Class A station and its community of license without requiring it to serve any requisite portion of that community. This would be particularly beneficial where the community of license is large and the Class A station is intended to serve only a part of it. We seek comment on this issue and on what portion of a Class A station's signal contour, if any, should have to be placed over some part of its community of license.

57. Three remaining issues should be addressed as discussed in the earlier NPRM. One issue concerns the format of call signs to be issued to Class A stations. As these stations are changing status from LPTV to Class A, should they continue to use the suffix "-LP," or should a different call sign scheme be used? Another issue is whether Class A transmitters should be certified (similar to the previous "type acceptance" requirement) or should the less stringent part 73 "verification" requirement or some other criteria apply? We are inclined to apply the part 73 verification requirement, but seek comment on whether the more stringent certification requirement should apply in view of the possibility that the transmitter could be used by a station that later chooses not to operate with Class A status. Finally, what class of fees should apply to Class A applicants? We believe it appropriate to classify Class A applications as minor modifications for fee purposes. How

should Class A stations be considered for the purposes of regulatory fees assessed pursuant to section 9 of the Communications Act of 1934, as amended? We seek comment and these and other issues.

58. *Comments and Reply Comments.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before February 10, 2000 and reply comments on or before February 20, 2000. We have established these relatively short comment periods due to the very short 120 day statutory deadline imposed by the CBPA. Moreover, in order to ensure that we meet the deadline imposed by Congress, we will not extend these comment deadlines. Given the existence of the statute and the relative narrowness of some of the issues raised in this *Notice*, we believe these deadlines will allow sufficient time for comment. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998).

59. Comments filed through ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address." A sample form and directions will be sent in reply.

60. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW–A325, Washington, D.C. 20554.

61. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Hardy, Paralegal Specialist, 445 Twelfth Street, S.W., 2–C221, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case (MM Docket No. 00–10), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, S.W., CY–B402, Washington, D.C. 20554.

62. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, S.W., CY–A257, Washington, D.C. 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418–0270, (202) 418–2555 TTY, or *bcline@fcc.gov*.

63. Ex Parte Rules. This proceeding will be treated as a permit-but-disclose notice and comment rulemaking proceeding, subject to the "permit-but-disclose" requirements under § 1.1206(b) of the rules. 47 CFR 1.1206(b), as revised. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1202, 1.1203, and 1.1206(a).

64. Initial Regulatory Flexibility Analysis ("IRFA"). As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an IRFA of the expected impact on small entities of the proposals contained in this Notice. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small business in the television broadcasting industry. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the Notice, but they must have a distinct heading designating them as responses to the IRFA. The Reference Information Center, Consumer Information Bureau, will send a copy of this Notice, including the IRFA, to the Chief Counsel of Advocacy of the Small Business Administration.

65. Initial Paperwork Reduction Act Analysis. This Notice may contain either proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Pub. Law 104–13. Written comments by the public on the proposed information collections are due February 10, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection on or before March 20, 2000. Comments should address: (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 Commission's 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.

Ordering Clauses

66. Accordingly, pursuant to the authority contained in sections 4(i), 303, 307, and 336(f) of the Communications Act of 1934, as amended, 47 USC 154(i), 303, 307, 336(f) this Notice of Proposed Rule Making is adopted.

67. The Commission's Reference Information Center, Consumer Information Bureau, shall send a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

Federal Communications Commission
Magalie Roman Salas,
Secretary.
[FR Doc. 00–1329 Filed 1–19–00; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 121799E]

Atlantic Highly Migratory Species Fisheries; Additional Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearings; extension of comment period.

SUMMARY: NMFS filed a public hearing announcement and request for comments on December 21, 1999, to receive comments from fishery participants and other members of the public regarding proposed regulations to reduce bycatch in the Atlantic pelagic longline fishery. NMFS also announced a joint meeting of the HMS and Billfish Advisory Panels (APs). NMFS herewith announces three additional public hearings and extends the comment period for both the proposed rule and the Draft Supplemental Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (DSEIS/RIR/IRFA).

To accommodate people unable to attend a hearing or wishing to provide written comments, NMFS also solicits written comments on the proposed rule and the DSEIS/RIR/IRFA.

DATES: The additional hearings are scheduled as follows:

1. Tuesday, February 15, 2000, 7 to 9:30 p.m., Biloxi, MS.

2. Wednesday, February 16, 2000, 7 to 9:30 p.m., New Orleans, LA.

3. Thursday, February 17, 2000, 7 to 9:30 p.m., Riverhead, NY.

Written comments on the proposed rule or DSEIS/RIR/IRFA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m., eastern standard time, on March 1, 2000.

ADDRESSES: The locations for the additional hearings are as follows:

1. Department of Marine Resources, Back Bay Auditorium, 1141 Bayview Avenue, Biloxi, MS 39530

2. Four Points Hotel, 333 Poydras Street, New Orleans, LA 70130

3. Town Hall, 2000 Howell Avenue, Riverhead, NY 11901

Persons submitting written comments on the proposed rule or the DSEIS/RIR/IRFA should include their name, address and if possible phone number; the title of the document on which comments are being submitted; and specific factors or comments along with supporting reasons why you believe NMFS should consider them in reaching a decision.

Written comments on the proposed rule or DSEIS/RIR/IRFA should be sent to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301–713–1917. Comments will not be accepted if submitted via e-mail or Internet. For copies of the draft Technical Memorandum and DSEIS/RIR/IRFA contact Jill Stevenson at 301–713–2347, or write to Rebecca Lent.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson at 301–713–2347, fax 301–713–1917, e-mail jill.stevenson@noaa.gov.

SUPPLEMENTARY INFORMATION: The proposed regulations that are the subject of the hearings are necessary to address requirements of the Magnuson-Stevens Fishery Conservation and Management Act for the conservation and management of HMS.

A complete description of the measures, and the purpose and need for the proposed actions, is contained in the proposed rule, published December 15, 1999 (64 FR 69982) and is not repeated here. Information on other hearing locations and the AP meeting was published on December 28, 1999 (64 FR 72636). Copies of the proposed rule or the list of other hearing and AP meeting locations may be obtained by writing (see **ADDRESSES**) or by calling Jill Stevenson (see **FOR FURTHER INFORMATION CONTACT**).

On December 30, 1999, the Environmental Protection Agency published a Notice of Availability of the DSEIS/RIR/IRFA for the proposed action (64 FR 73550). The comment period on this document (EIS No. 990495) is also extended until March 1, 2000.

Special Accommodations

The hearings and the AP meeting are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jill Stevenson (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the hearing or meeting.

Authority: 16 U.S.C. 971 *et seq.*, and 16 U.S.C. 1801 *et seq.*

Dated: January 14, 2000.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 00–1348 Filed 1–19–00; 8:45 am]
BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 13
Thursday, January 20, 2000

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

Commodity Credit Corporation

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection. This information collection is used in support of loan programs regarding rice, feed grains, wheat, oilseeds, and farm-stored peanuts as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act).

DATES: Comments on this notice must be received on or before March 20, 2000 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Grady Bilberry, Director, Price Support Division, USDA, FSA, STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250–0512; telephone (202) 720–7901; e-mail: candy__thompson@ wdc.fsa.usda.gov; or facsimile (202) 690–3307.

SUPPLEMENTARY INFORMATION

Title: Loan Program.

OMB Control Number: 0560–0087.

Expiration Date of Approval: March 31, 2000.

Type of Request: Extension of a currently approved. information collection.

Abstract: The 1996 Act provides for marketing assistance loans to eligible producers with respect to eligible loan commodities. The information is necessary to determine loan collateral and principal amounts and confirm producer and commodity eligibility.

Producers requesting CCC commodity loans must provide specific data relative to the loan request. Forms included in this information collection package require the type of commodity, quantity of commodity, storage location, liens on the commodity, etc., in order to determine quantity and principal amounts, file security interests, and confirm eligibility. Producers must also agree to the terms and conditions contained in the loan note and security agreement and other loan-related forms.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .219 hours per response.

Respondents: Producers.

Estimated Number of Respondents: 364,240.

Estimated Number of Responses per Respondent: 4.12.

Estimated Total Annual Burden on Respondents: 448,136 hours.

Proposed topics for comments include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) 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 must be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Grady Bilberry, Director, Price Support Division, USDA, FSA, STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250–0512; telephone (202) 720–7901; e-mail: candy__thompson @wdc.fsa.usda.gov; or facsimile (202) 690–3307. Copies of the information collection may be obtained from Raellen Erickson at the above address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on January 12, 2000.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 00–1279 Filed 1–19–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA) to request an extension of currently approved information collections for a form used in support of the FSA, Farm Loan Programs (FLP). This renewal does not involve any revisions to the program regulations.

DATES: Comments on this notice must be received on or before March 20, 2000 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Mike Hinton, Branch Chief, USDA, Farm Service Agency, Loan Making Division, 1400 Independence Avenue, SW, STOP 0522, Washington, DC 20013–0522; Telephone (202) 720–1764; Electronic mail: mikehinton@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Request for Direct Loan Assistance.

OMB Control Number: 0560–0167.

Expiration Date of Approval: April 30, 2000.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: Form FSA–410–1 is used for collecting information for making eligibility and financial feasibility determinations on respondents' requests for direct operating, farm ownership, and emergency loans and for currently indebted borrowers requesting loan servicing assistance as authorized under the Consolidated Farm and Rural Development Act, as amended.

Estimate of Burden: Public reporting burden for this collection of information

is estimated to average 1.02 hours per response.

Respondents: Individuals or households, businesses or other for-profit enterprises, and farms.

Estimated Number of Respondents: 49,670.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 50,476.

Comments are sought on these requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collections techniques or other forms of information technology.

These comments should be sent to the Desk Office for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Mike Hinton, USDA, FSA, Farm Loan Programs, Loan Making Division, 1400 Independence Avenue, SW, STOP 0522, Washington DC 20250–0522. Copies of the information collection may be obtained from Mike Hinton at the above address. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on January 11, 2000.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 00–1278 Filed 1–19–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Cross Cascade Pipeline Project, Mt. Baker-Snoqualmie National Forest, Snohomish, King, Kittitas, Grant, Adams, and Franklin Counties, Washington

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On February 28, 1996, a Notice of Intent (NOI) to prepare an environmental impact statement for the Olympic Cross Cascade Pipeline Project, a new 230-mile pipeline from western Washington to southeastern Washington, was published in the **Federal Register** (61 FR 7467). The proponent has withdrawn the proposal. When this project is again considered for implementation a new NOI will be filed. The 1996 NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Floyd J. Rogalski, Wenatchee National Forest, Cle Elum Ranger District, 803 West Second Street, Cle Elum, Washington 98922, telephone 509–674–4411.

Dated: December 20, 1999.

John Phipps,

Forest Supervisor.

[FR Doc. 00–1288 Filed 1–19–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request an extension for a currently approved information collection in support of the Rural Economic Development Loan and Grant Program (7 CFR 1703, Subpart B).

DATES: Comments on this notice must be received by March 20, 2000, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Mark Wyatt, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave. SW, Washington, DC 20250–3225, Telephone (202) 720–2383.

SUPPLEMENTARY INFORMATION:

Title: Rural Economic Development Loan and Grant Program.

OMB Number: 0572–0012.

Expiration Date of Approval: April 30, 2000.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Business-Cooperative Service (RBS) is part of the Rural Development mission area of the United States Department of Agriculture. RBS administers the Rural Economic Development Loan and Grant (REDLG) program, which provides zero interest loans and grants to Rural Utilities Service (RUS) borrowers for the purpose of promoting rural economic development and job creation projects. The loans and grants under the REDLG program may be provided to approximately 1,700 electric and telephone utilities across the country that have borrowed funds from RUS. Under this program, the RUS borrowers may receive the loan funds and pass them on to businesses or other organizations. The RUS borrower is responsible for the loan even if it does not receive payments from the ultimate recipient. Grants may be provided to RUS borrowers to establish revolving loan funds.

RBS needs to receive the information contained in this collection of information to select the projects it believes will provide the most long-term economic benefit to rural areas. The selection process is competitive and RBS has generally received more applications than it could fund. RBS also needs to make sure the funds are used for the intended purpose and, in the case of the loan, that the funds will be repaid. RBS must determine that loans made from revolving loan funds established with grants are used for eligible purposes.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.4 hours per response.

Respondents: RUS borrowers.

Estimated Number of Respondents: 180.

Estimated Number of Responses per Respondent: 12.6.

Estimated Number of Responses: 2,276.

Estimated Total Annual Burden on Respondents: 7,742.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of Rural Business-Cooperative Service, including whether the information will have practical utility; (b) the accuracy of Rural Business-Cooperative Service's estimate of the burden of the proposed collection

of information including the validity of the methodology and assumptions used; (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 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 may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: January 11, 2000.

Dayton J. Watkins,

Administrator, Rural Business—Cooperative Service.

[FR Doc. 00–1280 Filed 1–19–00 8:45 am]

BILLIING CODE 3410–XY–U

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of A Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for 7 CFR part 1942, subpart A, "Community Facility Loans."

DATES: Comments on this notice must be received by March 20, 2000 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Yoonie MacDonald, Community Programs Loan Specialist, Rural Housing Service, U.S. Department of Agriculture, STOP 0787, 1400 Independence Ave., SW., Washington. DC 20250–0787, telephone: (202) 720–1501.

SUPPLEMENTARY INFORMATION:

Title: Community Facility Loans.

OMB Number: 0575–0015.

Expiration Date of Approval: April 30, 2000.

Type of Request: Extension of a currently approved information collection.

Abstract: The Community Facilities loan program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes for the development of community facilities for public use in rural areas.

Community facilities programs have been in existence for many years. These programs have financed a wide range of projects varying in size and complexity from large general hospitals to small day care centers. The facilities financed are designed to promote the development of rural communities by providing the infrastructure necessary to attract residents and rural jobs.

Information will be collected by the field offices from applicants, borrowers, and consultants. This information will be used to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use funds for authorized purposes.

Failure to collect proper information could result in improper determination of eligibility, improper use of funds, and/or unsound loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Public bodies, not for profits, or Indian Tribes.

Estimated Number of Respondents: 39,183.

Estimated Number of Responses per Respondent: 1.4.

Estimated Total Annual Burden on Respondents: 112,506 hours.

Copies of this information collection can be obtained from Tracy Gillin, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (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 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 may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: January 10, 2000.

Eileen M. Fitzgerald,

Acting Administrator, Rural Housing Service.

[FR Doc. 00–1282 Filed 1–19–00; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF COMMERCE

[Docket No. 000105006–0006–01]

Privacy Act of 1974; System of Records

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of new Privacy Act System of Records; Commerce/Census System 8.

SUMMARY: This notice announces the Department's proposal for a new system of records under the Privacy Act. The system is entitled, "COMMERCE/CENSUS–8, Statistical Administrative Records System." This notice is submitted in accordance with the requirements of the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals."

DATES: Effective Date: The proposed system shall be effective without further notice on or before February 22, 2000, unless comments dictate otherwise.

Comment Date: To be considered, written comments on the proposed new system must be submitted on or before February 22, 2000.

ADDRESSES: Please address comments to: Gerald W. Gates, Privacy Act Officer, Policy Office, Room 2430 FB 3, Bureau of the Census, Washington, DC 20233–3700. Comments received will be available for public inspection at this same address from 8:30 am to 4 pm, Monday through Friday.

For further information contact: Wendy Alvey, Administrative Records Program Officer, Policy Office, Room 2430 FB 3, Bureau of the Census, Washington, DC 20233–3700, telephone: (301) 457–2485.

SUPPLEMENTARY INFORMATION: The establishment of this system of records

will be effective February 22, 2000, unless the Commerce Department receives comments that would result in a contrary determination. As required by 5 U.S.C. 552a(o) of the Privacy Act, the Commerce Department submitted reports on this new system to both Houses of Congress. This notice meets the requirements of the Privacy Act of 1974 regarding the publication of an agency's notice of system of records. It documents the establishment of a new Census Bureau system of records, national in scope, which is composed of selected administrative records from other Federal government agencies and selected data from Census Bureau decennial censuses and surveys.

This notice is to announce the establishment of a statistical administrative records system and to request public comment. The administrative records system will contain personally identifiable information from six national administrative record programs; only a very small number of sworn Census Bureau employees will have access to this system. The administrative record files will be used separately to develop aggregated data for evaluation and statistical improvements. In addition, some of the data will be combined, by individual, with selected Census Bureau decennial census and survey data, to yield unduplicated person records for census and survey planning and evaluation research.

All administrative record data with personally identifying information (name, address, and social security number) will be maintained within a secured, restricted environment, with access limited to a very small number of sworn Census Bureau staff. No public disclosure of these data will be made. An in-house Project Review Board will oversee all Census Bureau statistical uses of these data, to ensure that the data are used only for authorized purposes. All uses of the data will be for statistical purposes only, which, by definition, means that the uses will not directly affect any individual. No information will be released that would allow any individual to be identified.

Commerce/Census—8

SYSTEM NAME:

Statistical Administrative Records System—Commerce/Census—8.

SYSTEM LOCATION:

Bowie Computer Center, Bureau of the Census, 17101 Melford Blvd., Bowie, Maryland 20715.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The population of the United States. In order to approximate coverage of the entire U.S. population, the Census Bureau will combine and delete redundant administrative record files from the Internal Revenue Service, Social Security Administration, Health Care Financing Administration, Selective Service System, Department of Housing and Urban Development, and the Indian Health Service. Comparable data may also be sought from selected state agencies, if available.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifiers —including but not limited to name and social security number—needed for matching purposes only; once matched, personal identifiers will be eliminated and replaced by Census Bureau-generated unique identifiers, which will be provided on output statistical data files; Demographic information—including but not limited to sex, race, ethnicity, education, marital status, tribal affiliation, veteran's status; Geographic information—including but not limited to address; Economic information—including but not limited to income, job information. total assets; and Processing information—including but not limited to processing codes and quality indicators.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

Title 13, U.S.C. 6.

PURPOSE(S):

The purpose of the statistical administrative records system of records is to evaluate the 2000 decennial census; plan for the 2010 decennial census; evaluate and enhance selected survey data; and produce estimates of social and economic characteristics of the population. By using administrative records data from other agencies, the Census Bureau will be able to improve the quality and usefulness of its data, while reducing costs and respondent burden.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored in a secure computerized system and on magnetic tape; output data will be either electronic or paper copy. All identifiable data will be maintained in a secure environment and access to identifiable information will be restricted to only a small number of people with a need to know.

RETRIEVABILITY:

Records can be retrieved by name, address, or Social Security Number by only a limited number of sworn Census Bureau personnel within a secure, restricted access environment. It should be noted that the purpose of these identifiers is not to retrieve information for specific individuals, but only to develop matched data sets for subsequent statistical extracts. Names and Social Security Numbers will be deleted from all output files and replaced by unique serial identification numbers internal to the Bureau of the Census.

SAFEGUARDS:

Only a limited number of sworn Census Bureau employees will have access to these data in identifiable form, in order to construct the linked data sets and produce statistical extracts; the data will not be used to identify specific individuals, but will be used to create extracts with information from one or more of the source files. Extract files will only be released to designated sworn Census Bureau staff with a need-to-know; all data going outside the restricted access environment will be stripped of personally identifying information; the crosswalk for the recoded identifiers will be maintained within the secure, restricted access environment and may only be accessed only by authorized personnel. The microdata will not be made publicly available. Any publications resulting from these data will be cleared for release under the direction of the Census Bureau's Disclosure Review Board, which will confirm that the data do not directly or indirectly disclose information which would identify any individual. All employees are subject to the restrictions, penalties, and prohibitions of Title 13 U.S.C. 9 and 214; Privacy Act of 1974 (5 U.S.C. 552a(b)(4)); Title 18 U.S.C. 1905; Title 26 U.S.C. 7213; and Title 42, U.S.C., Section 1306. When confidentiality or penalty provisions differ, the most stringent provisions apply to protect the data. Employees are regularly advised of the regulations issued pursuant to Titles 13 U.S.C. and other relevant statutes governing confidentiality of the data. The restricted access environment has been established to limit the number of Census Bureau employees with direct access to identifiable microdata from this system, so as to protect the confidentiality of the data and to prevent unauthorized use or access to it.

These safeguards provide a level and scope of security that is not less than the level and scope of security established by the Office of Management and Budget in OMB Circular No. A–130, Appendix III, Security of Federal Automated Information Systems. Furthermore, the use of unsecured telecommunications to transmit individually identifiable or deducible information derived from the administrative record files is prohibited.

RETENTION AND DISPOSAL:

Records to be retained in accordance with the unit's Records Control Schedule, which is based on separate agreements with each source agency. Retention is not to exceed 10 years, unless, by agreement with the source agency, it is determined that a longer period is necessary for statistical purposes. At the end of the retention period or upon demand, all original files, extracts and paper copies from each agency will be returned to the source agency or destroyed, as stated in the interagency agreement.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Methodology and Standards, Bureau of the Census, FB 3, Washington, DC 20233.

NOTIFICATION PROCEDURE:

For Census records, information may be obtained from: Assistant Division Chief for Administrative Records Research, Planning, Research, and Evaluation Division, Methodology and Standards Directorate, Bureau of the Census, Suitland Federal Center Building 2, Washington, D.C. 20233.

RECORD SOURCE CATEGORIES:

Individuals covered by selected Federal administrative record systems and Census Bureau censuses and surveys.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

Pursuant to Title 5 U.S.C., Section 552a(k)(4), this system of records is exempted from the notification, access, and contest requirements of the agency procedures (under Title 5 U.S.C., Section 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records, as required under Title 13 U.S.C., and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance with agency rules published in the rules section of this **Federal Register**.

Dated: January 7, 2000.

Brenda Dolan,

Department of Commerce,

Freedom of Information/Privacy Act Officer.

[FR Doc. 00–1352 Filed 1–19–00; 8:45 am]

BILLIING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–853]

Notice of Postponement of Final Antidumping Determination and Extension of Provisional Measures: Bulk Aspirin From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv, Rosa Jeong or Ryan Langan, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4207, (202) 482–3853, and (202) 482–1279, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act"), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Postponement of Final Determination and Extenison of Provisional Measures

On December 21, 1999, the Department issued its affirmative preliminary determination in this proceeding. The notice stated we would issue our final determination not later than 75 days after the date of the preliminary determination. *See, Notice of Preliminary Determination of Sales at Less Than Fair Value: Bulk Aspirin from the People's Republic of China,* 65 FR 116 (January 3, 2000).

On December 28, 1999, pursuant to section 735(a)(2)(A) of the Act, Shandong Xinhua Pharmaceutical Factory ("Shandong"), a named respondent in this investigation, requested the Department to postpone the final determination in this investigation. On January 4, 2000, Shandong also requested an extension of the provisional measures (*i.e.*, suspension of liquidation) to not more than six months, in accordance with the Department's regulations (19 CFR 351.210(e)(2)) and section 735(a)(2) of the Act.

Because our preliminary determination is affirmative, the respondent requesting the postponement represents a significant proportion of exports of the subject merchandise from the People's Republic of China, and no compelling reasons for denial exist, we are extending this final determination to not later than 135 days after the publication of the preliminary determination (*i.e.*, May 17, 2000). Suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: January 13, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1373 Filed 1–19–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–605]

Frozen Concentrated Orange Juice From Brazil; Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limits of the preliminary results of the 12th antidumping duty administrative review of frozen concentrated orange juice from Brazil. The review covers four producers/exporters of the subject merchandise to the United States and the period May 1, 1998, through April 30, 1999.

EFFECTIVE DATE: January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson at (202) 482–1776, or Irina Itkin at (202) 482–0656, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this administrative review within the time limits mandated by the Uruguay Round Agreements Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), pursuant to section 751(a)(3)(A) of Tariff Act of 1930, as

amended (the Act), the Department is extending the time limit for completion of the preliminary results until May 30, 2000. *See* Memorandum to Robert LaRussa, dated January 11, 2000.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)).

Dated: January 12, 2000.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 00–1260 Filed 1–19–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–045; A–580–811; A–201–806]

Revocation of Antidumping Duty Orders: Certain Steel Wire Rope From Japan, Korea, and Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Revocation of Antidumping Duty Orders: Certain Steel Wire Rope from Japan, Korea, and Mexico.

SUMMARY: Pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the United States International Trade Commission ("the Commission") determined that revocation of the antidumping duty orders on certain steel wire rope from Japan, Korea, and Mexico is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 136 (January 3, 2000)). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), the Department of Commerce ("the Department") is revoking the antidumping duty orders on certain steel wire rope from Japan, Korea, and Mexico. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2) the effective date of revocation is January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

EFFECTIVE DATE: January 1, 2000.

Background

On January 4, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 364 and 64 FR 367, respectively) of the antidumping duty orders on certain steel wire rope from Japan, Korea, and Mexico pursuant to section 751(c) of the Act. As a result of the reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the orders to be revoked (*see Final Results of Expedited Sunset Review: Certain Steel Wire Rope from Japan,* 64 FR 35626 (July 1, 1999), *Final Results of Expedited Sunset Review: Steel Wire Rope From the Republic of Korea,* 64 FR 43166 (August 9, 1999), and *Final Results of Expedited Sunset Review: Carbon Steel Wire Rope From Mexico,* 64 FR 42905 (August 6, 1999)).

On January 3, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on certain steel wire rope from Japan, Korea, and Mexico would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Certain Steel Wire Rope From Japan, Korea, and Mexico,* 65 FR 136 (January 3, 2000), and USITC Pub. 3259, Inv. Nos. AA 1921–124 and 731–TA–546 547 (Reviews) (December 1999)).

Scope

Japan

Imports covered by this antidumping duty order are shipments of steel wire rope, except brass electroplated steel truck tire cord of cable construction specifically packaged for protection against moisture and atmosphere. Such merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7312.109030, 7312.109060, and 7312.109090.

Korea

The product covered by this antidumping duty order is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following HTS subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this order is stainless steel wire rope, *i.e.,* ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTS subheading 7312.10.6000. The Department notes that scope clarification rulings are pending with regard to Korea.

Mexico

Imports covered by this antidumping duty order are shipments of steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass plated wire. Excluded from this order is stainless steel wire rope, *i.e.,* ropes cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under the HTS subheading 7312.10.6000. Imports of these products are currently classifiable under the following HTS subheadings: 7312.10.9030, 7312.10.9060 and 7312.10.9090.

Although HTS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Determination

As a result of the determination by the Commission that revocation of these antidumping duty orders is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), is revoking the antidumping duty orders on certain steel wire rope from Japan, Korea, and Mexico. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), these revocations are effective January 1, 2000. The Department will instruct the U.S. Customs Service to discontinue the suspension of liquidation and collection of cash deposits rates on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: January 12, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1259 Filed 1–19–00; 8:45 am]

BILLIING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–812]

Grain-Oriented Electrical Steel From Italy: Extension of Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review.

EFFECTIVE DATE: January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson at 202–482–4406, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On July 29, 1999, the Department published a notice of initiation of administrative review of the countervailing duty order on grain-oriented electrical steel from Italy, covering the period January 1, 1998 through December 31, 1998 (*see* 64 FR 41075). The preliminary results are currently due no later than February 29, 2000.

Extension of Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limits for completion of the preliminary results until no later than June 29, 2000. *See* Decision Memorandum from Holly A. Kuga, Acting Deputy Assistant Secretary, to Robert S. LaRussa, Assistant Secretary, dated January 4, 2000, which is on file in the Central Records Unit. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: January 12, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Import Administration, Group II.

[FR Doc. 00–1372 Filed 1–19–00; 8:45 am]

BILLIING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 991215338–9338–01]

RIN 0693ZA36

Intent To Terminate Selected NVLAP Services

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice to terminate specific programs within the National Voluntary Laboratory Accreditation Program (NVLAP).

SUMMARY: Under the NVLAP Procedures the Director of NIST, as delegated to the Chief of NVLAP, may terminate a specific laboratory accreditation program (LAP) when it is determined that a need no longer exists to accredit laboratories for the services covered under the scope of the LAP.

The National Institute of Standards and Technology (NIST) requests written comments on the proposed termination of the Protocols Program offered by NVLAP, and announces a 60-day comment period for that purpose. The Protocols Program is comprised of the Government Open Systems Interconnection Profile (GOSIP) and Portable Operating Systems Interface (POSIX) areas of testing.

Persons interested in commenting on the proposed termination should submit their comments in writing to the address below.

DATE: Comments on the proposed termination must be received no later than March 20, 2000.

ADDRESSES: Comments on the proposed terminations must be submitted to: Chief, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140, telephone number: (301) 975–4016, e-mail: nvlap@nist.gov.

FOR FURTHER INFORMATION CONTACT: Chief, National Voluntary Laboratory Accreditation Program, (301) 975–4016.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology administers the National Voluntary Laboratory Accreditation Program under regulations as found in Part 285 of Title 15 of the Code of Federal Regulations. NVLAP provides an unbiased third party evaluation and recognition of laboratory performance, as well as expert technical assistance to upgrade that performance, by accrediting calibration and testing laboratories found competent to perform specific tests or calibrations.

NVLAP is comprised of a set of Laboratory Accreditation Programs (LAPS) which are established on the basis of requests and demonstrated need. Each LAP includes specific test and/or calibration standards and related methods and protocols assembled to satisfy the unique needs for accreditation in a field of testing, field of calibration, product, or service.

Under the NVLAP Procedures the Director of NIST, as delegated to the Chief of NVLAP, may terminate a specific laboratory accreditation program (LAP) when it is determined that a need no longer exists to accredit laboratories for the services covered under the scope of the LAP. A review of all NVLAP programs revealed that the Protocols Program offered by NVLAP no longer has any participating laboratories, thus making its continuance impractical and financially nonviable. The Protocols Program is comprised of the GOSIP and POSIX areas of testing. Therefore, the Chief of NVLAP has determined that there no longer exists a need to continue this LAP.

After the comment period, the Chief of NVLAP shall determine if there is public support for the continuation of the LAP. If public comments support the continuation of the LAP, the Chief of NVLAP shall publish a **Federal Register** Notice announcing its continuation. If public support does not exist for continuation, the LAP will be terminated effective 90 days after the date of this notice of intent to terminate the LAP. If the LAP is terminated, NVLAP shall not longer grant or renew accreditations under the terminated program following the effective date of termination.

Copies of comments received will be available for inspection and copying at the Department of Commerce Central Reference and Records Facility, Room 6204, Hoover Building, Washington, DC 20230.

Dated: January 11, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–1298 Filed 1–19–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011400A]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Red Drum Stock Assessment Panel (RDSAP).

DATES: This meeting will begin at 9:00 a.m. on Monday, February 7, 2000 and will conclude by 3:00 p.m. on Wednesday, February 9, 2000.

ADDRESSES: The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Fishery Biologist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The RDSAP will convene to re-evaluate a stock assessment on the status of the red drum stocks in the Gulf of Mexico prepared by NMFS. The RDSAP will consider available information, including but not limited to, commercial and recreational catches, natural and fishing mortality estimates, recruitment, fishery-dependent and fishery-independent data, and data needs. These analyses will be used to determine the condition of the stocks and the levels of acceptable biological catch (ABC). If time allows for the assessment to be run, the RDSAP may also review estimates of stock size (biomass at maximum sustainable yield (Bmsy)) and minimum stock size thresholds (MSST). Otherwise estimates of stock size and minimum stock size thresholds will be discussed at a later meeting. Currently it is illegal to harvest or possess red drum in Federal waters.

Although other non-emergency issues not on the agendas may come before the RDSAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the RDSAP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the above address by January 31, 2000.

Dated: January 14, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–1349 Filed 1–19–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011400B]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings.

DATES: The meetings will be held the week of February 7, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: All meetings will be held at the Hilton Hotel, 500 W. Third Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Scientific Committee and Advisory Panel will begin at 8:00 a.m. on Monday, February 7, continuing through Wednesday and Thursday, February 9 and 10, respectively.

The Council will meet jointly with the Alaska Board of Fisheries beginning at 9:00 a.m. on Tuesday, February 8, and begin their normal plenary session at 8:00 a.m. on Wednesday, February 9, continuing through Monday, February 14.

All meetings are open to the public except Executive Sessions which may be held during the week to discuss litigation and/or personnel matters.

Alaska Board of Fisheries/Council: The agenda for the Council's joint meeting with the Alaska Board of Fisheries will include the following subjects:

1. Preseason gear restrictions.
2. Crab management issues.
3. Management proposals of mutual concern.
4. Habitat areas of particular concern.
5. Halibut management issues.

Council: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports
   (a) Executive Director's Report
   (b) NMFS Management Report
2. Halibut Charterboat Guideline Harvest Level/Management Measures: Final action.
3. Steller Sea Lions:
   (a) Status report on implementation of Reasonable and Prudent Alternatives.
   (b) Review regulatory amendment for Chiniak closures required for research on pollock fishery effects off Kodiak.
4. American Fisheries Act:
   (a) Comment on proposed rule for 2000, and initiate regulatory action as appropriate.
   (b) Analysis of Groundfish Processor Sideboards/Pollock Excessive Share: Initial review.
5. License Limitation Program: Pacific cod species/area endorsements: Initial review.
6. Groundfish Supplemental Environmental Impact Statement (SEIS): Status report.
7. Council/Board of Fisheries Issues:
   (a) Summary of joint meeting.
   (b) Comment on Board of Fisheries management proposals, including state water Pacific cod closure.
   (c) Further direction to staff on stand-down measures and Crab Fishery Management Plan revisions.
8. Research Priorities: Review and approve.
9. Habitat Areas of Particular Concern: Initial review of analysis.
10. Staff Tasking: Review proposals for changes in management groundfish fisheries and the sablefish and halibut individual fishery quota program.

Advisory Meetings

Advisory Panel: With the exception of the reports listed under Item 1, and the

Council/Board of Fisheries issues under Item 7, the agenda for the Advisory Panel will mirror that of the Council listed above.

Scientific and Statistical Committee: The Scientific and Statistical Committee will address the following items:

1. Alternatives and the analysis for the halibut charter harvest guideline level.
2. Progress on the Groundfish SEIS.
3. Groundfish processor sideboards and pollock excessive shares.
4. Steller sea lions.
5. Habitat areas of particular concern.
6. Research priorities.

Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly-scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in the agenda listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: January 14, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–1350 Filed 1–19–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011300B]

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene a meeting of its Snapper Grouper Assessment Group to review the greater amberjack assessment and develop recommendations to the Council; review control rules and rebuilding timeframes for selected species within the snapper grouper complex and develop recommendations; review wreckfish catches and an assessment including a report on permits, shares and tranfers. The Assessment Group will meet with the Wreckfish Advisory Panel to make recommendations on Total Allowable Catch (TAC) and other framework actions, draft a wreckfish assessment group report, review a report on trends and updated Spawning Potential Ratio (SPR) estimates and make recommendations. The Snapper Grouper Assessment Group will review and discuss other related documents including: compliance reports, logbook reports, snowy grouper and golden tilefish quotas, greater amberjack quotas, hooking mortality, an Oculina research report and a Marine Reserves Public Information Document. The Assessment Group will also review the 1999 report to Congress by NMFS: "Status of Fisheries of the United States" and make recommendations to the Council.

DATES: The meeting will be held on February 3, 2000, from 9:00 a.m. to 5:30 p.m., and on February 4, 2000, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at The Marshall House, 123 E. Broughton Street, Savannah, GA; telephone: 1–800–589–6304.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366; fax: (843) 769–4520; email: kim.iverson@noaa.gov.

SUPPLEMENTARY INFORMATION: Although non-emergency issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issued may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in the notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by January 28, 2000.

Dated: January 13, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–1351 Filed 1–19–00; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting; Notice

AGENCY: U.S. Consumer Product Safety Commission

TIME AND DATE: Wednesday, January 26, 2000, 2:00 p.m.

LOCATION: Room 410, East-West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

COMPLIANCE STATUS REPORT:

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: January 14, 2000.

Sadye E. Dunn,

Secretary.

[FR Doc. 00–1565 Filed 1–18–00; 3:39 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Exceptional Family Member Program; DD Form 2792; OMB Number 0704—

Type of Request: New Collection.

Number of Respondents: 16,470.

Responses Per Respondent: 1.

Annual Responses: 16,470.

Average Burden Per Response: 27 minutes.

Annual Burden Hours: 7,400.

Needs and Uses: This information collection requirement is necessary to identify medical and educational requirements of family members of military Service members and DoD civilian employees when family travel to an overseas assignment is being considered. Respondents are private physicians and school personnel. The DD form 2792, "Exceptional Family Member Program and Educational Summary," will be completed for family members who have been identified with a special medical or educational need to document the medical or educational need and service requirements. Their needs will be matched to the resources available at the overseas location to determine the feasibility of receiving appropriate services in that location. The information is used by the military Service's personnel offices for purposes of assignment. The DD Form 2792 will be completed for family members of civilian employees to document their special health or educational needs in order to advise the civilian employee of the availability of the needed services.

Affected Public: Business or Other For-Profit; State, Local, or Tribal Government.

Frequency: Triennal.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 13, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–1304 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Application and Agreement for Establishment of a National Defense Cadet Agreement; DA Form 3126–1; OMB Number 0702—

Type of Request: New Collection.

Number of Respondents: 35.

Responses Per Respondent: 1.

Annual Responses: 35.

Average Burden Per Response: 1 hour.

Annual Burden Hours: 35.

Needs and Uses: Educational institutions desiring to host a National Defense Cadet Corps Unit (NDCC) may apply by using a DA Form 3126–1. The DA Form 3126–1 documents the agreement and becomes a contract signed by both the secondary institution and the U.S. Government. This form provides information on the school's facilities and states specific conditions if a NDCC unit is placed at the institution. The data provided on the application is used to determine which school will be selected.

Affected Public: State, Local, or Tribal Government; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 12, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–1305 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Army ROTC Referral Information; ROTC CDT CMD Form 155–R; OMB Number 0702–[To Be Determined].

Type of Request: New Collection.

Number of Respondents: 16,300.

Responses per Respondent: 1.

Annual Responses: 16,300.

Average Burden per response: 15 minutes.

Annual Burden Hours: 4,075.

Needs and Uses: The Army ROTC Program produces approximately 75 percent of the newly commissioned officers for the U.S. Army. Army ROTC must have the ability to attract quality men and women who will pursue college degrees. Currently, there are 13 Recruiting Teams (Goldminers) located in various places across the United States aiding in this effort. Their mission is to refer quality high school students to college and universities offering Army ROTC. Goldminers, two officer personnel, will collect ROTC referral information at a high school campus and document it on ROTC Cadet Command Form 155–R. The purpose of the information is to provide prospect referral data to a Professor of Military Science to contact individuals who have expressed an interest in Army ROTC.

Affected Public: Individual or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 12, 2000.

Patrica L. Toppings,

Alternate OSD Federal Register Laison Officer, Department of Defense.

[FR Doc. 00–1306 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of Secretary

The Joint Staff; National Defense University (NDU), Board of Visitors (BOV); Meeting

AGENCY: National Defense University, DoD.

ACTION: Notice of meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors.

DATE: The meeting will be held between 0800–1200 and 1330–1530 on January 21, 2000.

ADDRESSES: The meeting will be held in Room 155B, Marshall Hall, Building 62, Fort Lesley J. McNair.

FOR FURTHER INFORMATION CONTACT: Director, University Operations, National Defense University Fort Lesley J. McNair, Washington, D.C. 20319–6000. To reserve space, interested persons should phone (202) 685–3937.

SUPPLEMENTARY INFORMATION: The agenda will include present and future educational and research plans for the National Defense University and its components. The meeting is open to the public, but the limited space available for observers will be allocated on a first come, first served basis.

Dated: January 13, 2000

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 1308 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Global Positioning Systems will meet in closed session on January 12–13, January 20–21, and January 24–25, 2000, at 3601 Wilson Boulevard, Suite 600, Arlington, Virginia 22203.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology and Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will receive briefings and discuss interim findings and tentative recommendations resulting from ongoing activities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public. However, due to critical mission requirements for a report by the end of January, the Task force is unable to provide timely notice of the above mentioned meetings.

Dated: January 13, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–1307 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Executive Committee Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Advisory Committee on Women in the Services, Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming Quarterly Executive Committee Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the Executive Committee Meeting is to review the responses to the recommendations and request for information adopted by the committee at the DACOWITS 2000 Fall Conference.

DATES: February 7, 2000, 9:15 a.m.–4 p.m.

ADDRESSES: SECDEF Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Susan E. Kolb, ARNGUS, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: Meeting agenda:

Monday February 7, 2000

Time and Event

9:15–9:29 a.m.—Introductions (3E869—SecDef Conf Rm) (Open to Public)
9:30–10:29 a.m.—Pay and Compensation Briefing (Open to Public)
10:30–11:29 a.m.—TRICARE Follow up Briefing (QOL, RFI #1) (Open to Public)
11:30–2:14 p.m.—Lunch for Executive Committee Members, Military Staff (By invitation only)
2:15–2:59 p.m.—Child Care Briefing (QOL RFI #2) (Open to Public)
3:00–3:29 p.m.—Future Issues (Open to Public)
3:30–3:59 p.m.—Review 2000 Mission, Vision and Goals Review Upcoming DACOWITS events Wrap up (Open to Public)
4 p.m.—DACOWITS members depart

Dated: January 13, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–1309 Filed 1–19–00; 8:45 a.m.]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary proposes to alter an existing system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on February 22, 2000, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Coordinator, Records Section, Directives and Records Branch, Directives and Records Division, Washington Headquarters Services, Correspondence and Directives, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 588–0159.

SUPPLEMENTARY INFORMATION: The complete inventory of Office of the Secretary record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on January 5, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: January 13, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHA 07

SYSTEM NAME:

Defense Medical Information System (DMIS) *(May 20, 1998, 63 FR 13641).*

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete "CHAMPUS".

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Delete paragraph two and replace with 'To permit the disclosure of records to the Department of Health and Human Services (HHS) and its components for the purpose of conducting research and analytical projects, and to facilitate collaborative research activities between DoD and HHS.'

* * * * *

DHA 07

SYSTEM NAME:

Defense Medical Information System (DMIS).

SYSTEM LOCATION:

Primary location: Directorate of Information Management, Building 1422, Fort Detrick, MD 21702–5000 with Region-specific information being kept at each Office of the Assistant Secretary of Defense (Health Affairs) designated regional medical location. A complete listing of all regional addresses may be obtained from the system manager.

Secondary location: Service Medical Treatment Facility Medical Centers and Hospitals, and Uniformed Services Treatment Facilities. For a complete listing of all facility addresses write to the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Uniformed services medical beneficiaries enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) who receive medical care at one or more of DoD's medical treatment facilities (MTFs), or one or more of the Uniformed Services Treatment Facilities (USTFs), or who have care provided under the TRICARE programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Selected data elements extracted from the DEERS beneficiary and enrollment records. Electronic files containing beneficiary identifier, date of birth, gender, sponsor status (active duty or retired), relationship of patient to sponsor, pay grade of sponsor, state or country, zip code, and enrollment and eligibility status.

Individual patient hospital discharge records. Electronic files containing patient ID, date of birth, gender, sponsor status (active duty or retired), relationship to sponsor, pay grade of sponsor, state or country, zip code, health care dates and services, provider, service status, health status, billed amount, allowed amount, amount paid by beneficiary, amount applied to deductible, and amount paid by government.

Selected data elements extracted from the TRICARE, National Mail Order Pharmacy, or other purchased care medical claims records. Electronic files containing patient ID, date of birth, gender, sponsor status (active duty or retired), relationship to sponsor, pay grade of sponsor, state or country, zip code, health care dates and services, provider, service status, health status, billed amount, allowed amount, amount paid by beneficiary, amount applied to deductible, and amount paid by government.

Data elements extracted from the DEERS electronic Non-availability Statement application. Records containing beneficiary ID, date and types of health care services not covered by the issuing entity (MTFs, etc.), along with other demographic and issuing entity information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulation; 10 U.S.C., Chapter 55; and E.O. 9397 (SSN).

PURPOSE(S):

DMIS collects data from multiple DoD electronic medical systems and processes and integrates the data in a manner that permits health management policy analysts to study, evaluate, and recommend changes to DoD health care programs. Analysis of beneficiary utilization of military medical and other program resources is possible using DMIS. Statistical and trend analysis permits changes in response to health care demand and treatment patterns. The system permits the projection of future Medical Health Services (MHS) beneficiary population, utilization requirements, and program costs to enable health care management concepts and programs to be responsive and up to date.

The detailed patient level data at the foundation of DMIS permits analysis of virtually any aspect of the military health care system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To permit the disclosure of records to the Department of Health and Human Services (HHS) and its components for the purpose of conducting research and analytical projects, and to facilitate collaborative research activities between DoD and HHS.

To the Congressional Budget Office for projecting costs and workloads associated with DoD Medical benefits.

To the Department of Veterans Affairs (DVA) for coordinating cost sharing activities between the DoD and DVA.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on optical and magnetic media.

RETRIEVABILITY:

Records may be retrieved by individual's Social Security Number, sponsor's Social Security Number, Beneficiary ID (sponsor's ID, patient's name, patient's DOB, and family member prefix or DEERS dependent suffix).

SAFEGUARDS:

Automated records are maintained in controlled areas accessible only to

authorized personnel. Entry to these areas is restricted to personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of a cipher lock. Back-up data maintained at each location is stored in a locked room.

Access to DMIS records is restricted to individuals who require the data in the performance of official duties. Access is controlled through use of passwords.

RETENTION AND DISPOSAL:

Disposition pending (until NARA disposition is approved, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Corporate Executive Information System Program Office, Six Skyline Place, Suite 809, 5111 Leesburg Pike, Falls Church, VA 22041–3201.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Corporate Executive Information System Program Office, Six Skyline Place, Suite 809, 5111 Leesburg Pike, Falls Church, VA 22041–3201.

Requests should contain the full names of the beneficiary and sponsor, sponsor Social Security Number, sponsor service, beneficiary date of birth, beneficiary sex, treatment facility(ies), and fiscal year(s) of interest.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written requests to Corporate Executive Information System Program Office, Six Skyline Place, Suite 809, 5111 Leesburg Pike, Falls Church, VA 22041–3201.

Requests should contain the full names of the beneficiary and sponsor, sponsor Social Security Number, sponsor service, beneficiary date of birth, beneficiary sex, treatment facility(ies) that have provided care, and fiscal year(s) of interest.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual data records that are assembled to form the DMIS data base are submitted by the Military Departments, the Defense Enrollment Eligibility Reporting System, the Uniformed Service Treatment Facility Managed Care System, the Health Care Finance Administration, and the National Mail Order Pharmacy, Defense Supply Center, Philadelphia, PA.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–1318 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board (AFEB); Meeting

AGENCY: Office of the Surgeon General, U.S. Army, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming AFEB meeting. This Board will meet from 0730–1600 on Monday, February 28, and 0730–1300 on Tuesday, February 29, 2000. The purpose of the meeting is to address pending and new Board issues, provide briefings for Board members on topics related to ongoing and new Board issues, conduct subcommittee meetings, and conduct an executive working session. The meeting location will be at fort Sam Houston, Texas.

This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: COL Benedict Diniega, AFEB Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/4.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–1374 Filed 1–19–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Prospective Grant of Exclusive Patent License

AGENCY: U.S. Army Soldier and Biological Chemical Command, Army, Dod.

ACTION: Notice.

SUMMARY: In accordance with the provisions of 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), SBCCOM hereby gives notice that it is contemplating the grant of an exclusive license in the United States to practice the below referenced inventions owned by the U.S. Government to Purified Micro Environments, having a place of business in Miami, Florida.

Title: Transportable Glovebox and Fumehood.

Inventors: Charles E. Henry, Monica J. Heyl, Dennis J. Reutter

A self-contained and transportable apparatus that can be used for physical examination of unknown materials of possible toxic or harmful nature for analytical screening and classification. The apparatus is designed to be flexible in its configuration so that it can run as a chemical fume safety cabinet or even as a class II biological safety cabinet if the results of tests run therein indicate that alternative configurations are optimal for additional operations.

Title: Glovebox and Filtration System for Mobile Van.

Inventors: Charles E. Henry, Monica J. Heyl, Dennis J. Reutter

A self-contained and transportable apparatus that can be used for physical examination of unknown materials of possible toxic or harmful nature for analytical screening and classification. The apparatus of this invention is designed for use in a mobile van that can be driven to an incident site or parked during an event where such capability may be needed.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Albert, Technology Transfer Office, U.S. Army SBCCOM, ATTN: AMSSB–RAS–C, 5183 Blackhawk Road (Bldg E3330/245), APG, MD 21010–5423, Phone: (410) 436–4438 or E-mail: rcalbert@sbccom.apgea.army.mil

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted, unless within sixty days from the date of this published Notice, SBCCOM receives written evidence and argument to establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–1375 Filed 1–19–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Government-Owned Inventions for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Soldier and Biological Chemical Command, Army, DoD.

ACTION: Notice.

SUMMARY: The inventions referenced below are Government-Owned inventions and are available for licensing in the U.S. in accordance with 37 CFR 404.6 and 35 U.S.C. 207.

Title: Transportable Glovebox and Fumehood.

Inventors: Charles E. Henry, Monica J. Heyl, Dennis J. Reutter

A self-contained and transportable apparatus that can be used for physical examination of unknown materials of possible toxic or harmful nature for analytical screening and classification. The apparatus is designed to be flexible in its configuration so that it can run as a chemical fume safety cabinet or even as a class II biological safety cabinet if the results of tests run therein indicate that alternative configurations are optimal for additional operations.

Title: Glovebox and Filtration System for Mobile Van.

Inventors: Charles E. Henry, Monica J. Heyl, Dennis J. Reutter

A self-contained and transportable apparatus that can be used for physical examination of unknown materials of possible toxic or harmful nature for analytical screening and classification. The apparatus of this invention is designed for use in a mobile van that can be driven to an incident site or parked during an event where such capability may be needed.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Albert, Technology transfer Office, U.S. Army SBCCOM, ATTN: AMSSB–RAS–C, 5183 Blackhawk Road (Bldg E3330/245), APG, MD 21010–5423, Phone: (410) 436–4438 or E-mail: rcalbert@sbccom.apgea.army.mil

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–1376 Filed 1–19–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The alteration consists of adding a new category of individuals covered in the system of records, i.e., enlisted soldiers.

DATE: This proposed action will be effective without further notice on February 22, 2000, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC–PDR–P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, was required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 5, 2000 to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c to Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 3, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0600–8–104c NGB

SYSTEM NAME:

Official Military Personnel File (Army National Guard) (December 23, 1997, 62 FR 67055).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add "enlisted soldiers" to the entry.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete paragraph 9.

* * * * *

A0600–8–104c NGB

SYSTEM NAME:

Official Military Personnel File (Army National Guard).

SYSTEM LOCATION:

National Guard Bureau, Army National Guard Readiness Center, ATTN: NGB–ARP–C, 111 South George Mason Drive, Arlington, VA 22204–1382.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each commissioned, warrant officer or enlisted soldier in the Army National Guard not on active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include enlistment contract, physical evaluation board proceedings; statement of service; group list insurance election; emergency data form; application for appointment; qualification/evaluation report; oath of office; medical examination; security clearance; application for retired pay; application for correction of military records; application for active duty; transfer or discharge; active duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks; consent/declaration of parent/guardian; award recommendations; academic reports; casualty reports; field medical card; retirement points; deferment; pre-induction processing and commissioning data; transcripts of military records; survivor benefit plans; efficiency reports; records of proceedings, 10 U.S.C. 815 and appellate actions; determination of moral eligibility; waiver of disqualifications; temporary disability record; change of name; statements of enlistment; retired benefits; application for review by physical evaluation board; birth certificate; citizenship statements and status; educational transcripts; flight status board reviews; efficiency appeals; promotion/reduction/recommendations approvals/declinations announcements/notifications and reconsiderations; notification to deferred officers and promotion passover notifications; absence without leave and desertion

records; FBI reports; Social Security Administration correspondence; miscellaneous correspondence, documents, and orders relating to military service including information pertaining to dependents, inter or intraservice details, determinations, reliefs; pay entitlements, releases, transfers; and other relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, 10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–8–104, Military Personnel Information Management/Records; and E.O. 9397 (SSN).

PURPOSE(S):

These records are created and maintained to manage the member's Army National Guard service effectively; document the member's military service history; and, safeguard the rights of the member and the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of State to issue passport/visa; to document persona-non-grata status, attache assignments, and related administration of personnel assigned and performing duty with the Department of State.

To the Department of Justice to file fingerprint cards; to perform intelligence function.

To the Department of Labor to accomplish actions required under Federal Employees Compensation Act.

To the Department of Health and Human Services to provide services authorized by medical and health functions authorized by 10 U.S.C. 1074–1079.

To the Atomic Energy Commission to accomplish requirements incident to Nuclear Accident/Incident Control Officer functions.

To the American Red Cross to accomplish coordination and complete service functions including blood donor programs and emergency investigative support and notifications.

To the Federal Aviation Agency to obtain flight certification and licenses.

To the U.S. Postal Service to accomplish postal service authorization.

To the Department of Veterans Affairs to provide information relating to benefits, pensions, in-service loans, insurance, and appropriate hospital support.

To the Bureau of Immigration and Naturalization to comply with statutes relating to in-service alien registration, and annual residence information.

To the Office of the President of the United States of America: To exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

To the Federal Maritime Commission to obtain licenses for military members accredited as captain, made, and harbor master for duty as Transportation Corps warrant officer.

To each state and U.S. possession to support state bonus applications; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard Affairs.

To civilian educational, and training institutions to accomplish student registration, tuition support, Graduate Record Examination tests requirements, and related school requirements incident to in-service education programs in compliance with 10 U.S.C., Chapters 102 and 103.

To the Social Security Administration to obtain or verify Social Security Numbers; to transmit Federal Insurance Compensation Act deductions made from in-service members' wages.

To the Department of Transportation to coordinate and exchange necessary information pertaining to inter-service relationships between U.S. Coast Guard and Army National Guard when service members perform duty with the U.S. Coast Guard elements or training activities.

To Civil Authorities for Compliance with 10 U.S.C. 814.

Note: Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute take precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. Blanket Routine Uses do not apply to these records.

The "Blanket Routine Uses" set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfiche are stored on (PERMS/ODI) Personnel Electronic Record Management System/Optical Digital Imagery. Temporary files purged and scanned on ODL, selected data automated for management purposes on disks, and (COM) Computer Output Microfiche.

RETRIEVABILITY:

By Social Security Number.

SAFEGUARDS:

Records are maintained in secured areas accessible only to authorized personnel; automated media protected by authorized password system for access terminals, controlled access to operation rooms, and controlled output distribution.

RETENTION AND DISPOSAL:

Microfiche and paper records are permanent: retained in active file until termination of service following which they are retired to the custody of the Commander, U.S. Army Reserve Personnel Command, One Reserve Way, St. Louis, MO 63132–5200.

SYSTEM MANAGER(S) AND ADDRESS:

National Guard Bureau, Army National Guard Readiness Center, ATTN: NGB–ARP–C, 111 South George Mason Drive, Arlington, VA 22204–1382.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the National Guard Bureau, Army National Guard Readiness Center, ATTN: NGB–ARP–C, 11 South George Mason Drive, Arlington, VA 22204–1382.

For verification purposes, individual should provide full name, service identification number, current or former military status, current home address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the National Guard Bureau, Army National Guard Readiness Center, ATTN: NGB–ARP–C, 111 South George Mason Drive, Arlington, VA 22204–1382.

For verification purposes, individual should provide full name, service identification number, current or former military status, current home address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations and contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, educational and financial institutions, law enforcement agencies, personal references provided by the individual, Army records and reports, third parties when information furnished relates to the Service member's status.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–1310 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

The routine uses being added permit the disclosure of records to THE ARMY LAWYER, a monthly publication for Army lawyers, and to interested complainants to inform them of the disposition of professional misconduct allegations.

DATES: This proposed action will be effective without further notice on February 22, 2000, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Division, U.S. Total Army Personnel Command, ATTN: TAPC–PDR–P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 5, 2000 to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 3, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0027–1k DAJA

SYSTEM NAME:

Judge Advocate General Professional Conduct Files (January 12, 1993, 58 FR 3936).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Department of the Army Standards of Conduct Office, ATTN: DAJA–SC 10th Floor, Rossyln Plaza North, 1777 North Kent Street, Rosslyn, VA 22209–2194.

Secondary locations: Offices of the Judge Advocate General at major Army commands, field operating agencies, installations and activities Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Judge Advocates, civilian attorneys of the Judge Advocate Legal Service, and civilian attorneys subject to the disciplinary authority of the Judge Advocate General who have been the subject of a complaint related to their impairment, professional conduct or mismanagement or when a court has convicted, diverted, or sanctioned the attorney, or has found contempt or an ethics violation, or the attorney has been disciplined elsewhere.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Records include, but are not limited to, complaints with substantiating documents, tasking memoranda, preliminary screening inquiry (PSI) reports and mismanagement inquiry reports (containing sensitive personal information, witness statements, and inquiry officer's findings and recommendations), supervisory Judge Advocate recommendations and actions, staff memoranda to Judge Advocate General's Corps leadership, Professional Responsibility Committee opinions, memoranda related to disciplinary actions, responses from subjects, and correspondence with Governmental agencies and professional licensing authorities.'

PURPOSE(S):

Delete entry and replace with 'To assist the Judge Advocate General in the evaluation, management, administration, and regulation of the delivery of legal services by offices and personnel under his jurisdiction; and to record the disposition of ethics and mismanagement complaints, and document corrective action taken.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete second paragraph and replace with 'Information concerning substantiated misconduct may be released to professional licensing authorities (*e.g.* state and federal disciplinary agencies);

To current and potential governmental employers during authorized background checks to assist their efforts to protect the public by maintaining the integrity of the legal profession;

To 'The Army Lawyer', a monthly publication for Army lawyers, for publication when directed by the Judge Advocate General or the Assistant Judge Advocate General; and

To directly interested complainants to inform them of the disposition of professional misconduct allegations.'

* * * * *

A0027–1k DAJA

SYSTEM NAME:

Judge Advocate General Professional Conduct Files.

SYSTEM LOCATION:

Primary location: Department of the Army Standards of Conduct Office, ATTN: DAJA–SC 10th Floor, Rosslyn Plaza North, 1777 North Kent Street, Rosslyn, VA 22209–2194.

Secondary locations: Offices of the Judge Advocate General at major Army commands, field operating agencies, installations and activities Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Judge Advocates, civilian attorneys of the Judge Advocate Legal Service, and

civilian attorneys subject to the disciplinary authority of the Judge Advocate General who have been the subject of a complaint related to their impairment, professional conduct or mismanagement or when a court has convicted, diverted, or sanctioned the attorney, or has found contempt or an ethics violation, or the attorney has been disciplined elsewhere.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include, but are not limited to, complaints with substantiating documents, tasking memoranda, preliminary screening inquiry (PSI) reports and mismanagement inquiry reports (containing sensitive personal information, witness statements, and inquiry officer's findings and recommendations), supervisory Judge Advocate recommendations and actions, staff memoranda to Judge Advocate General's Corps leadership, Professional Responsibility Committee opinions, memoranda related to disciplinary actions, responses from subjects and correspondence with Governmental agencies and professional licensing authorities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 3037(c); RCM 109, Manual for Courts-Martial, 1995; Army Regulation 690–300, Employment (Civilian Personnel); Army Regulation 27–1, Judge Advocate Legal Service.

PURPOSE(S):

To assist the Judge Advocate General in the evaluation, management, administration, and regulation of the delivery of legal services by offices and personnel under his jurisdiction; and to record the disposition of ethics complains and to document ethics violations and corrective action taken.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records of information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C., 522a(b)(3) as follows:

Information concerning substantiated misconduct may be released to professional licensing authorities (*e.g.*, state and federal disciplinary agencies);

To current and potential governmental employers during authorized background checks to assist their efforts to protect the public by maintaining the integrity of the legal profession;

To 'The Army Lawyer', a monthly publication for Army lawyers, for publication when directed by the Judge Advocate General or the Assistant Judge Advocate General; and

To directly interested complainants to inform them of the disposition of professional misconduct allegations.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Papers records in file folders and on computers.

RETRIEVABILITY:

By subject's name.

SAFEGUARDS:

Records are maintained in locked offices and/or in locked file cabinets in secured building or on military installations protected by police patrols. All information is maintained in secured areas accessible only to designated individuals having official need therefor in the performance of official duties. Computer stored information is password protected.

RETENTION AND DISPOSAL:

Disposition pending (until NARA disposition is approved, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Department of the Army Standards of Conduct Office, ATTN: DAJA–SC, 10th Floor, Rosslyn Plaza North, 1777 North Kent Street, Rosslyn, VA 22209–2194.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquires to the Department of the Army Standards of Conduct Office, ATTN: DAJA–SC, 10th Floor, Rosslyn Plaza North, 1777 North Kent Street, Rosslyn, VA 22209–2194.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Department of the Army Standards of Conduct Office, ATTN: DAJA–SC, 10th Floor, Rosslyn Plaza North, 1777 North Kent Street, Rosslyn, VA 22209–2194.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from individuals and from federal, state, and local authorities (*e.g.*, preliminary screening report, other Army records, state bar records, law enforcement records, educational institution records, *etc.*).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–1311 Filed 1–19–00; 8:45 am]
BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Alter Systems of Records.

SUMMARY: The Department of the Army is altering two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on February 22, 2000, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC–PDR–P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 5, 2000 to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 13, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0210–50 CE

SYSTEM NAME:

Army Housing Operations Management System (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete entry and replace with 'A0210–50DAIM'.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Assistant Chief of Staff for Installation Management, Directorate of Facilities and Housing, ATTN: DAIM–FDH, 7701 Telegraph Road, Alexandria, VA 22315–3800.

Secondary location: Offices of Facilities and Housing at major Army commands, field operating agencies, installations and activities, Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Replace 'hand receipts' with 'inventory listing'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; DoD Directive 4165.63, DoD Housing; Army Regulation 210–50, Housing Management; and E.O. 9397 (SSN).'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph 'To the Department of Housing and Urban Development to resolve and/or adjudicate matters falling within their jurisdiction.'

* * * * *

STORAGE:

Delete 'cards' from entry.

RETRIEVABILITY:

Delete entry and replace with 'By individual's surname and/or Social Security Number.'

* * * * *

A0210–50 DAIM

SYSTEM NAME:

Army Housing Operations Management System (HOMS).

SYSTEM LOCATION:

Office of the Assistant Chief of Staff for Installation Management, Directorate of Facilities and Housing, ATTN: DAIM–FDH, 7701 Telegraph Road, Alexandria, VA 22315–3800.

Secondary location: Offices of Facilities and Housing at major Army commands, field operating agencies, installations and activities, Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for on/off post housing containing name, service/Social Security Number, rank/grade and date, service data, organization of assignment, home address and telephone number; locator data; appropriate travel orders; records reflecting housing availability/assignment/termination; housing financial records; referral services; property inventories. inventory listing, and issue slips; cost control, job orders; survey data; reports of liaison with real estate boards, realtors, brokers and other Government agencies; other management reports regarding the Army housing system, complaints and investigations; and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; DoD Directive 4165.63, DoD Housing; Army Regulation 210–50, Housing Management; and E.O. 9397 (SSN).

PURPOSE(S):

To provide information relating to the management, operation, and control of the Army housing program; to provide necessary housing for military personnel, their dependents, and qualified civilian employees; to determine housing adequacy/suitability; to document cost data for alterations/repair of units; to establish rental rates; to provide guidance and referral service; to reflect liaison with real estate boards, brokers, and other Government agencies; to render reports; to investigate complaints and related matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Housing and Urban Development to resolve and/or adjudicate matters falling within their jurisdiction.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, computer tapes, discs, and printouts.

RETRIEVABILITY:

By individual's surname and/or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized persons having official need therefor, housed in buildings protected by security guards or locked when not in use. Information in automated media is further protected by physical security devices; access to or update of information in the system is protected through a system of passwords, thereby preserving integrity of data.

RETENTION AND DISPOSAL:

Installation troop housing files are destroyed after 3 years; installation housing project tenancy files are destroyed 3 years after termination of quarters occupancy; family housing cost controls are destroyed 11 years after last entry; family housing leasing files are destroyed 3 years after lease terminates, is canceled, lapses, or after any litigation is concluded; family housing rental rates are destroyed after 10 years; housing referral services are destroyed after 5 years; off-post rental housing reports are destroyed after 2 years; off-post housing complaints and investigations are destroyed 5 years after completion at office having Army-wide responsibility, and at other offices; complaint and investigation records are destroyed 2 years after completion.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Army Housing Automation, Office of the Assistant Chief of Staff for Installation Management, Directorate of Facilities and Housing, ATTN: DAIM–FDH, 600 Army Pentagon, Washington, DC 20310–0600.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Directorate of Public Works, Chief of Housing Division at appropriate installation. Official mailing addresses are published as an appendix to the

Army's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director of Public Works, Chief Housing Division at the appropriate installation. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

Individual should provide his/her name, address and last assignment location.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, his/her personnel records, tenants/landlords and realty activities, financial institutions, and previous employers/commanders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0215–3 DAPE

SYSTEM NAME:

NAF Personnel Records (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM IDENTIFIER

Delete entry and replace with "A0215–3 SAMR".

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army; E.O. 9397 (SSN); and Army Regulation 215–3, Nonappropriated Funds and Related Activities Personnel Policies and Procedures."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Second paragraph, add "Equal Employment Opportunity Commission" and delete "Office of Personnel Management", "Department of Justice", "General Accounting Office", and "General Services Administration".

STORAGE:

Add to Entry "and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Paper records are retrieved by surname and electronic retrieval is both surname and Social Security Number."

* * * * *

A0215–3 DAPE

SYSTEM NAME:

NAF Personnel Records.

SYSTEM LOCATION:

Civilian Personnel Offices and at Army installations; National Personnel Records Center, (Civilian), 111 Winnebago Street, St. Louis, MO 63118–4199. Where duplicates of these records are stored in a manager's employment file, e.g., an administrative office closer to where the employee actually works, this notice applies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have applied for employment with, are employed by, or were employed by nonappropriated fund (NAF) activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for employment, documents relating to testings, ratings, qualifications, prior employment, appointment, suitability, security, retirement, group insurance, medical certificates; performance evaluations; job descriptions; training and career development records; awards and commendations data, tax withholding authorizations; documents relating to injury and death compensation, unemployment compensation, travel and transportation, Business Based Action (BBA), adverse actions, conflict-of-interest and/or conduct, and similar relevant matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army; E.O. 9397 (SSN); and Army Regulation 215–3, Nonappropriated Funds and Related Activities Personnel Policies and Procedures.

PURPOSE(S):

These records are maintained to carry out a personnel management program for Department of the Army non-appropriated fund instrumentalities. Records are used to recruit, appoint, assign, pay, evaluate, recognize, discipline, train and develop, and separate individuals; to administer employee benefits; and to conduct labor-management relations, employee-management relations, and responsibilities inheret in managerial and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to appropriate Federal agencies, such as the Department of Labor and the Equal Employment Opportunity Commission, to resolve and/or adjudicate matters falling within their jurisdiction.

Records may also be disclosed to labor organizations in response to requests for names of employees and identifying information.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, kardex files, and electronic storage media.

RETRIEVABILITY:

Paper records are retrieved by surname and electronic retrieval is both surname and Social Security Number.

SAFEGUARDS:

Records are maintained in areas restricted to authorized persons having official need therefor; all information is regarded as if it were marked 'For Official Use Only'.

RETENTION AND DISPOSAL:

Records are permanent; after employee separates records are retired to the National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, MO 63118–4199 within 30 days. Copies of these records maintained in an administrative office or by the supervisor are retained until the employee transfers or separates; destroyed 30 days later.

SYSTEM MANAGERS(S) AND ADDRESS:

Office of the Assistant Secretary of the Army, Manpower and Reserve Affairs, 200 Stovall Street, Alexandria, VA 22332–0300.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the local Civilian Personnel Officer; former nonappropriated fund employees should write to the National Personnel

Records Center (Civilian) 111 Winnebago Street, St. Louis, Mo 63118–4199.

Individual should provide his/her full name, current address and telephone number, a specific description of the information/records sought, and any identifying numbers such as Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the local Civilian Personnel Officer; former nonappropriated fund employees should write to the National Personnel Records Center (Civilian) 111 Winnebago Street, St. Louis, MO 63118–4199.

Individual should provide his/her full name, current address and telephone number, a specific description of the information/records sought, and any identifying numbers such as Social Security Number.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the applicant; statements or correspondence from persons having knowledge of the individual; official records; actions affecting individual's employment and/or pay.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–1312 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds a routine use to the system of records notice to permit the disclosure of information to the Internal Revenue Service to report taxable earnings and taxes withheld and other taxable data.

DATES: This proposed action will be effective without further notice on February 22, 2000, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC–PDR–P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 5, 2000 to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 13, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0037–104–3 USMA

SYSTEM NAME:

USMA Cadet Account System *(February 22, 1993, 58 FR 10002).*

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 3013, Secretary of Army; 10 U.S.C. 4340 and 4350; Title 7 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies; and E.O. 9397 (SSN)".

PURPOSE(S):

Delete second paragraph.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph to entry "To the Internal Revenue Service to report taxable earnings and taxes withheld and other taxable data."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are maintained in office areas which are secured and accessible only to personnel who have need therefor in the performance of official duties. User ID and password protect automated system. The physical system is accessible only to authorized personnel."

RETENTION AND DISPOSAL:

Delete entry and replace with "Financial statements and schedules, both fiche and automated data, will be retained for a period of at least 6 years and 3 months. This information is not archived but destroyed by shedding/erasure."

* * * * *

A0037–104–3 USMA

SYSTEM NAME:

USMA Cadet Account System.

SYSTEM LOCATION:

U.S. Military Academy, West Point, NY 10996–1783.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the U.S. Corps of Cadets, U.S. Military Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Monthly deposit listings of Corps of Cadets members showing entitlements and activities pertaining to funds held in trust by the USMA Treasurer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of Army; 10 U.S.C. 4340 and 4350; Title 7 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies; and E.O. 9397 (SSN).

PURPOSE(S):

To compute debits and credits posted against cadet account balances. Debits include charges to the cadet account for uniforms, textbooks, computers and related supplies, academic supplies, various fees, etc.; credits include advance pay, monthly deposits from payroll, scholarships, initial deposits, interest accumulated on cadet account balances, and individual deposits. All funds are held in trust by the Treasurer, USMA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Internal Revenue Service to report taxable earnings and taxes withheld and other taxable data.

The "Blanket Routine Uses" set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government; typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronically on computers and microfiche.

RETRIEVABILITY:

By Cadet's account number, surname or Social Security Number.

SAFEGUARDS:

Records are maintained in office areas which are secured and accessible only to personnel who have need therefor in the performance of official duties. User ID and password protect automated system. The physical system is accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Financial statements and schedules, both fiche and automated data, will be retained for a period of at least 6 years and 3 months. This information is not archived but destroyed by shedding/erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Military Academy, ATTN: USMA Treasurer, West Point, NY 10996–1783.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Superintendent, U.S. Military Academy, ATTN: USMA Treasurer, West Point, NY 10996–1783.

Individual should provide full name, cadet account number, Social Security Number, graduating class year, current address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Superintendent, U.S. Military Academy, ATTN: USMA Treasurer, West Point, NY 10996-1783.

Individual should provide full name, cadet account number, Social Security Number, graduating class year, current address and telephone number, and signature.

Personal visits may be made to the Treasurer, U.S. Military Academy; individual must provide acceptable identification such as valid driver's license and information that can be verified with his/her payroll.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Department of Army, Department of the Treasurer, financial institutions and insurance companies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–1314 Filed 1–20–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Logistics Agency proposes to add an exempt system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The exemption is required for S500.30 CAAS, entitled "DLA Incident Investigation/Police Inquiry Files" to protect from release investigatory material compiled for law enforcement purposes, and investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information

DATES: This action will be effective without further notice on February 22, 2000, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 5, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 13, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S500.30 CAAS

SYSTEM NAME:

Incident Investigation/Police Inquiry Files.

SYSTEM LOCATION:

Office of the Staff Director, Command Security, Headquarters, Defense Logistics Agency, ATTN: CAAS, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the Security Offices of the Defense Logistics Agency Primary Level Field Activities (DLA PLFAs). Official mailing addresses are published as an appendix to DLA's

compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of a non-criminal investigation or police inquiry into incidents occurring on DLA-controlled facilities or installations. The system also covers incidents at other locations that involve individuals assigned to or employed by DLA or employed by agencies that receive security and police force services from DLA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain case number, name of subject, Social Security Number, address, telephone number, and details of the incident or inquiry; the investigative report containing details of the investigation, relevant facts discovered, information received from sources and witnesses, the investigator's findings, conclusions, and recommendations; and case disposition details.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 303(b), Oath to Witnesses; 10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; and E.O. 9397 (SSN).

PURPOSE(S):

To record information related to investigations of or inquiries into incidents under DLA jurisdiction.

The records are also used to make decisions with respect to disciplinary action; to bar individuals from entry to DLA facilities or installations; to evaluate the adequacy of existing physical security safeguards; and to perform similar functions with respect to maintaining a secure workplace.

Statistical data, with all personal data removed, may be provided to other offices for purposes or reporting, planning, training, vulnerability assessment, awareness, and similar administration endeavors. Complaints appearing to involve criminal wrongdoing are referred to the appropriate criminal investigative organization for investigation and disposition.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state, and local agencies that administer programs or employ individuals involved in an incident or inquiry.

The "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in a combination of paper and automated form.

RETRIEVABILITY:

Record are retrieved by name of subject, subject matter, and by case number.

SAFEGUARDS:

Records are maintained in areas assessable only to DLA personnel who must access the records to perform their duties. The computer files are protected with access restricted to authorized users.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after date of last action; incidents involving terrorist threats are destroyed 7 years after the incident is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Command Security, Headquarters, Defense Logistics Agency, ATTN: CAAS, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Individuals are required to provide name, Social Security Number, employing activity name and address, and, if known, place of investigation. In addition, individuals must provide either a notarized signature or a signed and dated unsworn declaration (in accordance with 28 U.S.C. 1746) stating under penalty of perjury under U.S. law that the information contained in the request, including their identity, is true and correct.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Individuals are required to provide name, Social Security Number, employing activity name and address, and, if known, place of investigation. In addition, individuals must provide either a notarized signature or a signed and dated unsworn declaration (in accordance with 28 U.S.C. 1746) stating under penalty of perjury that the information contained in the request for access, including their identity, is true and correct.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21,32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject, victims, witnesses, and investigators.

EXEMPTION CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this exemption has been promulgated in accordance with requirements of 5 U.S.C. 533(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 323. For additional information contact the Privacy Act Officer, DLA, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

[FR Doc. 1313 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter systems of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The notice is being altered to expand the categories of records being maintained, and a routine use is being added to allow disclosure of information to the Department of Justice for the purpose of asset identification, location, and recovery; and for immigration and naturalization record verification purposes.

DATES: This action will be effective without further notice on February 22, 2000, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 5, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 13, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S800.10 MM

SYSTEM NAME:

Federal Property End Use Files *(November 7, 1994, 59 FR 55465).*

CHANGES:

SYSTEM IDENTIFIER:

Delete "MM" and replace with "DLSC."

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Records are maintained by the Commander, Defense Reutilization and Marketing Service, 74 Washington Avenue North, Battle Creek, MI 49017–3092, and the Commanders of the DLA Defense Contract Management Districts. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Insert "citizenship, alien registration data," and "identity of firm officials,".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; 22 U.S.C. 2751–2799, Arms Export Control; 40 U.S.C. 471–484, Federal Property Management; 50 App. U.S.C. 2401 et seq., Export Administration; E.O. 9397 (SSN); E.O. 12738 and E.O. 12981, Export Controls; 22 CFR part 122, International Traffic in Arms Regulations; 41 CFR part 101, Federal Property Management) and DoD Directives 2030.8, 2040.2 and 2040.3 and DoD Instruction 4161.2."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph "To the Department of Justice for asset identification, location and recovery; and for immigration and naturalization data verification."

* * * * *

RECORD SOURCE CATEGORIES:

Insert "investigating or" after "agencies." and replace "and export control regulations" with "export control, or other laws and regulations."

* * * * *

S800.10 DLSC

SYSTEM NAME:

Federal Property End Use Files.

SYSTEM LOCATION:

Records are maintained by the Commander, Defense Reutilization and Marketing Service, 74 Washington Avenue North, Battle Creek, MI 49017–3092, and the Commanders of the DLA Defense Contract Management Districts. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, businesses, and organizations who bid on or participate in the DoD surplus personal property sales program or the excess contractor inventory sales program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant's name, address, date and place of birth, Social Security Number, citizenship, alien registration data, telephone number, company affiliation, identity of firm officials, nature of business, firm's identification/tax number, and information on the intended end use of the property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; 22 U.S.C. 2751–2799, Arms Export Control; 40 U.S.C. 471–484, Federal Property Management; 50 App. U.S.C. 2401 et seq., Export Administration; E.O. 9397 (SSN); E.O. 12738 and E.O. 12981, Export Controls; 22 CFR part 122, International Traffic in Arms Regulations; 41 CFR part 101, Federal Property Management) and DoD Directives 2030.8, 2040.2 and 2040.3 and DoD Instruction 4161.2.

PURPOSE(S):

Records are used in the management of the property disposal programs to determine bidder eligibility to participate in the programs and to ensure that property recipients comply with the terms of the sale regarding end use of the property.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of the Treasury to ensure that recipients comply with U. S. Customs rules and regulations regarding movement of the property.

To the Department of Transportation to ensure compliance with rules regarding Federal Aviation Administration airworthiness certificates for surplus military aircraft.

To the General Services Administration to determine the presence of debarment proceedings against a bidder.

To the Department of State to ensure compliance with the International Traffic in Arms regulations.

To the Department of Commerce to ensure compliance with the Export Administration regulations.

To the Department of Justice for asset identification, location and recovery; and for immigration and naturalization data verification.

The "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper and computerized form.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number, company name, or sales number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must access the records to perform their duties. The computer files are password protected with access restricted to authorized users.

RETENTION AND DISPOSAL:

Records pertaining to foreign excess personal property are destroyed 6 years after completion of trade security controls on individual transaction; records pertaining to other surplus items are destroyed 7 years after bid award date.

Sales records involving violation of law or regulation are destroyed 15 years after case adjudication is completed.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Logistics Management, Defense Logistics Support Command, ATTN: DLSC-L, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to or visit the Privacy Act Officer of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Privacy Act Officer of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject and by Federal agencies investigating or monitoring arms trafficking, property movement, export control, or other laws and regulations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–1316 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration consists of consolidating two systems of records notices (S253.40 DLA-G, Patent Infringement, into S100.60 GC, Claims and Litigation, other than Contractual), and adding five routine uses to the newly consolidated system of records.

DATES: This action will be effective without further notice on February 22, 2000, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 5, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals" dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 13, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION
S253.40 DLA-G

SYSTEM NAME:

Patent Infringement *(February 22, 1993, 58 FR 10854).*

Reason: This system of records is being consolidated into S100.60 GC, Claims and Litigation.

ALTERATION
S252.50 DLA-G

SYSTEM NAME:

Claims and Litigation, other than Contractual *(February 22, 1993, 58 FR 10854).*

CHANGES:

SYSTEM IDENTIFIER:

. Delete entry and replace with "S100.60 GC."

SYSTEM NAME:

Delete entry and replace with "Claims and Litigation".

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Individuals or entities who have filed claims or litigation against DLA or against whom DLA has initiated such actions. The system may also include claims and litigation filed against or on behalf of other agencies that are serviced by or receive legal support from DLA."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "The system contains name, home or business address, telephone numbers, Social Security Number, details of the claim or litigation, and settlement, resolution, or disposition documents."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; 10 U.S.C. Chapter 163, Military Claims; 10 U.S.C. 2386, Copyrights, Patents, Designs; 28 U.S.C. 514, Pending Claims; 28 U.S.C. 1498, Patents and Copyrights; 31 U.S.C. Chapter 37, Claims; 35 U.S.C., Chap. 28, Patent Infringement; and E.O. 9397 (SSN)."

PURPOSE(S):

Delete entry and replace with 'The records are used to evaluate, adjudicate, defend, prosecute, or settle claims or lawsuits.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entire sentence beginning with "Information is used" through "settlement of claims" and replace with five new routine uses as follows: "To federal and local agencies authorized to investigate, audit, act on, negotiate, adjudicate, or settle claims or issues arising from litigation.

To federal agencies or other third parties who have or are expected to have information to verify or refute the claim at issue.

To the Internal Revenue Service for address verification or for matters under their jurisdiction.

To Federal and local government agencies or other parties involved in approving, licensing, auditing, or otherwise having an identified interest in intellectual property issues.

To Defense contractors that have an identified interest in the intellectual property at issue."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Claim records are destroyed 6 years and 3 months after final settlement; however, claims for which the government's right to collect was terminated under 4 CFR part 104 are destroyed 10 years and 3 months after the year in which the government's right to collect first accrued.

Litigation files are destroyed 6 years after case closing except that patent infringement litigation files are destroyed after 26 year and copyright infringement files are destroyed after 56 years."

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Claimants, litigants, investigators, and through legal discovery under the Federal Rules of Civil Procedure."

* * * * *

S100.60 GC

SYSTEM NAME:

Claims and Litigation.

SYSTEM LOCATION:

Office of the General Counsel, Headquarters Defense Logistics Agency, ATTN: GC, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the offices of counsel of the Defense Logistics Agency Primary Level Field Activities (DLA PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or entities who have filed claims or litigation against DLA or against whom DLA has initiated such actions. The system may also include claims and litigation filed against or on behalf of other agencies that are serviced by or receive legal support from DLA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains name, home or business address, telephone numbers, Social Security Number, details of the claim or litigation, and settlement, resolution, or disposition documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; 10 U.S.C. Chapter 163, Military Claims; 10 U.S.C. 2386, Copyrights, Patents, Designs; 28 U.S.C. 514, Pending Claims; 28 U.S.C. 1498, Patents and Copyrights; 31 U.S.C. Chapter 37, Claims; 35 U.S.C., Chap. 28, Patent Infringement; and E.O. 9397 (SSN).

PURPOSE(S):

The records are used to evaluate, adjudicate, defend, prosecute, or settle claims or lawsuits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To federal and local agencies authorized to investigate, audit, act on, negotiate, adjudicate, or settle claims or issues arising from litigation.

To federal agencies or other third parties who have or are expected to have information to verify or refute the claim at issue.

To the Internal Revenue Service for address verification or for matters under their jurisdiction.

To Federal and local government agencies or other parties involved in approving, licensing, auditing, or otherwise having an identified interest in intellectual property issues.

To Defense contractors that have an identified interest in the intellectual property at issue.

The "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in combination of paper and automated files.

RETRIEVABILITY:

Records are retrieved by name or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must use the records to perform their duties. The computer files are password protected with access restricted to authorized users. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during nonduty hours.

RETENTION AND DISPOSAL:

Claim records are destroyed 6 years and 3 months after final settlement; however, claims for which the government's right to collect was terminated under 4 CFR part 104 are destroyed 10 years and 3 months after the year in which the government's right to collect first accrued. Litigation files are destroyed 6 years after case closing except that patent infringement litigation files are destroyed after 26 year and copyright infringement files are destroyed after 56 years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725

John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individuals must provide name of litigant, year of incident, and should contain court case number in order to ensure proper retrieval in those situations where a single litigant has more than one case with the Agency.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and Privacy Act offices of the DLA PLFAs. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Written request for information should contain the full name, current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Claimants, litigants, investigators, and through legal discovery under the Federal Rules of Civil Procedure.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–1317 Filed 1–19–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF EDUCATION

[CFDA NO.: 84.162A]

Emergency Immigrant Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

AGENCY: Department of Education.

Purpose of Program: This program provides grants to State educational agencies (SEAS) to assist local educational agencies (LEAS) that experience unexpectedly large increases in their student population due to immigration. These grants are to be used to provide high-quality instruction to immigrant children and youth and to help those children and youth make the transition into American society and meet the same challenging State performance standards expected of all children and youth.

Eligible Applicants: State educational agencies.

Deadline For Transmittal of Applicants: March 17, 2000.

Deadline for Intergovernmental Review: May 19, 2000.

Applications Available: January 24, 2000.

Available Funds: $150 million.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 17 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 76, 77, 79, 80, 81, 82, and 85; and (b) 34 CFR Part 299.

SUPPLEMENTARY INFORMATION: An SEA is eligible for a grant if it meets the eligibility requirements specified in sections 7304 and 7305 of the Elementary and Secondary Education Act of 1965 (the Act), as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994). (20 U.S.C. 7544 and 7545). In order to receive an award under this program, an SEA must provide a count, taken during February 2000, of the number of immigrant children and youth enrolled in public and nonpublic schools in eligible LEAs in accordance with the requirements specified in section 7304 of the Act. An eligible LEA is one in which the number of immigrant children and youth enrolled in the public and nonpublic elementary and secondary schools within the district is at least either 500 or 3 percent of the total number of students enrolled in those public and nonpublic schools. (20 U.S.C. 7544(b)(2)). Under section 7501(7) of the Act, the term immigrant children and youth means individuals who are aged 3 through 21, were not born in any State, and have not been attending one or more schools in any one or more States for more than 3 full academic years. (20 U.S.C. 7601(7)).

FOR APPLICATIONS OR INFORMATION CONTACT: Darlene Miles, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5620, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–8259. Harpreet Sandhu, U.S. Department of Education. Maryland Avenue, SW, Room 5617, Switzer Building, Washington D.C. 20202–6510. Telephone (202) 205–9808. Brenda Turner, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5629, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–9839. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, Large Print, Audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register** in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg, htm
http://www.ed.gov/news, html

To use the pdf you must have the Adobe Acrobat Reader Program with search, which is available free at eitner of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, D.C. area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S C. 7541–7549.

Dated: January 14, 2000.

Art Love,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 00–1398 Filed 1–19–00; 8:45 am]

BILLING CODE 4001–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.116J]

Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition: Higher Education Collaboration between the United States and the European Community; Notice Inviting Application for New Awards for Fiscal Year (FY) 2000

Purpose of Program: To provide grants or enter into cooperative agreements to improve postsecondary education opportunities by focusing on problem areas or improvement approaches in postsecondary education.

Eligible Applicants: Institutions of higher education or combinations of

institutions and other public and private nonprofit educational institutions and agencies.

Deadline For Transmittal of Applications: March 17, 2000

Deadline For Intergovernmental Review: May 26, 2000

Applications Available: January 14, 2000

Available Funds: $600,000 in fiscal year 2000; $1,800,000 over three years.

Estimated Range Of Awards: $160,000–$175,000 total for up to three years.

Estimated Average Size of Awards: $50,000 in fiscal year 2000; $160,000 total for up to three years.

Estimated Number Of Awards: 10–12

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 82, 85, 86, 97, 98, and 99.

SUPPLEMENTARY INFORMATION: Under the Special Focus Competition, we will award grants or enter into cooperative agreements that focus on problem areas or improvement approaches in postsecondary education. We have included an invitational priority to encourage proposals designed to support the formation of educational consortia of institutions in the U.S. and the European Union to encourage cooperation in the coordination of curricula, the exchange of students and the opening of educational opportunities between the U.S. and the European Union. The invitational priority is issued in cooperation with the European Union. European institutions participating in any consortium proposal responding to the invitational priority may apply to the European Commission's Directorate General for Education and Culture for additional funding under a separate European competition.

Priority

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priority: Projects that support consortia of institutions of higher education that promote institutional cooperation and student mobility between the United States and the member states of the European Union.

Methods for Applying Selection Criteria

The Secretary gives equal weight to the listed criteria. Within each of the criteria, the Secretary gives equal weight to each of the factors.

Selection Criteria

In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 75.210.

1. The quality of the design of the proposed project, as determined by—

a. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; and

b. The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

2. The significance of the proposed project, as determined by—

a. The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies;

b. The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used in a variety of other settings; and

c. The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

3. The adequacy of resources, as determined by—

a. The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project;

b. The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support; and

c. The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

FOR APPLICATIONS OR INFORMATION CONTACT: U.S. Department of Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398, tel 877–433–7827, fax 301–470–1244, e-mail: edpubs@inet.ed.gov; web: http://www.ed.gov/pubs/edpubs.html.

Identify the US/EC competition as CFDA number 84.116J. Copies of the application materials may also be obtained from the Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 1990 K Street, NW, 8th floor, Washington, D.C. 20006–8544, telephone 202–502–7500. You may request application forms from FIPSE by submitting the name of the competition (US/EC) and your name and postal address to FIPSE@ed.gov. Applications are available on the FIPSE web site at http://www.ed.gov/FIPSE.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. For additional program information call Cindy Fischer at the FIPSE office (202–502–7500) between the hours of 8 a.m. and 5 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites: http://ocfo.ed.gov/fedreg.htm; http://www.ed.gov/news.html. To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in Washington, DC at (202) 512–1530.

Note: The official version of a document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 1135–1135a–3.

Dated: January 13, 2000.

A. Lee Fritschler,

Assistant Secretary for Postsecondary Education.

[FR Doc. 00–1286 Filed 1–14–00; 8:46 am]

BILLIING CODE 4001–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–47.000, et al.]

Huntley Power LLC, Dunkirk, et al.; Electric Rate and Corporate Regulation Filings

January 12, 2000.

Take notice that the following filings have been made with the Commission:

1. Huntley Power LLC, Dunkirk Power LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Oswego Harbor Power LLC, Somerset Power LLC, Middletown Power LLC, Devon Power LLC, Connecticut Jet Power LLC, Montville Power LLC, and Norwalk Power LLC

[Docket No. EC00–47–000]

Take notice that on January 10, 2000, Huntley Power LLC, Dunkirk Power LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Oswego Harbor Power LLC, Somerset Power LLC, Middletown Power LLC, Devon Power LLC, Connecticut Jet Power LLC, Montville Power LLC, and Norwalk Power LLC (Applicants) filed a request for approval of the disposition of jurisdictional assets that may result from the transfer of Applicants' limited liability company membership interests among Applicants' upstream affiliates.

Comment date: February 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Black River Limited Partnership

[Docket No. EG00–76–000]

Take notice that on January 7, 2000, Black River Limited Partnership (Applicant), a Delaware limited partnership with its principal place of business at J. A. Jones Drive, Charlotte, North Carolina 28287, filed with the Federal Energy Regulatory Commission an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's Regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant owns the Fort Drum Cogeneration Project (the Facility), which is located at the Fort Drum Army Base near Watertown, New York. The Facility, a topping-cycle cogeneration project located at the Fort Drum Army Base near Watertown, New York, was a Commission-certified qualifying facility (QF) through December 31, 1999. The Facility consists of three multi-fuel (coal, petroleum coke and wood chips) fired circulating fluidized bed boilers, an extraction/condensing steam turbine generator with a net electrical capacity of approximately 50 MW and associated transmission components interconnecting the Facility with the grid. The Facility also includes three diesel engine generators that are located at the Facility site and have been used for back-up power, but had not previously been part of the QF. Each of the three distillate oil-fired engine generators has a net electrical capacity of one megawatt. Applicant may install an additional steam turbine that would utilize for power generation the steam that has previously been extracted for useful thermal energy output. If this turbine is installed, the Facility's total net electric capacity would be 60 MW, including three MW of net capacity from the diesel units. A third party will operate the Facility and sell the Facility's electrical energy, capacity and ancillary services exclusively at wholesale.

Copies of the application have been served upon the New York Public Service Commission, the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Securities and Exchange Commission.

Comment date: February 2, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Calcasieu Power, LLC

[Docket No. EG00–77–000]

Take notice that on January 10, 2000, Calcasieu Power, LLC, 1000 Louisiana, Suite 5800, Houston, Texas filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Calcasieu Power, LLC is a limited liability company, organized under the laws of the State of Delaware, and engaged directly and exclusively in owning and operating the Calcasieu Power, LLC electric generating facility (the Facility) to be located in Calcasieu Parish, Louisiana, and selling electric energy at wholesale. The Facility will consist of two gas turbine generators that are nominally rated at approximately 156 MW and 165 MW, for a total of approximately 321 MW, a metering station, and associated transmission interconnection components.

Comment date: February 2, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Conectiv Energy Supply, Inc.

[Docket No. ER98–2045–007]

Take notice that on January 11, 2000, Conective Energy Supply, Inc. filed their quarterly report for the quarter ending December 31, 1999, for information only.

5. PS Energy Group, Inc., South Jersey Energy Company, Quark Power L.L.C., Tex Par Energy, Inc., Wilson Power & Gas Smart, Inc., Eastern Pacific Energy, Energy Clearinghouse Corporation, NGTS Energy Services, Cleco Energy LLC

[Docket No. ER99–1876–002, Docket No. ER97–1397–008, Docket No. ER97–2374–011, Docket No. ER95–62–019, Docket No. ER95–751–021, Docket No. ER98–1829–008. Docket No. ER98–2020–006, Docket No. ER96–2892–012, and Docket No. ER98–1170–006]

Take notice that on January 7, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

6. Lakewood Cogeneration, L.P.

[Docket No. ER00–1051–000]

Take notice that on January 10, 2000, Lakewood Cogeneration, L.P. filed their quarterly report for the quarter ending December 31, 1999.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Nicor Energy Management Services Company, Griffin Energy Marketing, L.L.C., Alliance Energy Services Partnership, Poco Marketing Ltd, Alpena Power Marketing, L.L.C., Poco Petroleum, Inc., Tosco Power, Inc., PG Energy PowerPlus, Kaztex Energy Ventures, Inc., Northwest Natural Gas Company, Nordic Electric, L.L.C., Superior Electric Power Corporation, Navitas, Inc., New Jersey Natural Energy Company, SCANA Energy Marketing, Inc., J. L. Walker & Associates, Eclipse Energy Inc., AMVEST Coal Sales, Inc., AMVEST Power, Inc., Eagle Gas Marketing Company, Prairie Winds Energy, Vanpower, Inc., SDS

[Docket No. ER97–1816–010, Docket No. ER97–4168–009, Docket No. ER99–1945–003, Docket No. ER97–2198–010, Docket No. ER97–4745–009, Docket No. ER97–2197–009, Docket No. ER96–2635–012, Docket No. ER98–1953–005, Docket No. ER95–295–021, Docket No. ER97–683–001, Docket No. ER96–127–010, Docket No. ER95–1747–018, Docket No. ER99–2537–002, Docket No. ER96–2627–012, Docket No. ER96–1086–000, Docket No. ER95–1261–017, Docket No. ER95–1261–018, Docket No. ER94–1099–023, Docket No. ER97–464–013, Docket No. ER97–2045–011, Docket No. ER96–1503–015, Docket No. ER95–1234–015, Docket No. ER96–552–016, and Docket No. ER96–1724–009]

Take notice that on January 10, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

8. Central Maine Power Company

[Docket No. ES00–13–000]

Take notice that on January 10, 2000, Central Maine Power Company (CMP) submitted an application under Section 204 of the Federal Power Act. CMP seeks authorization to issue and renew on or before December 31, 2002, short-term notes in connection with a revolving credit facility, other bank lines of credit, individual negotiated bank offers of short-term funds, a medium-term note program and commercial paper, in each case maturing one year or less after the date of issuance, for an amount not to exceed $130,000,000 at any time.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Energy Supply Company and West Penn Power Company

[Docket No. ER99–4087–001]

Take notice that on January 10, 2000, Allegheny Energy Supply Company and West Penn Power Company tendered for filing a Purchase and Sale Agreement for Ancillary Services revised to comply with the Commission's order dated December 11, 1999, Allegheny Energy Supply Company and West Penn Power Company, 89 FERC ¶ 61,258 (1999).

Copies of this filing have been served upon the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER00–1052–000]

Take notice that on January 10, 2000, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing short term firm and non-firm transmission service agreements between itself and InPower Marketing Corporation (Inpower). The transmission service agreements allow Inpower to receive transmission services under Wisconsin Energy Corporation Operating Companies' FERC Electric Tariff, Volume No. 1.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear.

Copies of the filing have been served on InPower, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such 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 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 these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–1273 Filed 1–19–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration of Intention and Soliciting Comments, Motions To Intervene, and Protests

January 13, 2000.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No.:* D100–000.

c. *Date Filed:* December 22, 1999.

d. *Applicant:* City and County of San Francisco.

e. *Name of Project:* Calaveras Pipeline Powerhouse Project.

f. *Location:* At the Sunol Valley Water Treatment Plant, end of the Calaveras Pipeline, using the existing yield of the Calaveras Reservoir and the associated existing municipal water facilities. On Calaveras Creek, a tributary of Alameda Creek, Alameda and Santa Clara Counties, California (T. 5 S., R. 1 E., Mount Diablo Meridian). The project would not utilize federal or tribal lands.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. § 817(b).

h. *Applicant Contact:* Matthew Gass, Project Engineer, City and County of San Francisco, Public Utilities Commission, 1155 Market Street, 4th Floor, San Francisco, CA 94103, telephone (209) 989–2130.

i. *FERC Contact:* Any questions on this notice should be addressed to Diane M. Murray at (202) 219–2682, or E-mail address: diane.murray@ferc.fed. us.

j. *Deadline for filing comments and/or motions:* February 18, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426.

Please include the docket number (DI00–1–000) on any comments or motions filed.

k. *Description of Project:* The site consists of: (1) a powerhouse with a total generating capacity of 1,000 kW, and (2) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory

Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room located at 888 First Street, NE., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc/fed/us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, 214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–1274 Filed 1–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of an Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 13, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2853–058.

c. *Date Filed:* November 16, 1999.

d. *Applicant:* State of Montana—Department of Natural Resources and Conservation.

e. *Name of Project:* Broadwater Power Project.

f. *Location:* On the Missouri River, In Broadwater County, Montana.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. Walt Anderson, 48 North Last Chance Gulch, P.O. Box 201601, Helena, MT 59620–1601, Telephone: (406) 444–6646.

i. *FERC Contact:* Any questions on this notice should be addressed to Jake Tung at hong.tung@ferc.fed.us or 202–219–2663.

j. *Deadline for filing comments and/or motions:* February 15, 2000.

All documents (original and eight copies) should be filed by February 15, 2000, with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426.

Please include the project number (2853–058) on any comments or motions filed.

k. *Description of Filing:* State of Montana—Department of Natural Resources and Conservation, Licensee for the Broadwater Power project, proposes to construct a structural wall in the upstream reservoir between the turbine intake and the canal intake. The wall will begin at the upstream face of the dam and extend approximately 150 feet, with the centerline located about 50 feet from the right shoreline. The wall will be about 150 feet long, five-foot wide at top, and approximately 18 inches above the upstream normal reservoir operating level. The purpose of the wall structure is to separate the canal intake from the hydraulic influences of the turbine intake.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm, (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item "h" above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filling comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–1275 Filed 1–19–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6526–9]

Adequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes; Pennsylvania; SIP for Rate of Progress and for Attainment of the NAAQS for Ozone of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Adequacy Status.

SUMMARY: EPA is announcing that the attainment motor vehicle emissions budgets (hereafter referred to as "budgets") contained in the State Implementation Plan (SIP) for the Attainment of the NAAQS for Ozone Meeting the Requirements of the Alternative Ozone Attainment Demonstration Policy—Phase II for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area, submitted on April 30, 1998, are not adequate for transportation conformity purposes. We are concurrently announcing that the Rate of Progress (ROP) motor vehicle emission budgets contained in this same SIP submittal are adequate for transportation conformity purposes. On November 16, 1999, EPA announced the same decision in a **Federal Register** publication entitled "Adequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes: State Implementation Plan for Attainment and Maintenance of the NAAQS for Ozone—Southeastern Pennsylvania." We are, therefore, also announcing that in a letter to the Commonwealth of Pennsylvania dated December 22, 1999, we withdrew our findings regarding the adequacy of these budgets originally made in an October 26, 1999 letter and announced in the **Federal Register** on November 16, 1999. In the same December 22, letter, we made new findings regarding the adequacy of these budgets. Therefore, this announcement regarding the findings made on December 22, 1999 supersedes and renders moot the announcement published on November 16, 1999 regarding the findings made on October 26, 1999.

DATES: These findings regarding the adequacy of the budgets, made in a letter dated December 22, 1999 to the Commonwealth of Pennsylvania, are effective on February 4, 2000.

FOR FURTHER INFORMATION CONTACT: Larry Budney, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103 at (215) 814–2184 or by e-mail at: budney.larry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document the terms "we," "us," or "our" refer to EPA. The word "budgets" refers to the motor vehicle emission budgets for volatile organic compounds (VOCs) and nitrogen oxides (NO_x). The word "SIP" in this document refers to the Phase II State Implementation Plan submitted by the Commonwealth of Pennsylvania on April 30, 1998. This plan was submitted to demonstrate ROP in the Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area and to demonstrate attainment of the one-hour National Ambient Air Quality Standard (NAAQS) for ozone throughout the nonattainment area.

On March 2, 1999, the D.C. Circuit Court ruled that the budgets contained in submitted SIPs cannot be used for transportation conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, the attainment budgets contained in the submitted Phase II Ozone Attainment Plan may not be used for future conformity determinations, but the ROP motor vehicle emission budgets contained in the same submittal may be used for future conformity determinations in the Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area.

On April 30, 1998, the Pennsylvania Department of Environmental Protection (PADEP) submitted its State Implementation Plan for the Attainment and Maintenance of the NAAQS for Ozone Meeting the Requirements of the Alternative Ozone Attainment Demonstration Policy—Phase II. The SIP contained mobile source vehicle emissions budgets both for ROP and for attainment. On August 2, 1999, the availability of the SIP and the motor vehicle emission budgets was posted on EPA's conformity WEB site for the purpose of soliciting public comment. The comment period closed on August 31, 1999, and no comments were received.

On October 26, 1999, we sent a letter to the Commonwealth of Pennsylvania which constituted final Agency actions on the adequacy of the budgets contained in the Phase II SIP submitted by Pennsylvania on April 30, 1998. Those actions were EPA's findings that the attainment budgets were not adequate and that the ROP budgets were adequate. On November 16, 1999, we published our findings that the attainment budgets were not adequate and that the ROP budgets were adequate in a **Federal Register** announcement entitled "Adequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes: State Implementation Plan for Attainment and Maintenance of the NAAQS for Ozone—Southeastern Pennsylvania" (64 FR 62198). As indicated in that notice, the effective date of the Agency's October 26, 1999 findings was December 1, 1999.

In a Notice of Proposed Rulemaking (NPR) published on December 16, 1999 (64 FR 70428), we proposed that additional measures are needed to support the attainment test for the Philadelphia-Wilmington-Trenton ozone nonattainment area. Pennsylvania has raised concerns that the text found in the NPR at section II.B.3, entitled Motor Vehicle Emissions Budget, may be interpreted to conclude that EPA took final Agency action in its October 26, 1999 letter to determine that additional measures to reduce emissions are required in the Philadelphia-Wilmington-Trenton area to support the attainment test. This is not the case. The action published by EPA on December 16, 1999 regarding the attainment demonstration contained in the Phase II SIP submitted by the Commonwealth on April 30, 1998 and supplemented on August 21, 1998, is a *proposed* action. EPA has invited comment on all matters raised in the NPR, including the need for additional measures.

We wished to clarify its intent and to address the Commonwealth's concerns. Therefore, in a letter to the Commonwealth dated December 22, 1999, we withdrew the October 26, 1999 final actions as to the adequacy of the motor vehicle emission budgets submitted by the Commonwealth in its April 30, 1998 Phase II SIP for the Philadelphia-Wilmington-Trenton nonattainment area. In the same December 22, 1999 letter, we took Agency actions on the adequacy of the budgets in Pennsylvania's Phase II SIP by finding that the attainment budgets

were not adequate and that the ROP budgets were adequate. The December 22, 1999 letter also clearly indicated that it superseded any final actions which had occurred on October 26, 1999, and that the withdrawal of the findings made on October 26, 1999 was effective immediately (December 22, 1999).

As stated above, on December 22, 1999, we informed the Commonwealth of our finding that the motor vehicle emission budgets in the Phase II SIP submitted by the Commonwealth are not adequate for the purposes of transportation conformity. Among other things, the attainment budgets, when considered together with all other emission reductions, must be consistent with applicable requirements for attainment as required in 40 CFR Part 93, § 93.118(e)(4)(iv). In making our finding that the attainment budgets are not adequate, we have preliminarily determined that the submitted Phase II attainment SIP does not fully provide for attainment. This preliminary determination is not a final agency action and is rather one of the issues in our December 16, 1999 Notice of Proposed Rulemaking (64 FR 70428).

On December 22, 1999, we also informed the Commonwealth that we found the motor vehicle emission budgets in the 1999, 2002, and 2005 ROP plan adequate since they met the review criteria in 40 CFR Part 93, § 93.118(e)(4)(i) through (e)(4)(vi) of the conformity rule.

This is an announcement of adequacy findings that we already made on December 22, 1999. The effective date of these findings is February 4, 2000. These findings will also be announced on EPA's website: *http://www.epa.gov/oms/traq* (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity"). Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

The criteria by which we determine whether a SIP's budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy finding is separate from EPA's completeness finding, and separate from EPA's finding whether or not the SIP is approvable. Even if we find a budget adequate, the SIP could later be disapproved. We described our process for determining the adequacy of submitted SIP budgets in a guidance memorandum dated May 14, 1999 titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision". We followed this guidance in making our adequacy findings for the budgets contained in the "SIP for Rate of Progress Emission Reductions and for Attainment of the NAAQS for Ozone Meeting the Requirements of the Alternative Ozone Attainment Demonstration Policy—Phase II" submitted on April 30, 1998 by PADEP. You may obtain a copy of this guidance from EPA's conformity web site referred to above or by calling the contact name listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 10, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–1362 Filed 1–19–00; 8:45 am]

BILLIING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6526–7]

Contractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following contractor and subcontractors for access to information that has been, or will be, submitted to EPA under sections 108–112, 114, 129 and 183 of the Clean Air Act (CAA) as amended: Research Triangle Institute, 3040 Cornwallis Road, Research Triangle Park, North Carolina 27709; Pechan-Avanti Group, 5537–C Hempstead Way, Springfield, Virginia 22151; Stratus Consulting, Inc., Suite 201, 1881 Ninth Street, Boulder, Colorado 80302; Mathtech, Inc., Suite 111, 202 Carnegie Center, Princeton, New Jersey 08540; The Kevric Company, Inc., Suite 610, 8401 Colesville Road, Silver Spring, Maryland 20910 under contract number 68–D–99–024.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA under the CAA will occur no sooner than 10 days after issuance of this notice.

FOR FURTHER INFORMATION CONTACT: Melva Toomer, Document Control Officer, Office of Air Quality Planning and Standards (MD–11), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–0880.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under sections 108–112, 114, 129 and 183 of the CAA that EPA may provide the above mentioned contractor and subcontractors access to these materials on a need-to-know basis. This contractor and subcontractors will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in the analyses of cost and benefits of actual or potential EPA action taken under the CAA.

In accordance with 40 CFR, part 2. subparts B and other EPA regulations and policies, EPA has determined that this contractor and subcontractors require access to CBI, submitted to EPA under sections 108–112, 114, 129 and 183 of the CAA, in order to perform work satisfactorily under the above noted contract. The contractor and subcontractor personnel will be given access to information submitted under the above mentioned section of the CAA. Some of the information may be claimed or determined to be CBI. The contractor and subcontractor personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CAA CBI. All access to CAA CBI will take place at the prime contractor's facility. This prime contractor has appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor has access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 2004 under contract 68–D–99–024.

Dated: January 11, 2000.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 00–1363 Filed 1–19–00; 8:45 am]

BILLIING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34217; FRL–6489–2]

Acephate, Disulfoton, and Methamidophos, Revised Pesticide Risk Assessment; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a public meeting to present the revised risk assessments for three organophosphate pesticides: Acephate, disulfoton, and methamidophos, to interested stakeholders. This public meeting, called a "Technical Briefing," will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessments for acephate, disulfoton, and methamidophos. In addition, representatives of the U.S. Department of Agriculture (USDA) will also provide ideas on possible risk management for acephate, disulfoton, and methamidophos.

DATES: The technical briefing will be held on Thursday, February 3, 2000. The disulfoton technical briefing is scheduled from 9:30 a.m. to 11:30 a.m., and the acephate and methamidophos (concurrent) technical briefing is scheduled from 1 p.m to 3 p.m.

ADDRESSES: The technical briefing will be held at the Radisson Hotel, 901 North Fairfax St., Alexandria, VA, (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: By mail: Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphate pesticides, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/. In addition, brief summaries of the acephate, disulfoton, and methamidophos revised risk assessments are now available at http://www.epa.gov/pesticides/op/status.htm/, as well as in paper as part of the public version of the official record as described in Unit I.B.2.

2. *In person.* The Agency has established an official record for the organophosphate pesticides: Acephate, disulfoton, and methamidophos under docket control numbers OPP–34164A for acephate, OPP–34165A for disulfoton, and OPP–34166A for methamidophos. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticides: Acephate, disulfoton, and methamidophos. The Agency is presenting the revised risk assessments for acephate, disulfoton, and methamidophos to interested stakeholders. This technical briefing is designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessments: Including the major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessment affected the revised risk assessment; and the pesticide use information/data that was used in developing the revised risk assessment. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management.

The technical briefing is part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

The Agency will issue a **Federal Register** notice to provide an opportunity for public viewing of the acephate, disulfoton, and methamidophos revised risk assessments and related documents to the Public Information and Records Integrity Branch and the OPP Internet web site that are described in Unit I.B.1, and to provide an opportunity for a 60-day public participation period during which the public may submit risk management and mitigation ideas, and recommendations and proposals for transition.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 13, 2000.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–1365 Filed 1–19–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

FRL–6526–4]

Proposed CERCLA Administrative Cashout Settlement; Globaltex, LLC, d/b/a Bates of Maine, Bates Mill Superfund Site, Lewiston, Maine

AGENCY: Environmental Protection Aency.

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Bates Mill Superfund Site in Lewiston, Maine with the following settling party: Globaltex, LLC, d/b/a Bates of Maine. The settlement requires the settling party to pay $10,000 to the Hazardous Substance Superfund plus an additional sum for interest on that amount calculated from April 29, 1999 through the date of payment. The settlement includes a covenant not to sue the settling party pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214–2023.

DATES: Comments must be submitted on or before February 22, 2000.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02203 and should refer to: In re: Bates Mill Superfund Site, U.S. EPA Docket No. I–99–0044.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Kathleen Woodward, U.S. Environmental Protection Agency, Region I, Office of Environmental Stewardship, One Congress Street, Suite 1100, Mailcode SES, Boston, MA 02114–2023.

Dated: December 15, 1999.

Dennis Huebner,

Acting Director. Office of Site Remediation & Restoration.

[FR Doc. 00–1209 Filed 1–19–00; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 11, 2000.

SUMMARY: The Federal Communications Commission, 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 information collection(s), 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 Commission's burden estimate; (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 March 20, 2000. 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 Les Smith, Federal Communications Commission, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0602.
Title: Notification of Certification Withdrawal—Section 76.917.
Form Number: None.
Type of Review: Extension of a currently approved collection.
Respondents: State, Local or Tribal Government.
Number of Respondents: 25.
Estimated Time Per Response: .5 hour.
Frequency of Response: One time.
Total Annual Burden: 13 hours.
Total Annual Costs: $25.
Needs and Uses: The notifications are used by the Commission to readily determine the extent of basic service tier ("BST") rate regulation of cable systems and to be aware of circumstances where certified local franchising authorities no longer intend to regulate BST cable rates.

OMB Control Number: 3060–0055.
Title: FCC Form 327, Application for Cable Television Relay Service Station Authorization.
Form Number: FCC Form 327.
Type of Review: Extension of a currently approved collection.
Respondents: Business and other for-profit entities; Individuals or households; State, local or tribal governments.
Number of Respondents: 973.
Estimated Time Per Response: 3.166 hours.
Frequency of Response: On occasion filing requirement.
Total Annual Burden: 3,081 hours.
Total Annual Costs: $184,870.
Needs and Uses: FCC Form 394 is used by cable television system owners or operators and MMDS operators to apply for cable television relay service station authorizations. Applicant information is used by Commission staff to determine whether applicants meet basic statutory requirements and are qualified to become or continue as Commission licensees.

OMB Control Number: 3060–0514.
Title: Section 43.21(b) Holding Company Annual Report.
Form Number: N/A.
Type of Review: Extension.
Respondents: Business or other for profit.
Number of Respondents: 20.
Estimated time Per Response: 1 hour.
Total Annual Burden: 20 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: Annually.
Needs and Uses: Each company, not itself a communications common

carrier, that directly or indirectly controls any communication common carrier having annual revenues of $100 million or more must file annually with the FCC, not later than the date prescribed by SEC for its purposes two complete copies of any form 10–K annual report. Filing of SEC Form 10–K is required by Sections 1.785 and 43.21(b) of the FCC Rules and authorized by Section 219 of the Communications Act of 1934, as amended. The information is used by staff members to regulate and monitor the telephone industry and by the public to analyze the industry.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–1331 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested

January 11, 2000.

SUMMARY: The Federal Communications Commission, 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 information collection, 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 Commission's burden estimate; (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 March 20, 2000. 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 Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0568.

Title: Commercial Leased Access Rates, Terms and Conditions.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: Rule 76.970, 6,270; Rule 76.970(h), 6,270; Rule 76.971, 6,270; Rule 76.975(b), 30; Rule 76.975(c), 30, respectively.

Estimated Time Per Response: 4 hours; 10 hours; 1 hour; 4 hours; and 2 minutes, respectively.

Frequency of Response: Recordkeeping and Third Party Disclosure requirements.

Total Annual Burden: 94,171 hours.

Total Annual Costs: $74,000.

Needs and Uses: The information is used by prospective leased access programmers and the Commission to verify rate calculations for leased access channels and to eliminate uncertainty in negotiations for leased commercial access. The Commission's leased access requirements are designed to promote diversity of programming and competition in programming delivery as required by Section 612 of the Cable Television Consumer Protection and Competition Act of 1992.

OMB Control Number: 3060–0410.

Title: Forecast of Investment Usage Report and Actual Usage of Investment Report.

Form Number: FCC 495A and FCC 495B.

Type of Review: Extension.

Respondents: Business or other for profit.

Number of Respondents: 300.

Estimated Time Per Response: 40 hours.

Total Annual Burden: 12000 Hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annually.

Needs and Uses: The Forecast of Investment Usage and Actual Usage of Investment Reports are needed to detect and correct forecast errors that could lead to significant misallocation of network plant between regulated and nonregulated activities. FCC's purpose is to protect the regulated ratepayer from subsidizing the nonregulated activities of rate regulated telephone companies.

OMB Control Number: 3060–0056.

Title: Registration of Telephone and Data Terminal Equipment.

Form No.: FCC Form 730.

Type of Review: Extension.

Respondents: Business or other for profit.

Number of Respondents: 2400.

Estimated Time Per Response: 24 hours.

Total Annual Burden: 57,600 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $2,700,000.

Frequency of Response: On occasion.

Needs and Uses: FCC Form 730 is used by equipment manufacturers to register telephone and data terminal equipment. Part 68 contains information collection requirements associated with the filing requirement. The information is used by the Commission staff to identify improperly designed equipment that may harm the nation's telephone network.

OMB Control Number: 3060–0755.

Title: Infrastructure Sharing—CC Docket No. 96–237.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for profit.

Number of Respondents: 1425.

Estimated Time Per Response: 1.63 hours.

Total Annual burden: 2325 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third party disclosure.

Needs and Uses: CC Docket No. 96–237 implemented section 259 of the Communications Act, as amended. Section 259 requires incumbent local exchange carriers (LECs) to file any arrangements showing the conditions under which they share infrastructure per section 259. Section 259 also requires incumbent LECs to provide information on deployments of new services and equipment to qualifying carriers. The Commission also requires incumbent LECs to provide 60 days notice prior to terminating section 259 agreements.

OMB Control Number: 3060–0738.

Title: Implementation of the Telecommunications Act of 1996: Electronic Publishing, and Alarm Monitoring Services, CC Docket No. 96–152.

Form Number: N/A.

Type of Review: Extension.
Respondents: Business or other for profit.
Number of Respondents: 7.
Estimated Time Per Response: 3000 hours.
Total Annual Burden: 21,000 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: Third party disclosure.
Needs and Uses: The Commission imposes this third-party disclosure requirement on the BOCs in order to implement the nondiscrimination requirement of section 274(c)(2)(A) of the Communications Act, as amended. The Commission requires that to the extent a BOC refers a customer to a separated affiliate, electronic publishing joint venture of affiliate during the normal course of its telemarketing operations, it must refer that customer to all unaffiliated electronic publishers requesting the referral service. In particular, the BOC must provide the customer the names of all unaffiliated electronic publishers, in random order.

OMB Control Number: 3060–0759.
Title: Implementation of Section 273 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996.
Form Number: N/A.
Type of Review: Extension.
Respondents: Business or other for profit.
Number of Respondents: 1425.
Estimated Time Per Response: 4.42 hours (avg.).
Total Annual Burden: 6300 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $231,000.
Frequency of Response: On occasion; recordkeeping; third party disclosure.
Needs and Uses: In CC Docket No. 96–254, the Commission issued a NPRM to initiate a proceeding to permit the BOCs to manufacture telecommunications and customer premises equipment on a competitive basis, pursuant to section 273 of the Communications Act of 1934, as amended. Under section 273, a BOC may provide telecommunications equipment and may manufacture both telecommunications equipment and CPE through a separate affiliate once the Commission authorizes the BOC to provide in-region, interLATA services pursuant to section 271. The Commission sought comment on procedures governing collaboration, research and royalty agreements, reporting of protocols and technical information, and disclosure of other information on network planning and design. The Commission sought comment on proposed measures to implement section 273.

OMB Control Number: 3060–0806.
Title: Universal Service—Schools and Libraries Universal Service Program.
Form Number: FCC Form 470 and FCC Form 471.
Type of Review: Extension.
Respondents: Business or other for profit; not for profit institutions; state, local or tribal government.
Number of Respondents: 60,000.
Estimated time Per Response: 7.3 hours (avg.).
Total Annual burden: 440,000 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: On occasion; recordkeeping; third party disclosure.
Needs and Uses: The Commission adopted rules providing support for all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit a description of the services desired to the Administrator via FCC form 470. FCC Form 471 is submitted by schools and libraries that have ordered telecommunications services, Internet access, and internal connections.

OMB Control Number: 3060–0775.
Title: Separate Affiliate Requirement for Independent Local Exchange Carrier (LEC) Provision of International Interexchange Services—47 CFR 64.1901–64.1903.
Form Number: N/A.
Type of Review: Extension.
Respondents: Business or other for profit.
Number of Respondents: 10.
Estimated Time Per Response: 6056 hours (avg).
Total Annual Burden: 60,560 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $1,003,000.
Frequency of Response: Recordkeeping.
Needs and Uses: Independent LECs wishing to offer international, interexchange services must maintain books of account separate from such LECs' local exchange and other activities. This regulation does not require that the affiliate maintain books of account that comply with the Commission's Part 32 rules; rather, it refers to the fact that as a separate legal entity, the international. interexchange affiliate must maintain its own books of account in the ordinary course of its business. The recordkeeping requirement is used by the Commission to ensure that independent LECs providing international, interexchange services through a separate affiliate are in compliance with the Communications Act, as amended and with Commission policies and regulations.

OMB Control Number: 3060–0710.
Title: Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Docket No. 96–98.
Form Number: N/A.
Type of Review: Extension.
Respondents: Business or other for profit.
Number of Respondents: 12,250.
Estimated Time Per Response: 124.86 hours (avg.).
Total Annual Burden: 1,529,620 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $937,000,000.
Frequency of Response: On occasion; Recordkeeping; Third party disclosure.
Needs and Uses: In CC Docket No. 96–98, the Commission adopted rules and regulations to implement parts of sections 251 and 252 that effect local competition. Specifically, the Order requires incumbent local exchange carriers to offer interconnection, unbundled network elements, transport and termination, and wholesale rates for retail services to new entrants; that incumbent LECs price such services at rates that are cost-based and just and reasonable; and that they provide access to rights-of-way as well as establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic. All the requirements are used to ensure that local exchange carriers comply with their obligations under the Communications Act of 1934, as amended.

OMB Control Number: 3060–0762.
Title: Section 274(b)(3)(B)—Written Contracts Filed with the Commission and Made Publicly Available.
Form Number: N/A.
Type of Review: Extension.
Respondents: Business or other for profit.
Number of Respondents: 4200.
Estimated Time Per Response: .75 hours (avg.).
Total Annual Burden: 3150 hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: On occasion; third party disclosure.
Needs and Uses: Section 274(b)(3)(B) of the Communications Act of 1934, as amended, requires a separated affiliate or electronic publishing joint venture established pursuant to section 274(a) and its affiliated BOC "to carry out

transactions * * * pursuant to written contracts or tariffs that are filed with the Commission and made publicly available." The Commission issued a FNPRM in CC Docket No. 96–152 which sought comment on the meaning of certain terms in section 274 of the Telecommunications Act of 1996 which governs BOCs provision of electronic publishing services and on several collections.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–1333 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

January 11, 2000.

SUMMARY: The Federal Communications Commission, 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 information collection(s), 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 Commission's burden estimate; (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 March 20, 2000. 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 Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Section 325(e) of the Communications Act, 47 U.S.C. Sec. 325(e), as added by Public Law 106–133, 113 Stat. 1501, Appendix I (1999), Section 1000(9) of the Satellite Home Viewer Improvement Act of 1999, as implemented by 47 CFR Section 1.6000, *et seq.*

Form No.: Not applicable.

Type of Review: New collection.

Respondents: Business or other for-profit

Number of Respondents: 8. Estimate 12 complaints per year per carrier.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 192 hours.

Total Annual Cost: N/A.

Needs and Uses: This information collection is mandated under Section 325(e) of the Communications Act, 47 U.S.C. Sec. 325(e), as added by Public Law 106–133, 113 Stat. 1501, Appendix I (1999), Section 1000(9) of the Satellite Home Viewer Improvement Act of 1999, and as implemented by 47 CFR 1.6000 *et seq.*

Specifically, Section 1.6010 requires satellite carriers that have been found by the Commission to have violated the retransmission consent rule to report the remedial measures they have taken to achieve rule compliance.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–1334 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

January 10, 2000.

SUMMARY: The Federal Communications Commission, 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 information collection(s), 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 Commission's burden estimate; (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 March 20, 2000. 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 Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: *OMB Control No.:* 3060–0715.

Title: Implementation of the Telecommunications Act of 1996: Telecommunications Carrier's Use of Customer Proprietary Network Information and Other Customer Information—CC Docket No. 96–115.

Form No.: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 6,832.

Estimated Time Per Response: .25 to 78 hours.

Frequency of Response: Recordkeeping, requirement, third party disclosure requirement, on occasion reporting requirement, annual reporting requirement, and one-time reporting requirement.

Total Annual Burden: 616,817 hours.

Total Annual Cost: $229,520,000.

Needs and Uses: In the Order on Reconsideration in CC Docket No. 96–

115, the Commission reconsidered the previous CPNI Order, addressed petitions for forbearance from the requirements, and established rules to implement section 222 of the Telecommunications Act of 1996.

Among other things, carriers are permitted to use CPNI, without customer approval, under certain conditions. Carriers must obtain express customer approval to use CPNI to market service outside the customer's existing service relationship. Carrier must provide a one-time notification of customer's CPNI rights prior to any solicitation for approval.

All of the collections, adopted and proposed, would be used to ensure that telecommunications carriers comply with the CPNI requirements the Commission promulgates in this Order to implement section 222 of the statute.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–1335 Filed 1–19–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting, Thursday, January 20, 2000

January 13, 2000.

The Federal Communications Commission will hold an Open Meeting on the subject listed below on Thursday, January 20, 2000, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, S.W., Washington, D.C.

Item No., Bureau, and Subject

1—Mass Media—Title: Creation of Low Power Radio Service (MM Docket No. 99–25, RM's—9208 and 9242). Summary: The Commission will consider further action regarding the establishment of a low power FM radio service.

2—Mass Media—Title: Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies (MM Docket No. 98–204): and Termination of the EEO Streamlining Proceeding (MM Docket No. 96–16). Summary: The Commission will consider further action regarding equal employment opportunity rules and policies for broadcasters and cable entities, including multichannel video programming distributors.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY (202) 418–2555.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800; fax (202) 857–3805 and 857–3184; or TTY (202) 293–8810. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its_inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–1464 Filed 1–18–00; 11:33 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Tuesday, January 25, 2000 at 10 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, January 27, 2000 at 10 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Advisory Opinion 1999–32: Tohono O'odham Nation by counsel, William C. Oldaker

Advisory Opinion 1999–33: MediaOne PAC by Rahn Porter, treasurer

Legislative Recommendations 2000

1996 Democratic National Convention Committee, Inc.—Administrative Review of Repayment Determination (LRA#471)

1996 Committee on Arrangements for the Republican National Convention—Statement of Reasons (LRA#472)

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 00–1458 Filed 1–18–00; 11:02 am]

BILLING CODE 6715–01–M

FEDERAL ELECTION COMMISSION

[Notice 2000 2]

Schedule of Matching Fund Submission Dates and Submission Dates for Statements of Net Outstanding Campaign Obligations (NOCO) for 2000 Presidential Candidates Post Date of Ineligibility

AGENCY: Federal Election Commission.

ACTION: Notice of matching fund submission dates and submission dates for statements of net outstanding campaign obligations for 2000 Presidential candidates post Date of Ineligibility.

SUMMARY: The Federal Election Commission is publishing matching fund submission dates for publicly funded 2000 Presidential primary candidates. Eligible candidates may present one submission and/or resubmission per month on the designated date. Payments will be made by the U. S. Treasury to the candidate generally within 48 hours after certification by the Commission. Also being published are submission dates for statements of net outstanding campaign obligations ("NOCO statements") which are required to be submitted by publicly funded 2000 Presidential primary candidates following their date of ineligibility ("DOI"). Candidates are required to submit a NOCO statement prior to each regularly scheduled date on which they receive federal matching funds, on dates to be determined by the Commission.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Lisi, Audit Division, 999 E Street, NW, Washington, DC 20463, (202) 694–1200 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Matching Fund Submissions

Presidential candidates eligible to receive federal matching funds may present submissions and/or resubmissions to the Federal Election Commission once a month on designated submission dates. The Commission will review the submissions/resubmissions and forward a certification for payment to the Secretary of Treasury. Since no payments can be made during 1999, all submissions received during 1999 will be certified in late December 1999, for payment on January 3, 2000. 11 CFR 9036.2(c). During 2000 and 2001, certifications and payments will be made on a monthly basis. The last date a candidate may make a submission is March 5, 2001.

The submission dates specified in the following list pertain to non-threshold matching fund submissions and resubmissions *after the candidate establishes eligibility*. The threshold submission on which that eligibility will be determined may be filed at any time and will be processed within fifteen business days unless review of the threshold submission determines that eligibility has not been met.

NOCO Submissions

Under 11 CFR 9034.5, a candidate who receives federal matching funds must submit a NOCO statement to the Commission within 15 calendar days after the candidate's date of ineligibility, as determined under 11 CFR 9033.5. The candidate's net outstanding campaign obligations is equal to the difference between the total of all outstanding obligations for qualified campaign expenses plus estimated necessary winding down costs less cash on hand, the fair market value of capital assets, and accounts receivable. 11 CFR 9034.5(a). Candidates will be notified of their DOI by the Commission.

Candidates who have net outstanding campaign obligations post-DOI may continue to submit matching payment requests as long as the candidate certifies that the remaining net outstanding campaign obligations equal or exceed the amount submitted for matching. 11 CFR 9034.5(f)(1). If the candidate so certifies, the Commission will process the request and certify the appropriate amount of matching funds.

Candidates must also file revised NOCO statements in connection with each matching fund request submitted after the candidate's DOI. These statements are due just before the next regularly scheduled payment date, on a date to be determined by the Commission. They must reflect the financial status of the campaign as of the close of business three business days before the due date of the statement and must also contain a brief explanation of each change in the committee's assets and obligations from the most recent NOCO statement. 11 CFR 9034.5(f)(2).

The Commission will review the revised NOCO statement and adjust the committee's certification to reflect any change in the committee's financial position that occurs after submission of the matching payment request and the date of the revised NOCO statement.

The following schedule includes both matching fund submission dates and submission dates for revised NOCO statements.

SCHEDULE OF MATCHING FUND SUBMISSION DATES AND SUBMISSION DATES FOR STATEMENTS OF NET OUTSTANDING CAMPAIGN OBLIGATIONS (NOCO) FOR 2000 PRESIDENTIAL CANDIDATES

Submission dates	NOCO Submission Dates
01/03/00	01/21/00
02/01/00	02/21/00
03/01/00	03/23/00
04/03/00	04/21/00
05/01/00	05/23/00
06/01/00	06/23/00
07/03/00	07/21/00
08/01/00	08/23/00
09/01/00	09/22/99
10/02/00	10/24/00
11/01/00	11/21/00
12/01/00	12/21/00
01/02/01	01/23/01
02/01/01	02/20/01
03/05/01	03/23/01

Dated: January 14, 2000.

Darryl R. Wold,

Chairman, Federal Election Commission.

[FR Doc. 00–1371 Filed 1–19–00; 8:45 am]

BILLIING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011686.

Title: Cooperative Service Contract Agreement.

Parties: Australian-New Zealand Direct Line Lykes Lines Limited, LLC.

Synopsis: The proposed agreement authorizes the parties to negotiate, enter into, and participate in joint service contracts with shippers in the trades between the United States and ports and points worldwide. The parties request expedited review.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–1396 Filed 1–19–00; 8:45 am]

BILLIING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Ocean Transportation Intermediary License No. 16211N]

Global Shipping, Inc.; Order of Revocation

Section 19(b) of the Shipping Act of 1984, as amended, provides that the Federal Maritime Commission ("Commission") may revoke any Ocean Transportation Intermediary ("OTI") license for failure of a licensee to maintain valid proof of financial responsibility on file with the Commission. The Commission's implementing regulations, 46 CFR 515.16(a), provide for such revocation effective as of the termination date of the proof of financial responsibility, unless the licensee shall have submitted a valid replacement before such termination date.

The surety bond issued in favor of Global Shipping, Inc., Parkway One, Suite 201, 2697 International Parkway, Virginia Beach, VA 23452, was cancelled effective December 9, 1999. On November 23, 1999, the licensee was advised that it is prohibited from providing transportation by water as an NVOCC in the foreign commerce of the United States unless the Commission received a valid replacement proof of financial responsibility with an effective date on or before December 9, 1999. The licensee has failed to provide such a replacement.

Therefore, By virtue of the authority vested in me by the Commission as set forth in 46 CFR 501.27(g)(1998);

Notice is hereby given, That the OTI license issued to Global Shipping, Inc.

is hereby revoked effective December 9, 1999.

It is ordered, That the above OTI license be returned to the Commission for cancellation.

It is further ordered, That a notice of this action be published in the **Federal Register** and a copy of this Order be served upon Global Shipping, Inc.

Austin L. Schmitt,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 00–1394 Filed 1–19–00; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

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.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Trans-World Freight Systems Inc., 10505 N.W. 27th Street, Miami, FL 33172. Officers: Jorge L. Loy, Vice President (Qualifying Individual), Guillermo Roldan, President.

Cargomania International, Inc., 161–15 Rockaway Blvd., Suite 102, Jamaica, NY 11434. Officer: Ki Bok Sung, President (Qualifying Individual).

Yatari Express Int'l Inc., 939 S. Atlantic Blvd., Suite 212, Monterey Park, CA 91754. Officer: Ing-Jy Chen, Secretary (Qualifying Individual), Kuang-I Kuo, President.

Masters Freight Line, Inc., 118 E. Savarona Way, Carson, CA 90746. Officer: Young Rok Choi, President (Qualifying Individual).

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants:

CDC Worldwide, Inc., 3505 Cadillac Avenue, Bldg. G, Suite 107–A, Costa Mesa, CA 92626. Officer: Costa Da Costa, President (Qualifying Individual).

Kalem Freight Forwarding, Inc., 10505 N.W. 27th Street, Unit 2, Miami, FL 33172. Officers: Jorge L. Loy, President (Qualifying Individual), Roberto Malca, Vice President.

Southwest Visions, LLC d/b/a Trade Visions International, 1799 Euclid Avenue, No. 12, Berkeley, CA 94709. Officers: Ikuko H. Corbett, Manager (Qualifying Individual), Miyako Baizer, Member.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–1397 Filed 1–19–00; 8:45 am]

BILLIING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Ocean Transportation Intermediary License No. 15099N]

World Line Shipping, Inc.; Order of Revocation

Section 19(b) of the Shipping Act of 1984, as amended, provides that the Federal Maritime Commission ("Commission") may revoke any Ocean Transportation Intermediary ("OTI") license for failure of a licensee to maintain valid proof of financial responsibility on file with the Commission. The Commission's implementing regulations, 46 C.F.R. § 515.16(a), provide for such revocation effective as of the termination date of the proof of financial responsibility, unless the licensee shall have submitted a valid replacement before such termination date.

The surety bond issued in favor of World Line Shipping, Inc., 20003 Rancho Way, Rancho Dominguez, CA 90220 was cancelled effective October 21, 1999. On September 22, 1999, the licensee was advised that it is prohibited from providing transportation by water as an NVOCC in the foreign commerce of the United States unless the Commission received a valid replacement proof of financial responsibility with an effective date on or before October 21, 1999. The licensee has failed to provide such a replacement.

Therefore, By virtue of the authority vested in me by the Commission as set forth in 46 C.F.R. § 501.27(g) (1998);

Notice is hereby given, That the provisional OTI license issued to World Line Shipping, Inc. is hereby revoked effective October 21, 1999.

It is further ordered, That a notice of this action be published in the **Federal Register** and a copy of this Order be served upon World Line Shipping, Inc.

Austin L. Schmitt,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 00–1395 Filed 1–19–00; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 11, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision), 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Three Rivers Bancorp, Inc., Monroeville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Three Rivers Bank and Trust Company, Monroeville, Pennsylvania.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Commonwealth Bancshares, Inc., Shelbyville, Kentucky; to merge with

Commonwealth Financial Corporation, Louisville, Kentucky, and thereby indirectly acquire Commonwealth Bank & Trust Company, Middletown, Kentucky.

Board of Governors of the Federal Reserve System, January 13, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–1272 Filed 1–19–00; 8:45 am]

BILLING CODE 6210–01–P

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, January 24, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals concerning renovation of a Federal Reserve Bank building.
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: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: January 14, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–1400 Filed 1–14–00; 4:18 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Advisory Committee on Online Access and Security

AGENCY: Federal Trade Commission.

ACTION: Notice of meeting on February 4, 2000.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. § 10(a)(2), and 16 C.F.R. § 16.9(a), notice is hereby given that the Federal Trade Commission Advisory Committee on Online Access and Security will hold a meeting on Friday, February 4, 2000, from 9:00 a.m. to 1:30 p.m. in Room 432 in the headquarters of the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The meeting is open to the public and will include a period for public comment. The purpose of the Advisory Committee is to provide advice and recommendations to the Commission regarding implementation of certain fair information practices by domestic commercial Web sites—specifically, providing online consumers reasonable access to personal information collected from and about them, and maintaining adequate security for that information. Interested parties who wish to submit comments on the meeting agenda or questions for consideration by the Advisory Committee may file these documents before the meeting with the Secretary, Federal Trade Commission.

DATES: The Advisory Committee will meet on Friday, February 4, 2000, from 9:00 a.m. to 1:30 p.m.

ADDRESSES: The meeting will take place in Room 432, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Laura Mazzarella, Division of Financial Practices, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Mail Stop 4429, Washington, DC 20580, telephone (202) 326–3424, email lmazzarella@ftc.gov; or Hannah Stires, Division of Financial Practices, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Mail Stop 4429, Washington, DC 20580, telephone (202) 326–3178, email hstires@ftc.gov.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 41 *et seq.*; 5 U.S.C. App. sections 1–15; 16 C.F.R. Part 16.

The first meeting of the Federal Trade Commission Advisory Committee on Online Access and Security will be held on Friday, February 4, 2000, in Room 432, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. from 9:00 a.m. to 1:30 p.m.

The Advisory Committee will identify the costs and benefits, to both consumers and businesses, of implementing the fair information practices of access and security with respect to personal information collected for and about consumers online. The Advisory Committee will consider the parameters of reasonable access to personal information and adequate security and will present options for implementation of these information practices in a report to the Commission.

The tentative agenda for the first meeting is as follows:

1. Introduction and Opening Remarks
2. Administrative matters; designation of subcommittees on access and security
3. Preliminary discussion on "reasonable access"
4. Preliminary discussion on "adequate security"
5. Discussion on report to the Commission
6. Public Comment
7. Closing Remarks

The meeting is open to the public.

Submission of Documents

Parties interested in submitting comments concerning any matter to be considered at the meeting should send an original and two copies in advance of the meeting to the Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Comments and questions should be captioned "Advisory Committee on Online Access and Security—Comment, P004807." To enable prompt review and public access, paper submissions should be accompanied by a version on diskette in ASCII, WordPerfect (please specify version) or Microsoft Word (please specify version) format. Diskettes should be labeled with the name of the submitter, the Advisory Committee caption, and the name and version of the word processing program used to create the document. Alternatively, comments may be submitted to the following email address: advisory committee @ftc.gov. All comments will be posted on the Commission's Web site atwww.ftc.gov.

By direction of the Commission.

Donald S. Clark,

Secretary of the Commission.

[FR Doc. 00–1468 Filed 1–19–00; 8:45 am]

BILLIING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

Times and Dates: 8:30 a.m.–5 p.m., February 17, 2000. 8:30 a.m.–12 noon, February 18, 2000.

Place. Town and Country Inn Conference Center, 2008 Savannah Highway, Charleston, South Carolina 29407, telephone 843/571–1000, fax 843/766–9444.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for communities, American Indian Tribes, and labor to express concerns and provide advice to CDC and ATSDR.

Matters To Be Discussed: Agenda items include presentations from NCEH and ATSDR on updates regarding the progress of current studies.

All agenda items are subject to change as priorities dictate.

Contact Persons for Additional Information: Paul G. Renard, Executive Secretary, SRSHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, (E–39), Atlanta, Georgia 30333, telephone 404–639–2550, fax 404–639–2575.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: January 13, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–1289 Filed 1–19–00 8:45 am]

BILLIING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects

Title: April 2000 Current Population Survey Supplement on Child Support.

OMB No.: 0992–0003.

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals and Households.

Annual Burden Estimates:

Instrument	No. of respondents	No. of responses per respondent	Average burden hours per response	Total burden hours
Survey Supplement	47,000	1	.0241	1,136
Estimated Total Annual Burden Hours				1,136

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) the quality, utility, the clarity of information to be collected; and (d) ways to minimize the burden of the collection of the information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 13, 2000.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 00–1322 Filed 1–19–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00F–0119]

National Food Processors Association; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the National Food Processors Association has filed a petition proposing that the food additive regulations be amended to provide for the safe use of calcium disodium EDTA (ethylenediaminetetraacetate) or disodium EDTA to promote color retention for all edible types of cooked, canned legumes.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3072.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0A4709) has been filed by the National Food Processors Association, 1350 I St. NW., suite 300, Washington, DC 20005. The petition proposes to amend the food additive regulations in § 172.120 *Calcium disodium EDTA* (21 CFR 172.120) and § 172.135 *Disodium EDTA* (21 CFR 172.135) to provide for the safe use of calcium disodium EDTA or disodium EDTA to promote color retention for all edible types of cooked, canned legumes.

The agency has determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: January 5, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–1258 Filed 1–19–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–05]

Notice of Proposed Information Collection: Common Request; Monthly Report of Excess Income

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 20, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, DC 20410, telephone (202) 708–5221 (this is not a toll-free number) for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Multifamily Housing, Office of Business Products, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone number (202) 708–3291 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Monthly Report of Excess Income.

OMB Control Number, if applicable: 2502–0086.

Description of the need for the information and proposed use: Owners of Section 236-assisted projects complete form HUD–93104, Monthly Report of Excess Income, to compute any excess rents that are due HUD. The Department of Housing and Urban Development monitors the owners' submission requirements and checks to assure that required excess rents are remitted to HUD.

Agency form numbers, if applicable: HUD–93104.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 2,500, the frequency of responses is once a month (12), the estimated hours per response is 5 minutes, and the estimated annual hour burden is 2,400.

Status of the proposed information collection: Reinstatment with change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: January 12, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–1320 Filed 1–19–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–00–1220–XX: GPO–0080]

Notice of Meeting of the Oregon Trail Interpretive Center Advisory Board

AGENCY: National Historic Oregon Trail Interpretive Center, Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given that a meeting of the Advisory Board for the National Historic Oregon Trail Interpretive Center will be held on Thursday, January 20, 2000 from 8:00 a.m. to 10:00 a.m. at the National Historic Oregon Trail Interpretive Center, Baker City, Oregon. Public comments will be received from 9:45 a.m. to 10:00 a.m., January 20, 2000. The topics to be discussed are the Board's recommendations on the Vegetation Management Environmental Assessment for the National Historic Oregon Trail Interpretive at Flagstaff Hill.

DATES: The meeting will be from 8:00 a.m. to 10:00 a.m. January 20, 2000.

FOR FURTHER INFORMATION CONTACT: David B. Hunsaker, Bureau of Land Management, National Historic Oregon Trail, Interpretive Center, P.O. Box 987, Baker City, OR 97814, (Telephone 541–523–1845).

Richard T. Watts,

Vale ADM/Operations-Field Services.

[FR Doc. 00–1267 Filed 1–19–00; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–00–0777–XQ]

Notice of Meeting; Utah Resource Advisory Council

AGENCY: Bureau of Land Management.

ACTION: Notice of Meeting of the Utah Advisory Council.

SUMMARY: The Bureau of Land Management's Utah Statewide Resource Advisory Council meeting will be held on January 20–21, 2000, in Provo, Utah.

The purpose of this meeting is to provide the Council with an overview of Utah's recreation management program as well as developing guidelines for recreation management.

The meeting will be held at the Hampton Inn, (Sundance Room), 1511 South 40 East, Provo, Utah. It is scheduled to begin at 9 a.m. on January 20 and conclude at noon on January 21. A public comment period, where members of the public may address the Council, is scheduled from 12:30–1:00 p.m. on January 20. All meetings of the BLM's Resource Advisory Council are open to the public.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, 84111; phone (801) 539–4195.

Dated: January 10, 2000.

Sally Wisely,

Utah BLM State Director.

[FR Doc. 00–1291 Filed 1–19–00; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–00–1330–DB]

Kemmerer and Rock Springs Field Office Areas, Wyoming, Planning Review Concerning Proposed Closure to Oil and Gas Leasing in Trona Mining Areas to Protect Health and Safety

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to conduct a planning review and request for public participation concerning closing portions of the trona mining areas to oil and gas leasing for protection of health and safety, with potential to amend the Kemmerer and Green River (Rock Springs) Resource Management Plans (RMPs) to modify mineral management objectives.

SUMMARY: Notice is hereby given in accordance with 43 CFR 1610.2(C) that the Rock Springs and Kemmerer Field Offices of the Bureau of Land Management (BLM) are proposing to close the Special Sodium Drilling Area—A in southwest Wyoming to oil and gas leasing and coincidental development of oil and gas reserves on existing oil and gas leases to provide for the continued health and safety of underground miners. A planning review of existing land-use decisions would be conducted to evaluate how to best manage mineral resource and to provide for the recognized health and safety of underground miners. Any needed changes in existing management or any new management actions to be prescribed for the area will be identified and if necessary, the Kemmerer and Green River RMPs amended.

The Joint Industry Committee (JIC), representing trona, and oil and gas industry groups and interests, has worked for four years addressing issues on the complexities of coincidental development of underground trona and deep oil and gas within the Mechanical Mining Trona Area (MMTA). Technical studies and analysis with safety and economic comparisons show that the mineable trona within the MMTA should be completely extracted before development of deep natural gas resources. The JIC has recommended the following approach:

- Expand the MMTA boundary to include a one-mile lateral safety buffer, known as the Special Sodium Drilling Area-A (SSDA–A). The SSDA–A consists of 218,613 acres of Federal minerals managed by the BLM, 30,959 acres of State of Wyoming-owned mineral estate, and 223,873 acres of privately held minerals.
- Amend the RMPs to close the SSDA–A to oil and gas leasing and development of deep natural gas wells. Drilling of deep natural gas wells would be prohibited until completion of conventional underground trona mining and abandonment of the underground trona mines. Hydrocarbon resources in the MMTA would be conserved for future development.
- Adopt special rules for drilling operations, well completion, production, and abandonment of shallow natural gas wells within the SSDA–A. Shallow gas drilling could be allowed within the SSDA–A on existing oil and gas leases, subject to special rules currently under development.
- Outside of the SSDA–A but within the Known Sodium Leasing Area, allow oil and gas leasing, and drilling of deep natural gas wells utilizing the special rules for drilling operations, well completion, production, and abandonments procedures as adopted by the Wyoming Oil and Gas Conservation Commission (WOGCC) for the entire Special Sodium Drilling Area.

Closure to oil and gas leasing and development of the deep natural gas reserves within the SSDA–A and adoption of these recommendations is problematic due to existing federal and State of Wyoming oil and gas leases within the SSDA–A. These existing leases do not provide limitations on the depth of oil and gas drilling operations. The JIC and BLM have identified several options for addressing this problem:

1. Maintain the current suspension on existing oil and gas leases until conventional underground mining of trona has been completed and miners are no longer working underground.

2. Allow current suspensions to expire and place conditions of approval on applications to drill in order to prevent drilling of deep natural gas wells. Development of shallow natural gas wells may be allowed subject to special rules (once they are adopted by the WOGCC).

3. Existing Federal and State lessees could be given preferential right to trade oil and gas leases within the SSDA–A for other Federal or State leases of comparable value.

4. Purchase existing Federal and State oil and gas leases by one or more of the following:

(A) Give the leaseholder a royalty credit against future oil and gas production on other leases held by the lessee.

(B) Allocate a portion of future sodium royalties to purchase oil and gas leases from the lessee.

(C) Federal budget disbursement.

(D) Private agreements between trona producers and oil and gas lessees.

The BLM is seeking public comment on these options and asking the public for additional options that should be addressed in the environmental analysis for the land use plan amendments.

DATES: Send comments to Ted Murphy, Associate Field Manager for Lands and Minerals, BLM, Rock Springs Field Office, 307–352–0321. Comments are due March 3, 2000 and may be sent via regular mail to BLM, Rock Springs Field Office, 280 Highway 191, Rock Springs, Wyoming 82901, or email rock__spring__wymail@blm.gov. Please refer to "Coincidental Development" in the subject field.

FOR FURTHER INFORMATION CONTACT: Ted Murphy, Associate Field Manager for Lands and Minerals, BLM, Rock Springs Field Office, 307–352–0321. Documents supporting JIC recommendations and BLM options may be viewed at the Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming (307–352–0256), Kemmerer Field Office, 312 Highway 189 North, Kemmerer, Wyoming (307–828–4500), and the Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming (307–775–6261).

SUPPLEMENTARY INFORMATION: History has shown that mining, and oil and gas operations can behave unpredictably despite the best efforts in the application of newest technology and strict operating practices. Studies, performed under the direction of the JIC, have proven that coincidental development of trona and oil and gas within the MMTA could have catastrophic consequences. This finding is based on the analysis of current drilling and completion standards used in the Green River Basin and the potential for uncontrolled fluid migration from oil and gas wells into the underground mine(s). The safety and well being of underground miners employed in the trona industry is of paramount importance. Therefore, action must be taken to resolve this issue.

Written comments in response to this notice, including the names and addresses of respondents, will be available for public review at the BLM Rock Springs office during regular business hours (7:45 a.m.–4:30 p.m.), Monday through Friday (except Federal holidays) after the comment period closes and may be published as part of the environmental process. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: January 13, 2000.

Alan R. Pierson,

State Director.

[FR Doc. 00–1292 Filed 1–19–00; 8:45 am]

BILLIING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–5700–77; N–61479]

Realty Action: Recreation and Public Purposes Act Classification; Washoe County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following public land in Washoe County, Nevada has been examined and found suitable for classification for lease/conveyance to the Holy Cross Catholic Community under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*):

A parcel of land in section 14, Township 20 North, Range 20 East, Mount Diablo Meridian, Nevada, more particularly described as follows: Beginning at the corner of sections 14, 15, 22, and 23, Township 20 North, Range 20 E, MDM, Nevada; N. 89°59′21″ E., on the line between sections 14 and 23, 650.00 feet distance; N. 0°32′51″ E., on a line parallel to the south one half mile of the west boundary of section 14, 1000.00 feet distance; S. 89°59′21″ W., on a line parallel to the west one half mile of the south boundary of section 14, 650.00 feet distance; S. 0°32′51″ W., on the line between section 14 and 15, 1000.00 feet distance to the corner of sections 14, 15, 22, and 23, and the point of beginning.

The parcel of land contains 14.92 acres more or less.

Note: This description will be replaced by lot designation upon final approval of the official plat of survey.

Holy Cross Catholic Community proposes to use the land for a worship center. The land is not needed for federal purposes. Lease/conveyance is consistent with current BLM land use planning and would be in the public interest. Issuance of a 5-year lease with a purchase option is proposed. The lease/patent when issued, will be subject to the provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law and regulations to be established by the Secretary of the Interior.

And will be subject to:

Those rights for road and underground utility purposes granted to the City of Sparks, Nevada, its successors or assigns, by right-of-way N–59826 pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

Those rights for a water pump station granted to Sierra Pacific Power Company, its successors or assigns, by right-of-way N–61493 pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

Those rights for an underground gas line granted to Sierra Pacific Power Company, its successors or assigns, by right-of-way N–62493 pursuant to the Act of February 25, 1920 (41 Stat 437).

Upon publication of this notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days after publication of this notice, interested parties may submit comments regarding the proposed lease/conveyance or classification to the Acting Assistant Manager, Non-Renewable Resources, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a worship center. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or

any other factor not directly related to the suitability of the land for a worship center.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**. The land will not be offered for lease/conveyance until after the classification becomes final.

SUPPLEMENTARY INFORMATION: Comments, including names and street addresses of respondents will be available for public review at the Carson City Field Office during regular business hours. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated this 4th day of January, 2000.

Charles P. Pope,

Acting Assistant Manager, Non-Renewable Resources, Carson City Field Office.

[FR Doc. 00–1268 Filed 1–19–00; 8:45 am]

BILLING CODE 4310–HC–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–056–1430–ES; N–66075, N–66076, N–66077, N–66078]

Notice of Realty Action: Segregation Terminated, Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Segregation Terminated, Recreation and Public Purpose Lease/Conveyance.

SUMMARY: The following described public lands in Las Vegas, Clark County, Nevada were segregated on July 23, 1997 for exchange purposes under serial number N–61855. The exchange segregation on the subject lands will be terminated upon publication of this notice in the **Federal Register**. The lands have been examined and found suitable for leases/conveyances for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Clark County proposes to use the lands for the following libraries:

Case file N–66075, Compass Point Library

T. 22 S., R. 60 E., M.D.M.,
Sec. 10, W½SE¼SE¼SE¼, SW¼SE¼SE¼.

Containing approximately 15.00 acres and is located at Rainbow Boulevard and Windmill Lane.

Case file N–66076, Cactus South Library

T. 22 S., R. 60 E., M.D.M.,
Sec. 26, E½E½SE¼SE¼, W½SE¼SE¼SE¼.

Containing approximately 15.00 acres and is located at South Jones Boulevard and West Cactus Avenue.

Case file N–66077, Town Center Library:

T. 19 S., R. 60 E., sec. 29, SE¼SE¼NE¼, E½NE¼SE¼NE¼

Containing approximately 15.00 acres located at Durango Drive and Tropical Parkway.

Case file N–66078, Lone Mountain West Library

T. 20 S., R. 59 E., M.D.M.,
Sec. 1, SE¼NE¼SW¼, E½SW¼NE¼SW¼.

Containing approximately 15 acres and is located near North Hualapai Way and Alexander Road.

The lands are not required for any federal purpose. The leases/conveyances are consistent with current Bureau planning for this area and would be in the public interest. The leases/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan; and for N–66075, Compass Point Library, will be subject to:

1. Those rights for roadway purposes which have been granted to Clark County by right-of-way N–63015 under the Act of October 21, 1976 (43 U.S.C. 1761), and for N–66076, Cactus South Library, will be subject to:

1. Those rights for transmission/distribution purposes which have been granted to Sprint Central Telephone by right-of-way N–10688 under the Act of March 4, 1911 (43 U.S.C. 961), and for N–66077, Town Center Library, will be subject to:

1. Those rights for transmission/distribution purposes which have been granted to Sprint Central Telephone by right-of-way N–53652 under the Act of October 21, 1976 (43 U.S.C. 1761).

2. Those rights for transmission/distribution purposes which have been granted to Las Vegas Valley Water District by right-of-way N–55369 under the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for transmission/distribution purposes which have been granted to Southwest Gas Corporation by right-of-way N–57864 under the Act of October 21, 1976 (43 U.S.C. 1761).

4. Those rights for transmission/distribution purposes which have been granted to Nevada Power Company by right-of-way N–61051 under the Act of October 21, 1976 (43 U.S.C. 1761), and for N–66078, Lone Mountain West Library, will be subject to:

1. Those rights for roadway purposes which have been granted to Clark County by right-of-way N–61323 under the Act of October 21, 1976 (43 U.S.C. 1761).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed leases/conveyances for classification of the lands to the Las Vegas Field Office Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the lands for library sites. Comments on the classification are restricted to whether the lands are physically suited for the proposal, whether the use will maximize the future use or uses of the lands, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the lands for library sites.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: January 12, 2000.

Rex Wells,

Assistant Field Office Manager,

Las Vegas, NV.

[FR Doc. 00–1290 Filed 1–19–00; 8:45 am]

BILLING CODE 1430–HC–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–527 (Review)]

Extruded Rubber Thread From Malaysia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on extruded rubber thread from Malaysia.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on extruded rubber thread from Malaysia would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: January 13, 2000.

FOR FURTHER INFORMATION CONTACT: Gail Burns (202–205–2501), 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).

SUPPLEMENTARY INFORMATION:

Background

On November 4, 1999, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (64 FR 62689, November 17, 1999). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Participation in the Review and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the review will be placed in the nonpublic record on May 9, 2000, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on June 1, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 22, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 25, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is May 18, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is June 8, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before June 8, 2000. On July 5, 2000, the Commission will make available to parties all information on

which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 7, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (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: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 14, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–1344 Filed 1–19–00; 8:45 am]

BILLIING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–841 (Final)]

Certain Non-Frozen Apple Juice Concentrate From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–841 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of certain non-frozen apple juice concentrate, provided for in subheadings 2009.70.00 and 2106.90.52 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, 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).

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: William Chadwick, Jr. (202–205–3390), 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).

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain non-frozen apple juice concentrate from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 7, 1999, by counsel on behalf of Coloma Frozen Foods, Inc., Coloma, MI; Green Valley Packers, Arvin, CA; Knouse Foods Cooperative, Inc., Peach Glen, PA; Mason County Fruit Packers, Ludington, MI; and Tree Top, Inc., Selah, WA.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on March 28, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on April 10, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 3, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 6, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by

[1] The imported product covered by the scope of this investigation, as defined by the Department of Commerce, consists of all non-frozen concentrated apple juice with a Brix scale of 40 or greater, whether or not containing added sugar or other sweetening matter, and whether or not fortified with vitamins or minerals. Excluded from the scope of this investigation are frozen concentrated apple juice, non-frozen concentrated apple juice that has been fermented, and non-frozen concentrated apple juice to which spirits have been added.

sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 4, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 17, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 17, 2000. On May 5, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 9, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the 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: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: January 13, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–1343 Filed 1–19–00; 8:45 am]

BILLIING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to The Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 to 9675

Under 42 U.S.C. 9622, notice is hereby given that on December 22, 1999, a proposed consent decree in *United States* v. *Robert W. Meyer, Jr.*, Civil Action No. 1:97–CV–526, was lodged with the United States District Court for the Western District of Michigan.

In this action the United States sought to recover past costs incurred in connection with the clean-up of the contiguous Northernaire Plating Company and Kysor Industrial Corporation Superfund Sites located in Cadillac, Wexford County, Michigan. The proposed consent decree resolves the United States' claims against defendant Robert W. Meyer, Jr., as the operator of a facility that contributed to the harm associated with the Northernaire Site, in return for a total payment of $625,000.

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. *Robert W. Meyer, Jr.*, D.J. Ref. #90–11–2–837B.

The proposed consent decree may be examined at the office of the United States Attorney, 330 Ionia NW, Room 501, Grand Rapids, Michigan 49503, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1270 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in the action entitled *United State of America* v. *Sapo Corporation, et. al.*, Civil Action No. 99–2366 (D.P.R.), was lodged on December 15, 1999 with the United States District Court for the District of Puerto Rico. The proposed consent decree resolves claims of the United States, on behalf of the Secretary of the Army, under the Federal Water Pollution Control Act, as amended ("Clean Water Act"), 33 U.S.C. 1251–1387, against defendants Sapo Corporation, Concho Corporation, and Arnold Benus. These claims are for injunctive relief and civil penalties arising from defendants' alleged discharge of fill material into wetlands at the Copamarina Beach Resort in Cana Gorda Ward, Guanica, Puerto Rico, without a permit from the U.S. Army Corps of Engineers, in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a).

Under the terms of the proposed consent decree, the defendants will (1) Pay a civil penalty of $15,000 to the United States, (2) complete a mitigation project to enhance protection of existing wetlands on their property by constructing barriers to intrusion by motor vehicles, and (3) complete a preservation project by transferring title to 30.59 acres of wetlands valued at $98,126, including the protective barriers, under a perpetual conservation easement, to the Puerto Rico Department of Natural and Environmental Resources.

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, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Sapo Corporation, et al.*, Civil Action No. 99–2366 (D.P.R.), DOJ Ref. No. 90–5–1–1–4471/1.

The proposed consent decree may be examined at the Office of the United States Attorney, Federal Building, Chardon Avenue, Hato Rey, Puerto Rico 00918. A copy may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611. In requesting a copy by mail, please refer to the referenced case

and enclose a check in the amount of $5.75 (25 cents per page reproduction costs for the Decree and appendix) made payable to Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 00–1271 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response Compensation, and Liability Act, The Clean Water Act, and The Resource Conservation and Recovery Act

Under 28 CFR 50.7, notice is hereby given that on December 23, 1999, a proposed Consent Decree in *United States and State of Idaho* v. *Union Pacific Railroad Co.*, Case No. 99–606–N–EJL (D. Idaho) and *Coeur d'Alene Tribe* v. *Union Pacific Railroad Co.*, Case No. CV 91–0342–N–EJL (D. Idaho) was lodged with the United States District Court for the District of Idaho.

The Consent Decree settles claims by the United States, the State of Idaho, and the Coeur d'Alene Tribe (Tribe) asserts claims against Union Pacific Railroad Company (Union Pacific) under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9606 and 9607, and Sections 311 of the Clean Water Act (CWA), 33 U.S.C. § 1321. The Complaint of the United States and the State seeks injunctive relief requiring Union Pacific to implement the non-time-critical removal action selected by EPA, the State and the Tribe, for most of Union Pacific's 71.5-mile-long railroad right of way between Mullan and Plummer, Idaho (the ROW) and certain adjacent areas (collectively the Project Area) in the Coeur d'Alene Basin in northern Idaho. The Plaintiffs' Complaints also seek past and future CERCLA response costs incurred by EPA, the Departments of the Interior (Interior) and Agriculture (Agriculture), the State, and the Tribe in connection with the Project Area and damages for injuries to natural resources throughout the Coeur d'Alene Basin.

The Consent Decree requires Union Pacific to implement the response action selected for the Project Area and specified additional work needed to convert the ROW into a biking/hiking trail for public use. The estimated total cost of this work is over $25 million. In addition, Union Pacific agrees to pay (1) the past response costs incurred by the United States, the State and the Tribe in connection with the negotiations and the Engineering Evaluation and Cost Analysis (EE/CA) needed to select the response action (approximately $600,000 for the United States); (2) $2,730,000 to the State and the Tribe, primarily for their expected future costs of maintaining public amenities along the biking/hiking trial; (3) $35,000 to fund educational activities to be conducted by Plaintiffs as part of the Response Action; (4) up to $25,000 per year for 10 years to the Tribe for costs it incurs for operation and maintenance of the Chatcolet Bridge; (5) the future response costs of all three governments for oversight of the removal action; and (6) $2,000,000 to Interior, Agriculture, and the Tribe for natural resource damages.

In exchange, Union Pacific will receive a covenant not to sue for response actions and costs relating to the Project Area (primarily the ROW) pursuant to Sections 106 and 107(a) of CERCLA, Section 311 of the CWA, and Section 7003 of RCRA. Union Pacific will also receive a covenant not to sue for natural resource damages under CERCLA and the CWA in the "Coeur d'Alene Basin Environment," an area that includes the watersheds of both the North and South Forks of the Coeur d'Alene River, the main stem of the Coeur d'Alene River, Lake Coeur d'Alene.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States and State of Idaho* v. *Union Pacific Railroad Co.*, Case No. 99–606–N–EJL (D. Idaho), D.J. Ref. No. 90–11–3–128L. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney, First Interstate Center, 877 West Main Street, Suite 201, Boise, Idaho 83702 and at North Idaho College Library, 1000 West Garden Avenue, Coeur d'Alene, Idaho 83814. A copy of the Consent Decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting a copy, please enclose a check in the amount of $255.75 (with exhibits) (25 cents per page reproduction cost) payable to the Consent Decree Library. If requesting a copy of the Consent Decree exclusive of exhibits, please enclose a check in the amount of $27.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1269 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (New collection) 2000 Census of State and Local Law Enforcement Agencies.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until March 20, 2000.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Dr. Brian A. Reaves, 202–616–3287, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, N.W., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate 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) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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, e.g., permitting electronic submission of responses.

Overview of this information:

(1) Type of information collection: New Collection.

(2) The title of the form/collection: 2000 Census of State and Local Law Enforcement Agencies.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: The form number is CJ–38L and CJ–38S, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Federal, State, or local government.

Other: None.

42 U.S.C. 3711, *et seq.* authorizes the Department of Justice to collect and analyze statistical information concerning crime, juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system and to support the development of information and statistical systems at the Federal, State, and local levels.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 20 respondents will complete a 3-hour nomination form.

(6) An estimate of the total public burden (in hours) associated with the collection: 19,000 respondents at 44 minutes per response. This includes 2 hours per response for 3,000 respondents to Form CJ–38L and 30 minutes per response for 16,000 respondents to Form CJ–38S.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place Building, 1331 Pennsylvania Ave, NW, Washington, D.C. 20530, or via facsimile at (202) 514–1534.

Dated: January 13, 2000.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 00–1252 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: New Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (New Collection); Survey of Youth in Residential Placement.

The Department of Justice, Office of Juvenile Justice and Delinquency Prevention, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 1, 1999, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until February 22, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 1220, 1331 Pennsylvania Avenue NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate 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) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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, *e.g.*, permitting electronic submission of responses.

Overview of this information:

(1) Type of information collection: New collection.

(2) The title of the form/collection: Survey of Youth in Residential Placement.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: None; Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Juveniles in residential juvenile justice facilities

Other: Juvenile Justice Facilities

42 U.S.C. 5653 authorizes the Office of Juvenile Justice and Delinquency Prevention to collect information on all aspects of the juvenile justice system and juvenile offenders. This survey will collect some information from juvenile justice facilities and will survey juveniles resident in these facilities. The survey will take at most 1 hour to complete and cover the juvenile's background, needs, and services received.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 40 facilities in 2000 and 280 facilities in 2002 at 1 hour for each facility; 1600 juveniles in 2000 and 10,500 in 2002 at 0.75 hours per juvenile.

(6) An estimate of the total public burden (in hours) associated with the collection: 9,395 hours including facility and juvenile responses.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: January 12, 2000.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 00—1254 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Development of Training Curriculum and Delivery of Managing Initial Criminal Justice Decisions Forums

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections is seeking applications for a cooperative agreement to join NIC in assisting five to seven local jurisdiction criminal justice policy teams in developing an "outcome based decision process" for the pretrial phase activities of their system. This initiative is being undertaken as an interagency activity between the Bureau of Justice Assistance and the National Institute of Corrections.

NIC has been involved in several projects which examine the relationships of component parts of the justice system to each other. Our experience indicates that while justice agencies within a jurisdiction may have a general working knowledge of what each other does, true collaboration is not the norm. One of the purposes of this project is to bring jurisdictional policy makers together to discuss and define what they want as an outcome for their pretrial efforts. To assist them in defining their desired outcome statement, NIC will provide them with information on best practices together with team building activities designed to produce collaborative planning and determine what degree of investment they are prepared to make from current and/or new resources to accomplish their desired outcome.

The cooperative agreement is an assistance relationship in which the National Institute of Corrections is substantially involved in all aspects of the project during the award period. An award will be made to an organization or individual who will, in concert with the Institute, provide technical assistance to the selected jurisdictions. No funds will be transferred to state or local governments.

Project Objectives

The goal of the project is to bring together system policy makers, affected by pretrial decisions, as a team to build an awareness of "outcome based decision making". NIC will provide them with relevant information they can take back home and use in future design and implementation. This project will present content information about policy adopted and programs implemented in a number of jurisdictions to improve case flow, reduce officer court appearances, reduce officers processing time, reduce prosecutor and public defender preparation time and provide the court with accurate defendant information to effectively and efficiently produce desired outcomes. Finally, the project will emphasize the need to establish and maintain a policy level group for ongoing strategic planning.

Each local policy team will consist of seven (7) identified positions and will attend two three-day forums. The policy team will consist of the following representatives: 1. Judge, 2. The Prosecutor, 3. Chief Law Enforcement Officer, 4. Community Based Victim Advocate, 5. Pretrial Program Administrator or Jail Administrator, 6. city/county CAO/CFO or Executive, 7. Public Defender or Defense Bar. The final team participants will be determined based on individual jurisdictional circumstances.

The overall goal is to assist the jurisdiction to produce an outcome based policy statement which will be implemented for pretrial activities. i.e., reduce the potential for offenses by pretrial defendants, reduce the amount of time from arrest to trial and assure adequate facilities for all pretrial defendants etc. In support of this goal the objectives are:

1. Discuss what is required to plan a systemic course of action for all pretrial activities. i.e., the investment of time to build trust, to share resources and to jointly share responsibility.

2. Identify how their present system works and provide an overview of mapping the activities from arrest to trial in each component. (Actual mapping activity should occur between the first and second forum meeting.)

3. Develop written policy and procedure based on a systemic plan.

4. Identify a policy level planning to attend and participate in the forums.

5. Assist the jurisdiction identifying data elements needed for policy decisions in future decision making.

6. Provide exercises during the forums which require team members to examine their individual/agency actions against the team's desired outcome statement.

7. Develop strategic planning skills which can be applied to future policy making activities.

Design and content of the project

This project will provide training forums and on-site technical assistance to support the development and implementation of a collaborative planning process for the components involved in the pretrial phase of the criminal justice system. The project will bring five to seven jurisdiction teams of seven (7) members each from local justice systems to a central location for content presentations and team building exercises. It will also provide a limited amount of on-site technical assistance.

The project is designed to bring together policy level teams to collaboratively define the desired outcome of the pretrial process in their jurisdiction and to test out policy change scenarios they develop which move toward the desired outcome. Our previous experience in working with criminal justice components suggests that before systemic change can occur there must be agreement among policy makers. (Of course, before the policy can be successful there must be understanding and agreement at the implementation point.) Therefore, the jurisdictional teams make-up requires those at the top of their organizations to be the participants. Each jurisdiction must be willing to commit the time and effort of their policy makers to a process of team building, visioning and strategic planning to develop both system and agency policies which will lead to effective and efficient pretrial processes.

Project assistance will be in the form of providing travel and per diem to attend two (2) forums consisting of three (3) days each at the National Institute of Corrections, Longmont, Colorado facility. During the forums the participants will be provided content information from practitioners after which they will produce at a desired outcome statement based on their values. Each participating jurisdiction will receive one (1) on site technical assistance visit between the first and second forum to complete a mapping exercise. Additionally, each jurisdiction will have the option of requesting additional technical assistance based on their identified needs and the initiatives funding limitations.

Scope of Work

Applicants for this cooperative agreement should propose a training and technical assistance plan which identifies how the following tasks will be accomplished together with the associated costs:

1. Identify a group of practitioners for lesson plan development and content presentations at forums. The final selection of presenters will be a joint NIC/Awardee decision.

2. Prepare curricula for presentation at two (2) forums. The National Institute of Corrections paper entitled "Designing

Training for the National Institute of Corrections; Instructional Theory into Practice" will be used in preparing curricula.

Understanding decision points and their impact. These include but are not limited too:

a. physical vs citation arrest;
b. information for initial appearance;
c. diversion programs;
d. case processing;
e. community supervision options;
f. victim perspectives; and
g. an overview of a strategic planning process which includes a description of mapping and visioning.

A content notebook should be prepared for each participant. The notebooks should include current and relevant information on the following subjects: citation vs physical arrest, case processing, release options, supervision options, jail vs community release, economic impact of decisions together with strategic planning and visioning information.

3. Assist in the development and dissemination of program application materials.

4. Assist in the review and rating of applications.

5. Conduct/contract a pre-forum meeting with each participating jurisdiction at their home location to discuss objectives/expectations with all participants.

6. Contract for and pay presenters for two (2) forums of three days each in Colorado.

7. Contract for and pay a facilitator to travel to each jurisdiction and assist in a mapping process of all pretrial activities. This activity will occur between the first and second forum meeting.

8. Coach faculty for the forum events.

9. Prepare a program description for dissemination to participants.

10. Host the forum events.

11. Prepare and disseminate an evaluation form to participants concerning the total initiative including training and technical assistance.

12. Provide documentation of services performed to include number of events and participants served.

Authority: Public Law 93–415.

Funds Available: The award will be limited to $210,000 (direct and indirect costs and project activity must be completed within 12 months of the date of award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Community Corrections Division.

Deadline for Receipt of Applications: Applications must be received by 4:00 p.m. on Wednesday, March 1, 2000, 4:00 p.m. Eastern daylight time. They should be addressed to: National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information: Requests for the applicant kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, N.W., Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 159, 202–307–3106, ext. 159, or email: jevens@bop.gov. A copy of this announcement, application forms, and additional information may also be obtained through the NIC web site: http.//www.nicic.org (click on "What's New" and "Cooperative Agreements"). All technical and/or programmatic questions concerning this announcement should be directed to Al Hall at the above address or by calling 800–995–6423 or 2020–307–1300, ext. 162, or by E-mail via ahall@bop.gov.

Eligibility Applicants: An eligible applicant is any state or general unit of local government, public or private agency, educational institution, organization, team, or individual with the requisite skills to successfully meet the outcome objectives of the project.

Review Considerations: Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards: One (1).

NIC Application Number: 00C01 This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Catalog of Federal Domestic Assistance Number: 16.601.

Dated: January 13, 2000.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 00–1255 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Justice

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of a currently approved collection; Crime Mapping Survey.

The Department of Justice, Office of Justice Programs, National Institute of Justice, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until March 20, 2000.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact the Office of Research and Evaluation, National Institute of Justice, 810 7th Street, NW, Washington, DC 20531, or via facsimile (202) 616–0275, Attention: La Vigne.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate 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) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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, *e.g.*, permitting electronic submission of responses.

Overview of this information:

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: Crime Mapping Survey

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form: None. Office of Research and Evaluation, National Institute of Justice, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Law enforcement agencies.

Other: None.

This national survey is designed to determine the extent to which police departments, specifically crime analysts, are using computerized crime mapping. Surveys will be mailed to a randomly selected sample of police departments. The questionnaire will determine the level of crime mapping within departments, both in terms of hardware and software resources, as well as the types of maps that are produced and how they are used. The information collected from this survey will be used to advise the activities of the Crime Mapping Research Center.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 2,798 respondents for an average of 33 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the nominations is 562.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place Building, 1331 Pennsylvania, NW, Washington, D.C. 20530.

Dated: January 13, 2000.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 00–1253 Filed 1–19–00; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 13, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096, ext. 159, or by E-mail to Kurz-karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ((202) 219–5096, ext. 151, or by e-mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate 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;
- enhance the quality, utility, and clarity of the information to be collected; and
- 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, *e.g.*, permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Title: Job Openings and Labor Turnover Survey (JOLTS).

OMB Number: 1220–0 New.

Frequency: Monthly.

Affected Public: Business and other for-profit. Not-for-profit institutions; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 16,000 (full survey year). To begin collection, respondents will be added 1,000 per month until the full sample is reached.

Estimated Time Per Respondent: 56 Minutes (Estimate).

Total Burden Hours: 14,859 (Calendar Year Average).

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): $0.

Description: The Job Openings and Labor Turnover Survey (JOLTS) will collect data on job vacancies, labor hires, and labor separations. The data can be used as demand-side indicators of labor shortages. These indicators of labor shortages at the national level would greatly enhance policy makers' understanding of imbalances between the demand and supply of labor. Presently there is no economic indicator of the demand for labor with which to assess the presence of labor shortages in the U.S. labor market. The availability of unfilled jobs—the number of job vacancies or the vacancy rate—is an important measure of tightness of job markets, parallel to existing measures of unemployment.

Type of Review: Revision.

Agency; Employment and Training Administration.

Title: Claims and Payment Activities.

OMB Number: 1205–0010.

Affected Public: State, Local, or Tribal Government

Form	Number of respondents	Frequency	Total number of responses	Average time per response (hours)	Total burden (hours)
Regular	53	Monthly	636	2	1,272
EB	2	Bimonthly	12	1.75	21
STC	11	Bimonthly	66	1	66
Total	53		714	1.9	1,359

Total Annualized Capital/Startup Costs: $0

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): $0

Description: Data measures workload and provides quantitative measurement for budget estimates, administrative planning, and program evaluation. This is a major vehicle for accounting to the public.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–1392 Filed 1–19–00; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension collection of the following: (1) Request for Earnings Information (LS–426); and (2) Recordkeeping Requirements of Regulations 29 CFR 516.34, to Implement the Remedial Education Provisions of the Fair Labor Standards Act (FLSA). Copies of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below within 60 days of the date of this Notice.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., N.W., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

Request for Earnings Information, LS–426

I. Background

The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act, and its extensions. These Acts provide compensation benefits to injured workers. Pursuant to Section 8 of the Act, injured employees shall receive compensation in an amount equal to 66⅔ per centum of their average weekly wage. Form LS–426 is used to determine if the correct compensation rate is being paid.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate 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;
- Enhance the quality, utility and clarity of the information to be collected; and
- 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, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to assure that injured workers are paid at the proper compensation rate.

Type of Review: Extension

Agency: Employment Standards Administration

Title: Request for Earnings Information

OMB Number: 1215–0112

Agency Number: LS–426

Affected Public: Individuals or households

Total Respondents: 1,700

Frequency: On occasion

Total Responses: 1,700

Average Time per Response: 15 minutes

Estimated Total Burden Hours: 425

Total Burden Cost (capital/startup): $0

Total Burden (operational/maintenance): $0

Remedial Education Provisions of the Fair Labor Standards Act

I. Background

Under the Fair Labor Standards Act (FLSA), employees who lack a high school diploma or whose reading level or basic skills are at or below the eighth grade, may be required by their employers to attend up to 10 hours per week of remedial education. Employees who are subject to the overtime provisions of the FLSA ordinarily must be paid one and one-half times their regular rate of pay for all hours worked over 40 in each workweek. However, the additional hours devoted to such remedial education would not have to be compensated at the same time and one-half overtime rate. However, employees must receive compensation at their regular rate of pay for time spent receiving such remedial education. Employers wishing to utilize the partial overtime exemption for such employees must record the hours of employees spent in remedial education.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;
- Enhance the quality, utility and clarity of the information to be collected; and
- 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, e.g., permitting electronic submissions of responses. III. Current Actions: The Department of Labor seeks the extension of approval to collect this information in order to review and determine employer compliance with the applicable section of the FLSA.

Type of Review: Extension

Agency: Employment Standards Administration

Title: Recordkeeping Requirements of Regulations 29 CFR 516.34, the Regulations to Implement the Remedial Education Provisions of the Fair Labor Standards Act

OMB Number: 1215–0175

Affected Public: Business or other for-profit; not for profit institutions, State, Local or Tribal Government

Total Respondents: 15,000

Total Records: 30,000

Average Time per Response: 10 minutes

Estimated Total Burden Hours: 5,000

Total Burden Cost (capital/startup): $0

Total Burden (operational/maintenance): $0

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 13, 2000.

Margaret J. Sherill.

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 00–1391 Filed 1–19–00; 8:45 am]

BILLING CODE 4510–27–M

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), this notice announces that the U.S. Merit Systems Protection Board (MSPB) request for a three year reinstatement of its expired Generic Clearance Request for Voluntary Customer Surveys Under Executive Order 12862 "Setting Customer Service Standards" has been forwarded to the Office of Management and Budget (OMB) for review and comment.

In this regard, we are soliciting comments on the public reporting burden. The reporting burden for the collection of information on this form is estimated to vary from 10 minutes to 30 minutes per response, with an average of 15 minutes, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

ESTIMATED ANNUAL REPORTING BURDEN

5 CFR section	Annual number of respondents	Frequency per response	Total annual responses	Hours per response (average)	Total hours
1201 and 1209	5,000	1	3,750	.25	937.5

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the address shown below. Please refer to OMB Control No. 3124–0012 in any correspondence.

DATES: Comments must be received on or before February 22, 2000.

ADDRESSES: Comments concerning the paperwork burden should also be addressed to Mr. Bruce Mayor, Merit Systems Protection Board, 1120 Vermont Ave., NW., Washington, DC 20419 or by calling (202) 653–8900 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for MSPB, 725 17th Street NW, Washington, DC 20503.

Dated: January 13, 2000.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 00–1256 Filed 1–19–00; 8:45 am]

BILLIING CODE 7400–01–U

NATIONAL COUNTERINTELLIGENCE CENTER

Privacy Act of 1974; Amendments to Statement of General Routine Uses

AGENCY: National Counterintelligence Center.

ACTION: Notice of amendment to Statement of General Routine Uses for systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

SUMMARY: The National Counterintelligence Center is providing notice of an amendment to the Statement of General Routine Uses for systems of records in its current inventory of systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

EFFECTIVE DATE: This action is effective February 22, 2000, unless comments are received which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Information and Privacy Coordinator, Executive Secretariat, National Counterintelligence Center, 3W01 NHB, Washington, DC 20505.

SUPPLEMENTARY INFORMATION: The National Counterintelligence Center (NACIC) hereby amends Item 10 of its National of General Routine Uses, entitled "Routine Use—Counterintelligence Purposes," to delete the words "outside the U.S. Government." The purpose of this notice is to inform the public that records from systems of records maintained by NACIC may be disclosed for counterintelligence purposes both within and outside the U.S. Government. Other routine uses set forth in NACIC's Statement of General Routine Uses are unchanged. Each of the routine uses set forth in NACIC's Statement of General Routine Uses applies to, and is incorporated by reference into, each system of records maintained by NACIC. NACIC's systems of records are fully described in **Federal Register** Volume 62, Number 191 (62 FR 51698, Oct 2, 1997) and are unchanged by the amendment described in this notice.

For the convenience of the public, NACIC's amended Statement of General Routine Uses is published herewith in its entirety.

Dated: January 10, 2000.

Michael Waguespack,

Director, National Counterintelligence Center.

Statement of General Routine Uses

The following routine uses apply to, and are incorporated by reference into each system of records maintained by NACIC. It should be noted that, before the individual record system notices begin, the blanket routine uses of the records are published below only once in the interest of simplicity, economy and to avoid redundancy.

1. Routine Use—Law Enforcement: In the event that a system of records maintained by NACIC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or by

regulation, rule 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 the responsibility of investigating of prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. Routine Use—Disclosure When Requesting Information: A record from a system of records maintained by this component may be disclosed as a routine use to a Federal, state, or local maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary, to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Routine Use—Disclosure of Requested Information: A record from a system of records maintained by this component may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. Routine Use—Congressional: Inquiries from a system of records maintained by this component may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

5. Routine Use—Disclosures Required by International Agreement: A record from a system of records maintained by this component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

6. Routine Use—Disclosure to the Department of Justice for Litigation: A record from a system of records maintained by this component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing any officer, employee or member of this component in pending or potential litigation to which the record is pertinent.

7. Routine Use—Disclosure of Information to the Information Security Oversight Office (ISOO): A record from a system of records maintained by this component may be disclosed as a routine use to the Information Security Oversight Office (ISOO) or any other executive branch entity authorized to conduct inspections or develop security classification policy for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

8. Routine Use—Disclosure of Information to the National Archives and Records Administration (NARA): A record from a system of records maintained by this component may be disclosed as a routine use to the National Achieves and Records Administration (NARA) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

9. Routine Use—Disclosure to the Merit Systems Protection Board: A record from a system of records maintained by this component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

10. Routine Use—Counterintelligence Purposes: A record from a system of records maintained by this component may be disclosed as a routine use for the purpose of counterintelligence activities authorized by U.S. law or Executive Order or for the purpose of enforcing laws which protect the national security of the United States.

[FR Doc. 00–1360 Filed 1–19–00; 8:45 am]

BILLING CODE 6310–02–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing

The National Transportation Safety Board will convene a public hearing beginning at 9:00 a.m., local time on Wednesday, January 26–29, 2000, at the Arkansas Excelsior Hotel, Three Statehouse Plaza, Little Rock, Arkansas 72201, concerning *American Airlines, Inc., Flight 1420, McDonnell Douglas MD–82 Accident in Little Rock, Arkansas on June 1, 1999.* For more information, contact Ben Berman, NTSB Office of Aviation Safety at (202) 314–6331 or Paul Schlamm NTSB Office of Public Affairs at (202) 314–6100.

Individuals requesting specific accommodation should contact Mrs. Carolyn Dargan on 202–314–6305 by Friday, January 21, 2000.

Dated: January 13, 2000.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 00–1283 Filed 1–19–00; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Consolidated Edison Company of New York, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–26 issued to Consolidated Edison Company of New York, Inc (the licensee) for operation of the Indian Point Nuclear Generating Unit No. 2, located in Westchester County, New York.

The proposed amendment would revise Technical Specifications (TSs) and associated basis pages to incorporate changes based on NUREG–1465 alternate source term analysis. Specifically, (1) change the title of 4.5.D of the table of contents to delete the words "Air Filtration", this proposed change is to reflect the revised function of the system to cooling of containment only, as a result of the proposed deletion of high-efficiency particulate air (HEPA) and charcoal filters; (2) revise TS 3.3.B.1.b. to delete the words "charcoal filter", this proposed change reflects the deletion of the charcoal filters from the fan cooler units; (3) change TS 3.8.B.4 "174 hours" to "100 hours", this proposed change reflects the reanalysis for the minimum time for radioactive decay before moving fuel; (4) revise TS 3.8.B.8 to delete "and at least one personnel door in the equipment door or closure plate and in the personnel air lock", this proposed

change reflects a reanalysis of the fuel handling accident where no credit is taken for containment isolation; (5) revise TS 4.5.D. to delete the words "AIR FILTRATION", this proposed change is to reflect the revised function of the system to cooling of containment only, as a result of the proposed deletion of HEPA and charcoal filters; (6) modify TS 4.5.D.1 and TS 4.5.E.1 to change "per 31 days" to "monthly", and delete the words "HEPA filters and charcoal adsorbers", this proposed change would make the terminology consistent as defined in the specifications. Monthly and 31 days are used synonymously. Deletion of testing requirements is consistent with the proposed deletion of the filters themselves; (7) revise TS 4.5.D.2 to change "65,600 cfm +/−10%" to "greater than or equal to 64,500 cfm." and delete the remaining parts of 4.5.D.2 and 4.5.D.3 through 4.5.D.6. This proposed change is to specify the flows consistent with the reanalysis of design-basis accidents. utilizing the NUREG–1465 alternate source term. The +/−10% is no longer required, since a residence time for charcoal filters need not be specified after the filters are removed. The remaining parts of this specification relate to testing of filters, which are themselves being removed; (8) revise TS 4.5.E.2.a, b, c, 4.5.E.4.a, 4.5.E.5, and 6 to change "1840 cfm" to "2000 cfm", this proposed change would modify the flow rate to be consistent with the current design of the control room filtration system and assumptions in the reanalysis of the design-basis accidents; (9) revise TS 4.5.E.4.b to change "recirculation" to "filtered-intake", this proposed change would modify the flow rate to be consistent with the current design of the control room filtration system and assumptions in the reanalysis of the design-basis accidents; (10) revise TS 4.5.E.4.c to change "outside atmosphere" to "adjacent areas", this proposed change would modify the acceptance criteria for testing control rooms to conform with regulatory guidance; (11) revise TS 5.2.D.2 to delete "All the fan cooler units are equipped with activated charcoal filters to remove volatile iodine following an accident", this proposed change reflects the proposed deletion of the charcoal filters from the fan cooler units. TS Basis would be revised as follows: (1) TS Basis page 3.3-13 would be revised to delete "plus charcoal filters", (2) TS Basis page 3.3–15 would be revised to delete "plus charcoal filters", (3) TS Basis page 3.8–5 would be modified to change "174 hours" to "100 hours" and the last sentence would be modified to state "The analysis of the fuel handling accident inside and outside containment takes no credit for removal of radioactive iodine by charcoal filters", and (4) TS Basis page 4.5–10 would be revised to delete the fourth paragraph and "and/or recirculation" would be deleted from the fifth paragraph.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because:

1. There is no significant increase in the probability or consequences of an accident previously evaluated.

These changes do not affect possible initiating events for accidents previously evaluated. Limiting Safety System Settings and Safety Limits specified in the current Technical Specifications remain unchanged. Therefore, the proposed changes to the subject Technical Specifications would not increase the probability of an accident previously evaluated. The re-analysis of design basis accidents described above demonstrate that compliance with regulatory dose acceptance criteria continue to be met. Therefore, the proposed changes to the subject Technical Specifications would not significantly increase the consequences of an accident previously evaluated.

2. The possibility of a new or different kind of accident from any accident previously evaluated has not been created.

The proposed physical changes to the facility have been evaluated, and the plant conditions for which the design basis accidents have been evaluated are still valid. The operating procedures and emergency procedures will be changed to reflect these changes. Consequently, no new failure modes are introduced as a result of the proposed changes. Therefore, the proposed changes will not initiate any new or different kind of accident.

3. There has been no significant reduction in the margin of safety.

The revised Indian Point 2 design basis accident offsite and control room dose calculations, performed with the improved knowledge base and with the modeling of proposed plant changes, remain within regulatory acceptance criteria (10 CFR 100 and 10 CFR 50 Appendix A General Design Criterion 19, respectively) utilizing the TEDE dose acceptance criteria directed by the Commission for use in SECY–96–242. An acceptable margin of safety is inherent in these licensing acceptance limits. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays.

Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 22, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Brent L. Brandenburg, Assistant General Counsel, Consolidated Edison Company of New York, Inc., 4 Irving Place—1822, New York, NY 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors.

For further details with respect to this action, see the application for amendment dated November 18, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 13th day of January 2000.

For the Nuclear Regulatory Commission.

Jefferey F. Harold,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–1303 Filed 1–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Molycorp, Inc.; Designation of Presiding Officer

[Docket No. 40–8778–MLA–2; ASLBP No. 00–775–03–MLA]

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see* 10 CFR 2.1201, 2.1207, notice is hereby given that (1) a single member of the Atomic Safety and Licensing Board Panel is designated as Presiding Officer to rule on petitions for leave to intervene and/or requests for hearing; and (2) upon making the requisite findings in accordance with 10 CFR § 2.1205(h), the Presiding Officer will conduct an adjudicatory hearing in the following proceeding:

Molycorp, Inc., Washington, Pennsylvania

This proceeding, which will be conducted pursuant to 10 CFR Part 2, subpart L, of the Commission's Regulations, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings," concerns a request for hearing submitted by Canton Township, Pennsylvania. The request was filed in response to a notice of consideration by the Nuclear Regulatory Commission staff of a request by Molycorp, Inc., to amend its 10 CFR part 40 source material license to authorize decommissioning of its former processing facility in Washington, Pennsylvania. The notice of consideration of the application and opportunity for hearing was published in the **Federal Register** at 64 FR 62,227 (Nov. 16, 1999).

The Presiding Officer in this proceeding is Administrative Judge Charles Bechhoefer. Pursuant to the provisions of 10 CFR 2.722, 2.1209, Administrative Judge Richard F. Cole has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents, and other materials shall be filed with Judge Bechhoefer and Judge Cole in accordance with 10 CFR 2.1203. Their addresses are:

Administrative Judge Charles Bechhoefer, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

Dr. Richard F. Cole, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

This designation of presiding officer is issued pursuant to the authority of the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel.

Issued at Rockville, Maryland, this 13th day of January 2000.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 00–1299 Filed 1–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Wednesday, January 26.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Wednesday, January 26

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Briefing on Status of NMSS Programs, Performance, and Plans (Public Meeting) (Contact: Claudia Seelig, 301–415–7243)

The Schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (recording)–(301)–415–1292. Contact Person for More Information: Bill Hill (301)–415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: January 18, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–1573 Filed 1–18–00; 3:54 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

NUREG–1717, Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials

The Nuclear Regulatory Commission has issued draft NUREG–1717, "Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials." This report is an assessment of potential radiation doses associated with the current exemptions for byproduct and source material in Title 10, of the *Code of Federal Regulations* (CFR). Doses were estimated for the normal life cycle of a particular product or material, covering distribution and transport, intended or expected routine use, and disposal using dose assessment methods consistent with the current requirements in 10 CFR Part 20. In addition, assessments of potential doses due to accidents and misuse were estimated. Also presented is an assessment of potential radiological impacts associated with selected products containing byproduct material that currently may only be used under a general license and may be potential candidates for exemption from licensing requirements.

Licensees, Agreement States and all other interested parties are encouraged to submit comments and relevant data on this report. Comments and suggestions on this NUREG should be submitted by June 30, 2000, to assist the staff in developing the final NUREG–1717. Comments may be submitted in writing directly to David L. Meyer, Chief, Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, T–6 D–59, Washington, DC 20555–0001, or hand-delivered to 11545 Rockville Pike, Rockville, MD between 7:30 a.m. and 4:15 p.m. on Federal workdays. Comments may also be submitted while viewing this report on the Internet at the following URL: *http://www.nrc.gov/NRC/NUREGS/SR1717/DRAFT/index.html.*

Issued NUREGs may be purchased from both the Government Printing Office (GPO) and the National Technical Information Service (NTIS). Details on this service may be obtained by writing either the GPO at The Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328 or the NTIS, 5285 Port Royal Road, Springfield, VA 22161. NUREGs are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 11th day of January 2000.

For the Nuclear Regulatory Commission.

Thomas L. King,

Director, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research.

[FR Doc. 00–1302 Filed 1–19–00; 8:45 am]

BILLIING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Deferral of Paragraph 65.2—Material Revenue-Related Transactions Disclosures; Amendments to Deferred Maintenance Reporting; Management's Discussion and Analysis (Statement); Management's Discussion and Analysis (Concept)

AGENCY: Office of Management and Budget.

ACTION: Notice of document availability.

SUMMARY: This Notice indicates the availability of the following documents:

- Thirteenth Statement of Federal Financial Accounting Standards (SFFAS), "Deferral of Paragraph 65–2—Material Revenue-Related Transactions Disclosures";
- Fourteenth Statement of Federal Financial Accounting Standards (SFFAS), "Amendments to Deferred Maintenance Reporting";
- Fifteenth Statement of Federal Financial Accounting Standards (SFFAS), "Management's Discussion and Analysis"; and
- Third Statement of Federal Financial Accounting Concepts (SFFAC), "Management's Discussion and Analysis."

These statements were recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in their entirety by the Office of Management and Budget (OMB).

ADDRESSES: Copies of SFFAS No. 13, "Deferral of Paragraph 65.2—Material Revenue-Related Transactions Disclosures," may be obtained for $2.00 each, Stock No. 041–001–00530–7; copies of SFFAS No. 14, "Amendments to Deferred Maintenance Reporting," may be obtained for $3.00 each, Stock No. 041–001–00531–5; copies of SFFAS No. 15, "Management's Discussion and Analysis," may be obtained for $3.00 each, Stock No. 041–001–00542–1; and copies of SFFAC No. 3, "Management's Discussion and Analysis," may be obtained for $5.00 each, Stock No. 041–001–00541–2; from the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–512–1800).

FOR FURTHER INFORMATION CONTACT: James Short (telephone: 202–395–3124), Office of Federal Financial Management, Office of Management and Budget, 725 17th Street, N.W., Room 6025, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: This Notice indicates the availability of the following four documents: thirteenth Statement of Federal Financial Accounting Standards (SFFAS), "Deferral of Paragraph 65.2—Material Revenue-Related Transactions Disclosures," recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in its entirety by the Office of Management and Budget (OMB) on February 5, 1999; fourteenth Statement of Federal Financial Accounting Standards (SFFAS), "Amendments to Deferred Maintenance Reporting," recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in its entirety by the Office of Management and Budget (OMB) on June 8, 1999; fifteenth SFFAS, "Management's Discussion and Analysis," recommended by FASAB and adopted in its entirety by OMB on August 12, 1999; and third Statement of Federal Financial Accounting Concepts (SFFAC), "Management's Discussion and Analysis," recommended by FASAB and adopted in its entirety by OMB on June 8, 1999.

Under a Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and OMB on Federal Government Accounting Standards, the Comptroller General, the Secretary of the Treasury, and the Director of OMB decide upon accounting principles and standards after considering the recommendations of FASAB. After agreement to specific principles and standards, a notice of document availability is published in the **Federal Register** and distributed throughout the Federal Government.

On September 30, the FASAB Principals signed a revised MOU agreeing that future FASAB statements will become final 90 days after FASAB has submitted a proposed standard to each of the three FASAB Principals, so long as no Principal objects during the 90-day period. OMB, GAO, and Treasury would continue to have veto power over any FASAB action and, in addition, they would maintain their statutory authority to establish and adopt accounting standards for the Federal Government.

Under this new agreement, FASAB will be responsible for the **Federal Register** notification process for future statements. The four statements in this notice were approved prior to September 30 and are being processed under the previous procedures. Two additional statements, also approved prior to September 30, will be forwarded by OMB within the next few weeks for publication in the **Federal Register**.

This Notice is available on the OMB home page on the Internet which is currently located at http://www.whitehouse.gov/WH/EOP/omb, under the caption "**Federal Register** Submissions."

Joshua Gotbaum,

Executive Associate Director and Controller.

[FR Doc. 00–1080 Filed 1–19–00; 8:45 am]

BILLING CODE 3110–01–U

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

AGENCY:

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 498, File No. 270–435, OMB Control No. 3235–0488

Rule 30a–1, File No. 270–210, OMB Control No. 3235–0219

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 498 Under the Securities Act of 1933, Profiles for Certain Open-End Management Investment Companies

Rule 498 permits open-end management investment companies (or a series of an investment company organized as a series company, which offers one or more series of shares representing interests in separate investment portfolios) ("funds") to provide investors with a "profile" that contains a summary of key information about a fund, including the fund's investment objectives, strategies, risks and performance, and fees in standardized format. The profile provides investors the option of buying fund shares based on the information in the profile or reviewing the fund's prospectus before making an investment decision. Investors purchasing shares based on a profile receive the fund's prospectus prior to or with confirmation of their investment in the fund.

Consistent with the filing requirement of a fund's prospectus, a profile must be filed with the Commission thirty days before first use. Such a filing allows the Commission to review the profile for

compliance with Rule 498. Compliance with the rule's standardized format assists investors in evaluating and comparing funds.

It is estimated that approximately 176 initial profiles and 129 updated profiles are filed with the Commission annually. The Commission estimates that each profile contains on average 1.25 portfolios, resulting in 220 portfolios filed annually on initial profiles and 161 portfolios filed annually on updated profiles. The number of burden hours for preparing and filing an initial profile per portfolio is 25. The number of burden hours for preparing and filing an updated profile per portfolio is 10. The total burden hours for preparing and filing initial and updated profiles under Rule 498 is 7,110, representing a decrease of 6,640 hours from the prior estimate of 13,750. The reduction in burden hours is attributable to the lower number of profiles actually prepared and filed as compared to the previous estimates.

Rule 30a–1 Under the Investment Company Act of 1940, Annual Reports

Rule 30a–1 (17 CFR 270.30a–1) requires that investment companies registered under the Investment Company Act file annual and periodic reports with the Commission and send to the Commission copies of their reports to shareholders. These requirements are designed to ensure that the Commission has enough information in its files to effectively monitor the operations of each company and to provide investors with the kind of current information that is necessary to detect problems in the operations of the company.[1]

There is no burden associated with complying with Rule 30a–1. The respondent's reporting burdens and cost burden under Rule 30a–1 is associated with Form N–SAR. Those burdens and costs are discussed in the submission for Form N–SAR.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Written 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 will have practical utility, (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, ad clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

Dated: January 11, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 1284 Filed 1–19–00; 8:45 am]

BILLING CODE 8010–01–M

[1] Annual and periodic reports to the Commission become part of its public files and, therefore, are available for use by prospective investors and shareholders.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24251; File No. 812–11768]

Third Avenue Variable Series Trust and ESQF Advisers, Inc.

January 12, 2000.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (the "1940 Act") for exemptions from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit shares of any current or future series of the Third Avenue Variable Series Trust designed to fund insurance products ("Insurance Funding Series") and shares of any other investment company or series thereof now or in the future registered under the 1940 Act that is designed to fund insurance products and for which ESQF, Advisers, Inc., or any of its affiliates ("Affiliates"), may in the future serve as investment adviser, administrator, manager, principal underwriter or sponsor (the Insurance Funding Series and each other investment company hereinafter referred to, collectively, as the "Funds"), to be sold to and held by: (a) Variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies; and (b) qualified pension and retirement plans outside of the separate account context.

APPLICANTS: Third Avenue Variable Series Trust (the "Trust") and ESQF Advisers, Inc. (the "Adviser").

FILING DATE: The application was filed on September 3, 1999, and amended and restated on November 16, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on February 7, 2000, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Third Avenue Variable Series Trust, c/o Ian M. Kirschner, 767 Third Avenue, New York, New York 10017–2023.

FOR FURTHER INFORMATION CONTACT: Zandra Y. Bailes, Senior Counsel, or Susan M. Olson, Branch Chief, Division of Investment Management, Office of Insurance Products, 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, 450 Fifth Street, NW, Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. The Trust is a Delaware business trust registered as an open-end diversified management investment company. The Trust currently is composed of one series, Third Avenue Value Portfolio. Additional portfolios may be added in the future.

2. The Adviser is registered under the Investment Advisers Act of 1940 and will be the investment manager for the Trust.

3. The Trust intends to offer its shares to separate accounts of both affiliated and unaffiliated insurance companies ("Participating Insurance Companies"), supporting variable annuity and variable life insurance contracts.

4. The Trust also intends to offer one or more portfolios of its shares directly to qualified pension and retirement plans ("Eligible Plans" or "Plans")

outside the separate account context. The Funds' shares sold to Eligible Plans which are subject to the Employee Retirement Income Security Act of 1984 ("ERISA"), as amended, may be held by the trustee(s) of the Eligible Plans.

5. The Participating Insurance Companies will establish their own separate accounts and design their own Contracts. Each Participating Insurance Company will have the legal obligation of satisfying all requirements applicable to such insurance company under the federal securities laws. Each Participating Insurance Company will enter into a fund participation agreement with the Funds in which the Participating Insurance Company invests. The role of the Funds, so far as the federal securities laws are applicable, will be to offer their shares to separate accounts of Participating Insurance Companies and to Eligible Plans and to fulfill any conditions that the Commission may impose upon granting the order requested in the application.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) under the 1940 Act provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted by rule 6e–2(b)(15) are available, however, only where the management investment company underlying the separate account ("underlying fund") offers its shares "*exclusively* to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company" (emphasis supplied). Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity or a flexible premium variable life insurance separate account of the same company or of any affiliated life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same insurance company or of any affiliated life insurance company is referred to herein as "mixed funding." In addition, the relief granted by rule 6e–2(b)(15) is not available if shares of the underlying management investment company are offered to variable annuity or variable life insurance separate accounts of unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for separate accounts of unaffiliated life insurance companies is referred to herein as "shared funding."

2. In connection with the funding of flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions, however, are available only where the separate account's underlying fund offers its shares "*exclusively* to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled [premium variable life insurance] contracts or flexible [premium variable life insurance] contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company" (emphasis supplied). Therefore, Rule 6e–3(T) permits mixed funding with respect to a flexible premium variable life insurance. However, Rule 6e–3(T) does not permit shared funding because the relief granted by Rule 6e–3(T)(b)(15) is not available with respect to a flexible premium variable life insurance separate account that owns shares of a management investment company that also offers its shares to separate accounts (including flexible premium variable life insurance separate accounts) of unaffiliated life insurance companies.

3. Applicants state that the relief granted by Rules 6e–2(b)(15) and 6e3(T)(b)(15) is not affected by the purchase of shares of the Funds by an Eligible Plan. However, because the relief under Rules 6e–2(b)(15) and 6e3(T)(b)(15) is available only where shares of the underlying fund are offered exclusively to separate accounts, exemptive relief is necessary if shares of the Funds are also to be sold to Eligible Plans.

4. Applicants state that Section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the assets underlying variable annuity contracts and variable life insurance contracts issued by insurance company separate accounts and held in the portfolios of management investment companies. The Code provides that such contracts will not be treated as annuity contracts or life insurance contracts for any period (or any subsequent period) for which the investments are not, in accordance with regulations issued by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations (Treas. Reg. 1.817–5)(the "Regulations") which established specific diversification requirements for investment portfolios underlying variable annuity and variable life contracts. The Regulations generally provide that, in order to meet these diversification requirements, all of the beneficial interests in the underlying investment companies. However, the Regulations also contain an exception to this requirement that allows shares of an investment company to be held by a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts (Treas. Reg. 1.817–5(f)(3)(iii)).

5. Applicants also note that the promulgation of Rules 6e–2(b)(15) and 6e,(T)(b)(15) preceded the issuance of the Regulations, which made is possible for shares of an investment company to be held by an Eligible Plan without adversely affecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their Contracts. Thus, the sale of shares of the same investment company to separate accounts and eligible plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(1) and 6e–3(T)(b)(15), given the then-current tax law.

6. In general, Section 9(A) of the 1940 Act disqualifies any person convicted of certain offenses, and any company affiliated with that person, from serving in various capacities with respect to an underlying registered management investment company. More specifically, Section 9(a)(3) provides that it is unlawful for any company to serve as investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) of (2) of the 1940 Act. Rules 6e2(b)(15)(i) and (ii) and 6e3(T)(b)(15)(i) and (ii) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations of mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying fund.

7. Applicants state that the partial relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of

Section 9 of the 1940 Act limits, in effect, the mount of monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants state that those Rules recognize that it is unnecessary to apply Section 9(a) to the thousands of individuals who may be involved in a large insurance company but would have no connection with the investment company funding the separate accounts. Those individuals who participate in the management or administration of the funds will remain the same regardless of which separate accounts or insurance companies use the Funds. Applicants maintain that applying the requirements of Section 9(a) because of investment by other insurers' separate accounts would not serve any regulatory purpose. Therefore, Applicants submit that it is unnecessary to apply Section 9(a) to individuals in various unaffiliated insurance companies (or affiliated companies or Participating Insurance Companies) that may utilize a Fund as a funding medium for variable contracts. Additionally, Applicants state that for the same reasons as set forth above with respect to investments by separate accounts, there is no regulatory purpose to be served in extending the monitoring requirements because of investment in the Funds by Plans.

8. Applicants state the Rules 6e2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed. More specifically, Rules 6e–2(b)2(b)(15)(iii)(A) and 6e3(T)(b)(15)(iii)A provide that the insurance company may disregard the footing instructions of its contract owners with respect to the investment of an underlying fund or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority and subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of the Rules. In addition, Rules 6e–2(b)(15)(iii)(B) and 6e3(T)(b)(15)(iii)(A)(2) provide that the insurance company may disregard voting instruction of contract owners in favor of any change in such company's investment policies, principal underwriter or any investment adviser (subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii)(B) and (C) of the Rules).

9. With respect to Eligible Plans, which are not registered as investment companies under the 1940 Act, there is no requirement to pass through voting rights to Plan participants. Indeed, to the contrary, applicable law expressly reserves voting rights associated with Plan assets to certain specified persons. Applicants state that shares of the Funds sold to Eligible Plans will be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control Eligible Plans with two exceptions: (a) When the Eligible Plan expressly provides that the trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Eligible Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Eligible Plan is delegated to one or more investment managers pursuant to Section 403(c)(3) of ERISA. Unless one of the above two exceptions stated in Section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting proxies.

10. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Eligible Plans may have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Eligible Plans in their discretion. Some of the Eligible Plans, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from Plan participants.

11. Where an Eligible Plan does not provide participants with the right to give voting instructions, Applicants submit that there is no potential for material irreconcilable conflicts of interest between or among Contract holders and Plan participants with respect to voting of the respective Fund's shares. Accordingly, Applicants note that unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to such Eligible Plans since the Eligible Plans are not entitled to pass-through voting privileges.

12. Even if an Eligible Plan were to hold a controlling interest in a Fund, Applicants argue that such control would not disadvantage other investors in such Fund to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, Applicants submit that investment in the Fund by a Plan will not create any of the voting complications occasioned by mixed funding or shared funding. Unlike mixed or shared funding, Plan investor voting rights cannot be frustrated by veto rights of insurers or state regulators.

13. Where an Eligible Plan provides Plan participants with the right to give voting instructions, Applicants see no reason to believe the participants in Eligible Plans generally or those in a particular Plan, either as a single group or in combination with participants in other Eligible Plans, would vote in a manner that would disadvantage Contract holders. The purchase of shares of the Funds by Eligible Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding.

14. Applicants assert that no increased conflicts of interest would be presented by the granting of the requested relief. Shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. When different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators of other states in which other Participating Insurance Companies are domiciled. Applicants submit that the possibility also exists when a single insurer and its affiliates offer their insurance products in several states, as in currently permitted.

15. Applicants state that affiliations do not reduce the potential for differences in state regulatory requirements. In any event, Applicants submit that the conditions set forth in the application and included in this notice are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. For instance, if a particular state insurance regulator's decision conflicts with the majority of other state regulators. the affected insurer may be required to withdraw its separate account's investment in the relevant Funds.

16. Applicants further assert that affiliation does not eliminate the potential for divergent judgments as to when a Participating Insurance Company could disregard Contract holder voting instructions. The potential

for disagreement is limited by the requirements in Rules 6e–2 and 6–3(T) that an insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations. However, if the Participating Insurance Company's decision to disregard Contract holder voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its separate account's investment in that Fund, and no charge or penalty would be imposed upon Contract holders as a result of such withdrawal.

17. Applicants submit that no reason exists why investment policies of the Fund with mixed funding would or should be materially different from what they would or should be if the Funds or series thereof funded only variable annuity contracts or only variable life insurance contracts, rather than Contracts and Eligible Plans. Applicants represent that the Funds will not be managed to favor or disfavor any particular insurer or type of Contract.

18. Applicants state that they do not see any greater potential for material irreconcilable conflicts arising between the interests of Plan Participants under the Eligible Plans and holders of Contracts issued by separate accounts of Participating Insurance Companies from possible future changes in the federal tax laws than that which already exist between variable annuity contract holders and variable life insurance contract holders.

19. Applicants note that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Eligible Plans, the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the Eligible Plan or variable annuity or variable life insurance separate accounts cannot net purchase payments to make the distributions, the separate account or Eligible Plan will redeem shares of the Funds at their net asset value. The Eligible Plan will make distributions in accordance with the terms of the Plan. The life insurance company will make distributions in accordance with the terms of the variable contract.

20. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving voting rights to Contract holders and to Eligible Plans. Applicants represent that the Fund will inform each shareholder, including each separate account and Eligible Plan, of information necessary for the shareholder meeting, including their respective share of ownership in the Fund. A Participating Insurance Company will then solicit voting instructions in accordance with the "pass-through" voting requirements of Rules 6e–2 and 6e–3(T).

21. Applicants submit that there are no conflicts between the Contract holders of the separate accounts and the participants under Eligible Plans with respect to state insurance commissioners' veto powers over investment objectives. State insurance commissioners have been given the veto power to prevent, among other things, insurance companies indiscriminately redeeming their separate accounts out of one fund and investing in another. Generally, time-consuming complex transactions must be undertaken to accomplish such redemptions and transfers. Conversely, the Eligible Plans can quickly redeem shares from a Fund and reinvest in another funding vehicle without the same regulatory impediments or, as is the case with most Plans, even hold cash pending suitable investment. Therefore, Applicants conclude that even if there should arise issues where the interests of Contract holders and the interests of Eligible Plans and Plan Participants conflict, the issues can be almost immediately resolved because Eligible Plans can, on their own, redeem the shares out of the Funds.

22. Applicants assert that many insurance companies have been hindered in entering the market for offering variable annuity and variable life insurance contracts. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of name recognition by the public as investment experts. In particular, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the Contract business on their own. Applicants submit that the use of the Funds as common investment media for Contracts would lower these barriers.

23. Applicants assert that Participating Insurance Companies would benefit not only from the investment and administrative expertise of the Adviser and its Affiliates, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Therefore, making the Funds available for mixed and shared funding will encourage more insurance companies to offer Contracts, and accordingly should result in increased competition with respect to both Contract design and pricing, which can be expected to result in more product variation and lower charges. Applicants state that Contract holders would benefit because mixed and shared funding eliminates a significant portion of the costs of establishing and administering separate funds. Applicants also assert that the sale of shares of the Funds to Eligible Plans should result in an increased amount of assets available for investment by such Funds. This may benefit Contract holders by promoting economies of scale, by permitting greater safety of investments through greater diversification, and by making the addition of new portfolios to the Funds more feasible.

Applicants' Conditions

Applicants have consented to the following conditions:

1. A majority of the Trustees or Board of Directors (each, a "Board") of the Trust and each Fund will consist of persons who are not "interested persons" thereof, as defined by Section 2(a)(19) of the 1940 Act, and the rules thereunder, and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification or bona fide resignation of any trustee or director, then the operation of this condition shall be suspended: (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Boards will monitor their respective Funds for the existence of any material irreconcilable conflict between and among the interests of the Contract holders of all separate accounts and of Plan participants and Eligible Plans investing in the Funds and determine what action, if any, should be taken in response to any such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) any action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Funds are being managed; (e) a difference in voting instructions given by variable

annuity and variable life insurance contract holders and trustees of the Plans; (f) a decision by a Participating Insurance Company to disregard the voting instructions of Plan participants.

3. The Adviser (or any investment adviser of a Fund), any Participating Insurance Company, and any Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the issued and outstanding shares of a Fund (such Plans referred to hereafter as "Participating Plans") will be required to report any potential or existing conflicts to the Board of the relevant Fund. The Adviser (or any other investment adviser of a Fund), Participating Insurance Companies and Participating Plans will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by a Participating Insurance Company to inform the Board whenever it has determined to disregard Contract holder voting instructions, and, if pass-through voting is applicable an obligation by a Participating Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such conflicts and information, and to assist the Boards will be contractual obligations of all Participating Insurance Companies and Participating Plans investing in the Funds under their agreements governing participation in the Funds, and such agreements, shall provide that these responsibilities will be carried out with a view only to the interests of the Contract holders, and if applicable, Plan participants.

4. If a majority of the Board of a Fund, or a majority of its disinterested trustees or directors, determine that a material irreconcilable conflict exists, the relevant Participating Insurance Companies, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees or directors), will be required to take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict. Such steps could include: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Fund and reinvesting such assets in a different investment medium, which may include another series of the Trust or another Fund; (b) in the case of Participating Insurance Companies, submitting the questions of whether such segregation should be implemented to a vote of all affected Contract holders and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity or variable life insurance Contract holders of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Contract holders the option of making such a change; and establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard Contract holders' voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Fund, to withdraw its separate account's investment in such Fund, with no change or penalty imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Participating Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Participating Plan may be required, at the election of the Fund, to withdraw its investment in such Fund, with no charge or penalty imposed as a result of such withdrawal. To the extent permitted by applicable law, the responsibility of taking remedial action in the event of a Board determination of a material irreconcilable conflict and bearing the cost of such remedial action, will be contractual obligation of all Participating Insurance Companies and Participating Plans under the agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of Contract holders and Plan participants, as applicable.

For purposes of this Condition 4, a majority of the disinterested members of the applicable Board will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will a Fund, or the Adviser (or any other investment adviser of the Funds) be required to establish a new funding medium for any Contract. No Participating Insurance Company will be required by this Condition 4 to establish a new funding medium for any Contract if a majority of Contract holders materially and adversely affected by the irreconcilable material conflict vote to decline this offer. No Participating Plan shall be required by this Condition 4 to establish a new funding medium for such Plan if: (a) A majority of Plan participants materially and adversely affected by the irreconcilable material conflict vote to decline such offer, or (b) pursuant to governing plan documents and applicable law, the Participating Plan makes such decision with a Plan participant plan.

5. The Adviser, all Participating Insurance Companies with respect to a Fund and Participating Plans with respect to a Fund will be promptly informed in writing of any determination by the Board of such Fund that a material irreconcilable conflict exists and its implications.

6. Participating Insurance Companies will be required to provide pass-through voting privileges to all Contract holders so long as the Commission interprets the 1940 Act to require pass-through voting privileges for Contract holders. Accordingly, the Participating Insurance Companies will vote shares of a Fund held in their separate accounts in a manner consistent with voting instructions timely received from Contract holders. Participating Insurance Companies shall be responsible for assuring that each of their separate accounts calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Fund. Each Participating Insurance Company will be required to vote shares for which it has not received voting instructions as well as shares attributable to it, in the same proportions as it votes shares for which it has received instructions. Each Participating Plan will vote as required by applicable law governing plan documents.

7. All reports of potential or existing conflicts received by a Board and all Board action with regard to determining the existence of a conflict, notifying the Adviser, Participating Insurance Companies and Participating Plans of a conflict and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, and such minutes or other records will be made available to the Commission upon request.

8. Each Fund will notify all Participating Insurance Companies and Participating Plans that disclosure in separate account prospectuses or plan prospectuses or other plan disclosure documents regarding potential risks of

mixed and shared funding may be appropriate. Each Fund will disclose in its prospectus that: (a) shares of the Fund may be offered to insurance company separate accounts of both annuity and life insurance variable contracts, and to Plans; (b) due to differences of tax treatment and other considerations, the interests of various Contract holders participating in the Fund and the interests of Plans investing in the Fund may conflict; and (c) the Board will monitor such Fund for any material conflicts of interest and determine what action, if any, should be taken.

9. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the respective Fund), and, in particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings), or comply with Section 16(c) of the 1940 Act (although the Funds are not within the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a), and, if applicable, Section 16(b) of the 1940 Act. Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent Rules 6e–2 and 6e–3(T) are amended (or Rule 6e–3 under the 1940 Act is adopted) to provide exemptive relief from any provision of the 1940 Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicants, then the Funds shall and the Participating Insurance Companies, as appropriate, shall be required to take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, or Rule 6e–3, as adopted, to the extent applicable.

11. No less than annually, the Adviser (or any other investment adviser of a Fund) the Participating Insurance Companies and Participating Plans shall submit to the Boards such reports, materials or data as such Boards may reasonably request so that the Boards may fully carry out obligations imposed upon them by the conditions contained in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the applicable Boards. The obligations of the Adviser, Participating Insurance Companies and Participating Plans to provide these reports, materials and data to the Boards, shall be a contractual obligation of the Adviser, all Participating Insurance Companies and Participating Plans under their agreements governing participation in the Funds.

12. If a Plan or Plan participating shareholder should become an owner of 10% or more of the issued and outstanding shares of a Fund, such Plan will execute a participation agreement with such Fund, including the conditions set forth herein to the extent applicable. A Plan or Plan participant shareholder will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of the Fund.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1285 Filed 1–19–00; 8:45 am]

BILLING CODE 8010–01–M

STATE DEPARTMENT

[Public Notice #3188]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on February 15, 16, and 17, at the Westin Hotel, Fort Lauderdale, Florida. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (4), it as been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda will include updated committee reports, a world threat overview and a round table discussion that calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, D.C. 20522–1003, phone: 202–663–0533.

Dated: January 7, 2000.

Peter E. Bergin,

Director of the Diplomatic Security Service.

[FR Doc. 00–1366 Filed 1–20–00; 8:45 am]

BILLIING CODE 4710–24–p

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (00–02–C–00–SWF) To Impose and Use a Passenger Facility Charge (PFC) at Stewart International Airport, Newburgh, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice.

In notice document 99–29903 beginning on page 62243 in the issue of Tuesday, November 16, 1999, under the header section, first paragraph, the notice of intent to rule on application number should be, "(00–02–C–00–SWF)". Also under Supplementary Information section, third paragraph, application number should be, "00–02–C–00–SWF".

DATES: Comments must be received on or before February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Dan Vornea, Project Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, N.Y. 11530.

Issued in Garden City, New York on November 24, 1999.

Thomas Felix,

Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 00–868 Filed 1–19–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2000–6790]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD) intentions to request approval for three years of an existing information collection entitled "EUSC/Parent Company."

DATES: Comments should be submitted on or before March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Melvin Geller, Office of National Security Plans, Maritime Administration, 400 Seventh Street, SW, Room P1–1303, Washington, D.C. 20590, telephone number—202–366–5910. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: EUSC/Parent Company.

Type of Request: Approval of an existing information collection.

OMB Control Number: 2133–0511.

Form Number: None.

Expiration Date of Approval: Three years from the date of approval.

Summary of Collection of Information: The collection of information consists of an inventory of foreign register vessels owned by Americans. Specifically, the collection consists of responses from vessel owners verifying or correcting vessel ownership data and characteristics found in commercial publications. The information obtained could be vital in a national or international emergency, and is essential to the logistical support planning operations conducted by MARAD officials.

Need and Use of the Information: The information obtained will be used for contingency planning for sealift requirements primarily as a source of ships to move essential oil and bulk cargoes in support of the national economy.

Description of Respondents: Foreign register American vessel owners.

Annual Responses: 92 responses.

Annual Burden: 46 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically, address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. et Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at http://dms.dot.gov.

Dated: January 13, 2000.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 00–1287 Filed 1–19–00; 8:45 am]

BILLIING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3848; Notice 3]

Beall Trailers of Washington, Inc.; Petition for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

Beall Trailers of Washington, Inc., of Kent, Washington, ("Beall"), a wholly-owned subsidiary of Beall Corporation, has asked us to renew, for three years, the temporary exemption we granted it in July 1998 from Federal Motor Vehicle Safety Standard No. 224 *Rear Impact Protection.* The basis of the petition is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

We are publishing this notice of receipt of the petition in accordance with our regulations on the subject. This action does not represent that we have made any judgment about the merits of the petition.

On July 8, 1998, we granted Beall's initial exemption petition, assigning it NHTSA Temporary Exemption No. 98–5, expiring July 1, 1999 (63 FR 36989). On April 20, 1999, we received Beall's application for renewal, which was filed in time to stay the expiration date of the exemption, as provided by 49 CFR 555.8(e). Following our request, Beall provided more current financial and production information on October 28, 1999 to supplement its new petition.

Beall manufactures and sells dump body trailers. It (identified in the petition as "Truckweld") produced a total of 311 trailers in 1997, of which 124 were dump body types. Truckweld trailer production in 1998 was down to 135 units but the number of dump body types was not stated.

Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 Kg or more, including dump body types, be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards.* Beall argued earlier that "alterations may have to be made to the trailer chassis or even raising the dump box to provide space for the retractable guard," indicating that a guard that retracts when the dump body is in operation is the solution it is seeking in order to comply. During the time that its exemption has been in effect, Beall "has, in good faith, made attempts to design a compliant device." It states that it has developed "a number of potential designs" including an articulating design, but "these devices * * * do not meet FMVSS 224, have interferences with paving equipment, or have severe maintenance issues." The company is still testing hinged, retractable devices but three issues must be overcome. First, space for a retracted device is not readily available "due to the clearance issues in connecting to pavers." Raising the box also raises the center of gravity and reduces the stability of the trailers "thereby endangering others." Second, "asphalt service will, over a period of time, render such devices unusable." Finally, "it would be possible to operate a trailer with these type (sic) of devices in the retracted position, therefore not in compliance." It will continue its efforts to conform during the three-year exemption period it has requested.

If a renewal of the exemption is not granted, substantial economic hardship will result. First, it would lose a trailer that accounts for 40 percent of its overall production. In addition, "some percentage of the remaining 60% would be lost since our customers typically purchase matching truck mounted dump bodies which may also be lost." It also believes that 31 of its 63 employees would have to be laid off if its application is denied. It argues that maintenance of full employment would be in the public interest . Beall's net income was $39,317 in fiscal year 1995, $72,213 in 1996, $697,040 before income taxes in 1997, and $326,255 in 1998.

We welcome your written comments on Beall's petition. Please send three copies, headed with the docket and notice number shown at the top of this document, and addressed to: Docket Management, National Highway Traffic Safety Administration, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. We consider all comments received before the close of business on the comment closing date below . The comments will be available for your examination in the docket at the above address both before and after that date, between the hours of 10 a.m. and 5 p.m. To the extent possible, we will also

consider comments filed after the closing date. We shall publish notice of our final action on the petition in the **Federal Register** under the authority of 49 U.S.C. 30113, and the delegations of authority at 49 CFR 1.50 and 501.4.

Comment closing date: February 22, 2000.

Issued on: January 14, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–1356 Filed 1–19–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–6787; Notice 1]

Currie Technologies, Inc., Receipt of Application for Temporary Exemption From Federal Motor Vehicle Safety Standards Nos. 108 and 123

Currie Technologies, Inc. ("Currie"), of Van Nuys, California, a Nevada Corporation, has applied for a temporary exemption of two years from certain requirements of Federal Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*, and of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The basis of the request is that "compliance would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith," 49 U.S.C. Sec. 30113(b)(3)(B)(i).

We are publishing this notice of receipt of an application in accordance with the requirements of 49 U.S.C. 30113(b)(2), and does not represent any judgment on the merits of the application.

Why Currie Says That it Needs a Temporary Exemption

Since March 1, 1997, Currie has produced "fewer than 1,000" electric bicycles with a "power assist." Its "power assisted" electric bicycles incorporate a "pedal torque enable system" which require that the rider pedal the bicycle in order to activate the motor. Because Currie's "power assist" will not operate in the absence of muscular power, a bicycle equipped with the "power assist" is not a motor vehicle subject to our regulations. Currie now intends to manufacture a bicycle propelled by an electric motor of less than ½ hp which will operate in the absence of muscular power. A motorized bicycle that can operate in the absence of muscular power is a "motor vehicle." As the manufacturer of a "motor vehicle," Currie must comply with all applicable Federal motor vehicle safety regulations. For purposes of compliance with the Federal motor vehicle safety standards, any two-wheeled motor vehicle is a "motorcycle." However, some provisions of the Federal motor vehicle motorcycle safety standards contain lesser performance requirements for "motor driven cycles." These are motorcycles with engines producing 5 hp or less, such as the Currie vehicle.

Currie believes that compliance with portions of the Federal motorcycle safety standards on lighting and controls will cause it substantial economic hardship. It requests that it be exempted from providing the headlamps, taillamps, stop lamps, and license plate lamps required by Standard No. 108, and handlebar-located front and rear brake controls.

Why Currie Says That Compliance Would Cause Substantial Economic Hardship and it Has Tried in Good Faith To Comply With the Standards

Currie's resources are limited. From its inception on February 28, 1997 through December 31, 1998, the company had cumulative net losses of $703,054. The costs of tooling for the lamps needed to comply with Standard No. 108 are estimated to be $120,000. This, in turn, would require an increase in the retail cost of each vehicle that could be as much as $300. The vehicle currently retails for $899, and if the company raises the price to $1,199, "this will result in pricing the product well above the $1,000 price point threshold and effectively nullify all future sales." Further, "with the money invested in the company to date and the requirement for at least minimum operating capital, our company will go out of business unless minimum capital to cover operating expenses is generated through sales." Beginning in July 1998, it researched and tested off-the-shelf motorcycle and moped headlamps, taillamps and stop lamps at Jute Manufacturing Company in Taiwan. Currie found that these lamps added over 5 pounds weight, reducing the total range per charge (which reduces the appeal of the product as range per charge decreases). The batteries of the Currie electric bicycle carry only 250 watt-hours; the lamps tested are inefficient and will draw more energy from the batteries. To provide heavier, more efficient batteries will increase the price and reduce the range per charge. While the exemption is in effect, Currie will explore other options such as designing vehicle-specific lighting equipment. It estimates that it can achieve compliance by December 2000. During the exemption period, its vehicles will be equipped with the following reflectors: one white in front, one red in rear, one white on each rim, and two yellow on each pedal.

The company's arguments about compliance with Standard No. 123 are based upon its safety views. A bicycle is configured to have the lever controlling the rear brake on the right handlebar. To reverse this position creates the possibility of confusion in riders who must apply brakes quickly. Currie gives as an example:

> When coasting too fast down hills, the natural instinct is to activate the right-hand lever (rear brake) first. This prevents the rear end of the bicycle from cartwheeling over the front. With the brake reversal, the front brake is activated first, causing dangerous catapulting. This is a common occurrence with novice bicyclists. The moped brake reversal accentuates this danger, and, in fact, a number of accidents have occurred for this reason.

The company does comply with the requirements of the Consumer Product Safety Commission (CPSC) for bicycles that the rear brake shall be activated by a control located on the right handlebar and the front brake activated by a control on the left handlebar.

Why Currie Says that an Exemption is Consistent With the Public Interest and the Objectives of Motor Vehicle Safety

Currie submits that the electric bicycle "is an environmentally friendly, zero-emission vehicle, and that mass-marketed electric bicycles "will help to ease the transition from gas powered vehicles into the nascent electric vehicle market."

Because the maximum speed of the electric bicycle is 16 mph when driven by the motor alone, and because a standard bicycle without motor "can easily travel at speeds greater than 16 mph, solely under human input," Currie argues that "this electric bicycle should not be required to have any greater illumination requirements than that of a standard bicycle." It believes that aftermarket bicycle lights are adequate. On November 10, 1999, it informed us that "typical halogen bicycle lights are added for night operation as for regular bicycles."

In addition to the arguments regarding its compliance with the brake control specifications of the CPSC, as discussed above, Currie is concerned that, as its electric bicycle "looks, feels, and rides like a standard bicycle," a rider familiar with bicycle braking systems might make a mistake were the electric bicycle

to conform with Standard No. 123's opposite specifications, and believes that an exemption from these requirements "is more consistent * * * than maintaining the control location and operation * * *."

An Issue on Which We Request Specific Comment

It has come to our attention that the EV Global, an electric bicycle, is advertised as being equipped with a tail lamp and a headlamp, both represented as complying with the motorcycle requirements of Standard No. 108. We asked Currie to explain why it was requesting an exemption for these items of lighting equipment. Currie replied that the EV Global lamps "are specially developed high intensity lamps that are proprietary to their company." Although the lamps may comply with Standard No. 108, "the tooling and production of these lamps is expensive and will cause substantial economic hardship." By contrast, the Currie product "is much lighter and much less expensive (it uses a regular bicycle frame), it meets a different segment of the market and is a true electric *bicycle*."

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. The Docket Room is open from 10 a.m. until 5 p.m. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 22, 2000.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on January 13, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–1354 Filed 1–19–00; 8:45 am]

BILLIING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket RSPA–98–4957; Notice 18]

Notice of New Information Collection

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Request for OMB approval and public comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Research and Special Programs Administration's (RSPA) published its intention to create a new information collection in support of the Office of Pipeline Safety (OPS) Damage Prevention Grant Program (October 22, 1999, 64 FR 57182). No comments were received. The purpose of this notice is to allow the public an additional 30 days from the date of this notice to send in their comments.

Congress authorized the Department of Transportation to create a Damage Prevention Grant Program to assist the states. The Department is requiring that states requesting grants must provide a written proposal to RSPA for approval.

DATES: Comments on this notice must be received February 22, 2000 to be assured of consideration.

ADDRESSES: Comments should identify the docket number of this notice, RSPA–98–4957, and be mailed directly to Office of Regulatory Affairs, Office of Management and Budget, ATTN: RSPA Desk Officer, 726 Jackson Place, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 366–6205 or by electronic mail at marvin.fell.dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Damage Prevention Grant Program

Type of Request: New

Abstract: Third party damage is a leading cause of pipeline accidents. Congress has allocated funds to provide states grants to develop one-call notification programs which will reduce the amount of third party damage. States will be required to submit proposals for these grants that will be evaluated by RSPA.

Estimate of Burden: The average burden hours per response is 40 hours.

Respondents: States.

Estimated Number of Respondents: 30 the first year and 40 the second year.

Estimated Number of Responses per Respondent: 1 per year.

Estimated Total Annual Burden on Respondents: 1200–1600 hours. Copies of this information collection can be reviewed at the Dockets Facility, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590 from 9 A.M. to 5 P.M., Monday through Friday except Federal holidays. They also can be viewed over the Internet at http://dms.dot.gov

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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: (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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC on January 13, 2000.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 00–1353 Filed 1–19–00; 8:45 am]

BILLIING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Departmental Offices; International Financial Institution Advisory Commission; Notice of Meeting

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 603 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the International Financial Institution Advisory Commission (the "Commission") shall advise the report to the Congress on the future role and responsibilities of the international financial institutions (defined as the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation), the World Trade Organization, and the Bank for International Settlements.

DATES: The tenth and eleventh meetings of the Advisory Commission will be held on February 1st and 2nd, 2000, beginning at 9 a.m. and ending tentatively at 3 p.m. in the Cash Room, of the United States Treasury at 15th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC, 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

The Commission members will focus on bankruptcy and contracts on February 1 and hold a public hearing for invited speakers on February 2.

Procedural

These meetings are open to the public. Please note that the meetings may close early if all business is finished. If you wish to attend, please FAX your full name, birthday, and social security number to the Designated Federal Official no later than 4 p.m., January 31, 2000 for clearance into the Treasury building. Members of the public, who have provided such information, must enter into the main Treasury building at the entrance on 15th Street between F and G Streets, and must provide a photo ID at the entrance to be admitted into the building.

Members of the public may submit when written comments. If you wish to furnish such comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Commission in advance of the tenth meeting, 16 copies of any written material should be provided to the Designated Federal Official no later than January 24, 2000.

Dated: January 13, 2000.

William McFadden,

Designated Federal Official.

[FR Doc. 00–1276 Filed 1–19–00; 8:45]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Departmental Offices; International Monetary Fund Advisory Committee; Notice

AGENCY: Department of the Treasury.

ACTION: Notice of Meeting.

SUMMARY: Under section 610 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the Secretary of the Treasury is required to establish an International Monetary Fund Advisory Committee (the "Committee") to advise the Secretary on IMF policy.

DATES: The third meeting of the Committee will be held on February 3, 2000, beginning at 1:30 p.m. in the Diplomatic Room located on the third floor of the main Department of the Treasury building, 1500 Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC, 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The IMF Advisory Committee will discuss the legislated mandates directed at the IMF, with a focus on questions related to social policies and core labor standards, and trade liberalization.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. If you wish to attend please FAX your full name, birthday, and social security number to the Designated Federal Official no later than 4 p.m., January 31st, for clearance into the Treasury building. Members of the public who have provided such information, must enter the main Treasury building at the entrance on 15th Street between F and G Streets, and must provide a photo ID at the entrance to be admitted into the building.

Members of the public may submit written comments. If you wish to furnish such comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Committee in advance of the third meeting, 16 copies of any written material should be provided to the Designated Federal Official no later than January 31, 2000.

Dated: January 13, 2000.

William McFadden,

Designated Federal Official.

[FR Doc. 00–1277 Filed 1–19–00; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2000–3

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)).

Currently, the IRS is soliciting comments concerning Notice 2000–3, Guidance on Cash or Deferred Arrangements.

DATES: Written comments should be received on or before March 20, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Guidance on Cash or Deferred Arrangements.

OMB Number: 1545–1669.

Notice Number: Notice 2000–3.

Abstract: Notice 2000–3 provides guidance to employers maintaining, or who are contemplating establishing, cash or deferred arrangements (CODAs) for their employees. It permits some degree of flexibility in using the safe harbor methods, described in sections 401(k)(12) and 401(m)(11) of the Internal Revenue Code, to satisfy the nondiscrimination tests normally applicable to CODAs. To take advantage of this flexibility, employers must amend their CODAs accordingly and provide employees written notices of

the benefits available to them under the CODA.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 1 hour, 20 minutes.

Estimated Total Annual Burden Hours: 8,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 11, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1383 Filed 1–19–00; 8:45 am]

BILLIING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–17–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–17–90 (TD 8571), Reporting Requirements for Recipients of Points Paid on Residential Mortgages (§§ 1.6050H–1 and 1.6050H–2).

DATES: Written comments should be received on or before March 20, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements for Recipients of Points Paid on Residential Mortgages.

OMB Number: 1545–1380.

Regulation Project Number: IA–17–90.

Abstract: These regulations require the reporting of certain information relating to payments of mortgage interest. Taxpayers must separately state on Form 1098 the amount of points and the amount of interest (other than points) received during the taxable year on a single mortgage and must provide to the payer of the points a separate statement setting forth the information being reported to the IRS.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 37,644.

Estimated Time Per Respondent: 7 hours, 31 minutes.

Estimated Total Annual Burden Hours: 283,056.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 11, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1384 Filed 1–19–00; 8:45 am]

BILLIING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8865

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships.

DATES: Written comments should be received on or before March 20, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title:

Return of U.S. Persons With Respect to Certain

Foreign Partnerships.

OMB Number: 1545–1668.

Form Number: 8865.

Abstract: The Taxpayer Relief Act of 1997 significantly modified the information reporting requirements with respect to foreign partnerships. The Act made the following three changes:

(1) Expanded Code section 6038B to require U.S. persons transferring property to foreign partnerships in certain transactions to report those transfers; (2) expanded Code section 6038 to require certain U.S. partners of controlled foreign partnerships to report information about the partnerships; and (3) modified the reporting required under Code section 6046A with respect to acquisitions and dispositions of foreign partnership interests. Form 8865 will be used by U.S. persons to fulfill their reporting obligations under Code sections 6038B, 6038, and 6046A.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and not-for-profit institutions.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 30 hours, 48 minutes.

Estimated Total Annual Burden Hours: 154,015.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1385 Filed 1–19–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–656–87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–656–87 (TD 8701), Treatment of Shareholders of Certain Passive Foreign Investment Companies (§§ 1.1291–9(d) and 1.1291–10(d)).

DATES: Written comments should be received on or before March 20, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Shareholders of Certain Passive Foreign Investment Companies.

OMB Number: 1545–1507.

Regulation Project Number: INTL–656–87.

Abstract: The reporting requirements affect United States persons that are direct and indirect shareholders of passive foreign investment companies (PFICs). The requirements enable the Internal Revenue Service to identify PFICs, United States shareholders, and transactions subject to PFIC taxation and verify income inclusions, excess distributions, and deferred tax amounts.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 131,250.

Estimated Time Per Respondent: 46 minutes.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 10, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1386 Filed 1–19–00; 8:45 am]

BILLIING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 96–60

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Revenue Procedure 96–60, Procedure for filing Forms W–2 in certain acquisitions.

DATES: Written comments should be received on or before March 20, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Procedure for filing Forms W–2 in certain acquisitions.

OMB Number: 1545–1510.

Abstract: The information is required by the Internal Revenue Service to assist predecessor and successor employers in complying with the reporting requirements under Internal Revenue Code sections 6051 and 6011 for Forms W–2 and 941.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 553,500.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 110,700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 28, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1387 Filed 1–19–00; 8:45 am]

BILLIING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday, February 25, 2000, 6:00 p.m. to 9:00 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, NY 11201.

For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555.

The public is invited to make oral comments from 6:00 p.m. to 6:30 p.m. on Friday, February 25, 2000.

Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY 11201. The Agenda will include the following: various IRS issues. Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 7, 2000.

Cathy VanHorn,

Chief, CAP & Communications.

[FR Doc. 00–1388 Filed 1–19–00; 8:45 am]

BILLIING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday January 28, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday, January 28, 2000, 6:00 p.m. to 9:00 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, NY 11201. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 6:00 p.m. to 6:30 p.m. on Friday, January 28, 2000.

Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY, 11201. The Agenda will include the following: various IRS issues. Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 7, 2000.

Cathy VanHorn,

Chief, CAP & Communications.

[FR Doc. 00–1389 Filed 1–19–00; 8:45 am]

BILLIING CODE 4830 –01–P

Federal Register

Thursday,
January 20, 2000

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6513–4]

RIN 2060–AE36

National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) to reduce emissions of hazardous air pollutants (HAPs) from existing and new facilities that manufacture amino or phenolic resins. The EPA has identified these facilities as major sources of HAPs emissions. These final standards are estimated to reduce organic HAP emissions from major existing sources by 361 tons per year, representing a 51 percent reduction from baseline emissions. This estimate is presented for 40 major existing facilities only, since no new facilities are projected to be constructed in the next three years. The major HAPs emitted by sources covered by the final rule include formaldehyde, methanol, phenol, xylene, and toluene. This rule implements section 112(d) of the Clean Air Act Amendments of 1990 (CAA) and is based on the Administrator's determination that the Amino/Phenolic Resins Production source category emits HAPs identified on the list of HAPs in CAA section 112(b). The emissions reductions achieved by these standards, when combined with the emissions reductions achieved by other similar standards, will provide protection to the public and achieve a primary goal of the CAA.

This action also announces a final change to the source category list to combine the Amino Resins and Phenolic Resins source categories into one category: the Amino/Phenolic Resins Production source category.

EFFECTIVE DATE: January 20, 2000. See the **SUPPLEMENTARY INFORMATION** section concerning judicial review.

ADDRESSES: *Docket.* Docket No. A–92–19 contains supporting information used in developing the standards and is located at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

Background Information Document. The background information document (BID) containing a summary of all the public comments received on the proposed rule and the Administrator's responses to comments may be obtained from the docket for this rule or through the Internet at http://www.epa.gov/ttn/oarpg, or from the U.S. Environmental Protection Agency Library (MD–35), Research Triangle Park, North Carolina 27711, telephone (919) 541–2777. The responses provided in section VII of this preamble to significant comments received on the rule are abbreviated. A full discussion of the comments and our responses to them can be found in the BID.

FOR FURTHER INFORMATION CONTACT: For information concerning this rule, contact Mr. John Schaefer, US EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, telephone (919) 541–0296, e-mail: schaefer.john@epa.gov. For information concerning applicability and rule determinations, contact your State or local representative or the appropriate EPA Regional Office representatives.

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Technology Transfer Network. In addition to being available in the docket, an electronic copy of today's final rule is also available through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules via the internet at http://www.epa.gov/ttn/oarpg. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN Help Line at (919) 541–5384.

EPA Regional Offices

Director, Office of Environmental Stewardship, Attn: Air Compliance Clerk, U.S. EPA Region I, 1 Congress Street, Suite 1100 (SEA), Boston, MA 02114–2023, (617) 918–1740

Umesh Dholakia, U.S. EPA Region II, 290 Broadway Street, New York, NY, 10007–1866, (212) 637–4023

Dianne Walker, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–3297

Lee Page, U.S. EPA Region IV, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303–3104, (404) 562–9131

Bruce Varner, U.S. EPA Region V, 77 West Jackson Boulevard, Chicago, IL 60604–3507, (312) 886–6793

Jim Yang (6EN–AT), U.S. EPA Region VI, First Interstate Bank Tower, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, (214) 665–7578

Gary Schlicht, U.S. EPA Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7097

Tami Thomas-Burton, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, CO 80202, (303) 312–6581

Ken Bigos, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1200

Dan Meyer, U.S. EPA Region X, 1200 Sixth Street, Seattle, WA 98101, (206) 553–4150

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	Standard Industrial Classification (SIC) codes	North American Classification System (NAICS) codes	Examples of regulated entities
Industry	Typically, 2821	Typically, 325211	Facilities which manufacture amino/phenolic resins.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the

applicability criteria in section 63.1400 of 40 CFR part 63. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **SUPPLEMENTARY INFORMATION** section.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of this rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by March 20, 2000. Under section 307(b)(2) of the CAA, the requirements established by today's promulgated rule may not be challenged later in any civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

I. What is the Subject and Purpose of This Rule?

On July 16, 1992 (57 FR 31576), we published an initial list of major and area source categories to be regulated for emissions of HAPs. The Amino Resins Production and Phenolic Resins Production source categories were recorded separately on that initial list.

As we discussed in the proposal preamble (63 FR 68833), the manufacturing processes, the emission characteristics, and applicable control technologies for facilities in these two source categories are similar. Also, commenters on the proposed rule generally agreed that these two source categories should be regulated as one category. Based on these factors, we are announcing the final action to revise the source category list, published under section 112(c) of the CAA, to combine the Amino Resins Production and the Phenolic Resins Production source categories into a new category called "Amino/Phenolic Resins Production."

This rule protects air quality and promotes the public health by reducing emissions of some of the HAPs listed in section 112(b)(1) of the CAA. The HAPs emitted by amino/phenolic resin facilities include formaldehyde, methanol, phenol, toluene, and xylene. Exposure to these compounds at certain levels has been demonstrated to cause adverse health effects, including chronic health disorders (*e.g.*, cancer, aplastic anemia, pulmonary (lung) structural changes), acute health disorders (*e.g.*, dyspnea (difficulty in breathing)), and neurotoxic effects.

Formaldehyde is the only HAP associated with this source category that has been classified as a probable human carcinogen (Group B1). Both acute (short-term) and chronic (long-term) exposure to formaldehyde irritates the eyes, nose, and throat, and may cause coughing, chest pains, and bronchitis. Reproductive effects, such as menstrual disorders and pregnancy problems, have been reported in female workers exposed to formaldehyde. Limited human studies have reported an association between formaldehyde exposure and lung and nasopharyngeal cancer. Animal inhalation studies have reported an increased incidence of nasal squamous cell cancer.

Short-term exposure to methanol by humans through inhalation or ingestion may result in visual disturbances such as blurred or dim vision, leading to blindness. Damage to the nervous system, including permanent motor dysfunction, may also result. Long-term inhalation or oral exposure to methanol may cause conjunctivitis, headache, giddiness, insomnia, gastric disturbances, visual disturbances, and blindness in humans. No information is available on the reproductive or developmental effects of methanol in humans. Birth defects have been observed in the offspring of rats exposed to methanol by inhalation.

Inhalation and dermal exposure to phenol is highly irritating to the skin, eyes, and mucous membranes in humans. Oral exposure to phenol may cause muscle weakness and tremors, loss of coordination, paralysis, convulsions, coma, and respiratory arrest. Limited studies on chronic inhalation exposure to phenol in humans have reported liver injury and effects on the heart. No studies of developmental or reproductive effects of phenol in humans are available, but animal studies have reported reduced fetal body weights, growth retardation, and abnormal development in the offspring of animals exposed to phenol by the oral route.

Short-term inhalation of mixed xylenes (a mixture of three closely-related compounds) in humans may cause irritation of the nose and throat, nausea, vomiting, gastric irritation, mild transient eye irritation, and neurological effects. Long-term inhalation of xylenes in humans may result in nervous system effects such as headache, dizziness, fatigue, tremors, and incoordination. Other reported effects include labored breathing, heart palpitation, severe chest pain, abnormal electrocardiograms, and possible effects on the blood and kidneys.

Acute inhalation of toluene by humans may cause effects to the central nervous system (CNS), such as fatigue, sleepiness, headache, nausea, and irregular heartbeat. Adverse CNS effects have been reported in chronic abusers exposed to high levels of toluene. Symptoms include tremors, decreased brain size, involuntary eye movements, and impaired speech, hearing, and vision. Chronic inhalation exposure by humans to lower levels of toluene also causes irritation of the upper respiratory tract, eye irritation, sore throat, nausea, dizziness, headaches, and difficulty with sleep. Studies of children of pregnant women exposed by inhalation to toluene or to mixed solvents have reported CNS problems, facial and limb abnormalities, and delayed development. However, these effects may not be attributable to toluene alone.

As stated in the proposal preamble, we do not have the type of current detailed data on each of the amino/phenolic resin facilities covered by the rule, and the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the HAPs emitted from these facilities and potential for resultant health effects.

II. Does This Rule Apply to Me?

This rule applies to you if you own or operate a amino/phenolic resins production unit that is located at a facility that is a major source of HAPs emissions. You do not have to comply with the rule if your facility is a non-

major (area) source. If your facility is a major source under this rule, each group of one or more amino/phenolic resin process units (APPU), plus heat exchange systems and equipment used to comply with the rule such as control and recovery devices, are subject to the rule. Each group of one or more APPU and associated equipment is known as the affected source. You are required to meet the standards for organic HAPs emissions from the following emission points at affected sources: storage vessels, continuous process vents, batch process vents (reactor and non-reactor), heat exchange systems, and equipment leaks. These standards apply to existing and new affected sources.

III. What Procedures Did We Follow To Develop the Rule?

A. Source of Authority and Criteria for NESHAPs Development

Section 112 of the CAA gives us the authority to establish national standards to reduce air emissions from major sources that emit one or more HAPs. Section 112(b) of the CAA lists 188 chemicals, compounds, or groups of chemicals as HAPs. This rule implements section 112(d) of the Act, which requires us to regulate sources of HAPs listed in section 112(b) of the CAA.

Section 112(a)(1) of the CAA defines a major source as:

* * * any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. * * *

Section 112(d) requires us to develop standards to control HAPs emissions from both new and existing sources. The statute requires the standards to reflect the maximum degree of reduction in HAPs emissions that is achievable. This control level is referred to as maximum achievable control technology (MACT). New source MACT must be at least as stringent as "the emission control achieved in practice by the best controlled similar source." Existing source MACT must be at least as stringent as "the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information)." These minimum stringency levels are known as "MACT floors." Consideration of control levels more stringent than the MACT floor must reflect consideration of the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements. Section 112(h) identifies two conditions under which it is not considered feasible to prescribe or enforce emission standards. These conditions include (1) if the HAPs cannot be emitted through a conveyance device, or (2) if the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations. If emission standards are not feasible to prescribe or enforce, then the Administrator may instead promulgate equipment, work practice, design, or operational standards, or a combination thereof.

B. Regulatory Background

We proposed the standards in the **Federal Register** on December 14, 1998 (63 FR 68832). In the proposal preamble, we described the approach used to collect and evaluate information pertaining to the MACT floor. As required by the statute (section 112(d)(2) of the Act), we considered regulatory alternatives more stringent than the MACT floor:

* * * taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements. * * *

In section VII of this preamble, we present major comments and changes made to the proposed rule for reactor and non-reactor batch process vents, continuous process vents, storage vessels, equipment leaks, wastewater, and heat exchange systems.

For the final rule, we used the Generic MACT (GMACT) (40 CFR part 63, subparts SS, UU, and WW) for continuous process vents, equipment leaks, and storage tanks. We modeled the batch process vent provisions after the Group IV Polymers and Resins NESHAP (40 CFR part 63, subpart JJJ). In December 1996, petitions for review of the promulgated rules for the Group I and IV Polymers and Resins NESHAP were filed. The petitioners raised many technical issues and concerns with the drafting clarity of these rules. On March 9, 1999 (64 FR 11560), we proposed correcting amendments to these rules to address the petitioners' issues and any inconsistencies that were discovered during the review process. For purposes of clarity and consistency, we incorporated several changes from the March 9 proposal into this rule. The BID contains a summary of the litigation-based changes that were proposed to the Group IV Polymers and Resins NESHAP that are applicable to this rule.

IV. What are the requirements of the Rule?

A. Summary of the Standards

We are summarizing the promulgated standards for new and existing affected sources in Table 1 and Table 2, respectively. The tables below present the standards by emission point and present the alternative organic HAPs emission limit of 50 parts per million by volume (ppmv), or 20 ppmv outlet organic HAPs concentration for combustion devices.

You must comply with the standards for existing affected sources 3 years from the effective date of the rule. You must comply with the standards for new affected sources upon start-up.

TABLE 1.—STANDARDS FOR NEW AFFECTED SOURCES

Emission point	Applicability criteria	Standard
Storage Vessels	Vessels with capacities of 50,000 gallons or greater with vapor pressures of 2.45 psia or greater Vessels with capacities of 90,000 gallons or greater with vapor pressures of 0.15 psia or greater	95 percent reduction OR alternative standard of venting to a control device continuously achieving a 50 ppmv outlet organic HAPs concentration or 20 ppmv outlet organic HAPs concentration for combustion devices.
Continuous Process Vents	Process vents with a TRE value less than or equal to 1.2	85 percent reduction

TABLE 1.—STANDARDS FOR NEW AFFECTED SOURCES—Continued

Emission point	Applicability criteria	Standard
OR alternative standard of venting to a control device continuously achieving a 50 ppmv outlet organic HAPs concentration or 20 ppmv outlet organic HAPs concentration for combustion devices.		
Reactor Batch Process Vents	No applicability criteria, all reactor batch process vents are subject to control	95 percent reduction over the batch cycle OR 0.0004 lb of HAPs per 1,000 lbs of product produced and 0.045 lb of HAPs per 1,000 lbs of solvent-based product OR alternative standard of venting to a control device continuously achieving a 50 ppmv outlet organic HAPs concentration or 20 ppmv outlet organic HAPs concentration for combustion devices.
Non-Reactor Batch Process Vents	Uncontrolled emissions from the collection of non-reactor batch process vents within the affected source greater than or equal to 0.25 tpy	76 percent reduction for the collection of non-reactor batch process vents within the affected source OR alternative standard of venting to a control device continuously achieving a 50 ppmv outlet organic HAPs concentration or 20 ppmv outlet organic HAPs concentration for combustion devices.
Heat Exchange Systems	No applicability criteria	Monitor for leaks.
Equipment Leaks	The equipment contains or contacts ≥5 weight-percent organic HAP, and operates ≥300 hours per year	Comply with subpart UU leak detection and repair program.

TABLE 2.—STANDARDS FOR EXISTING AFFECTED SOURCES

Emission point	Applicability criteria	Standard
Storage Vessels	Not applicable.	No control requirements.
Continuous Process Vents	Not applicable.	No control requirements.
Reactor Batch Process Vents	No applicability criteria, all reactor batch process vents are subject to control.	83 percent reduction over the batch cycle OR 0.0057 lbs of HAPs per 1,000 lbs of product produced and 0.0567 lb of HAPs per 1,000 lbs of solvent-based product OR alternative standard of venting to a control device continuously achieving a 50 ppmv outlet organic HAPs concentration or 20 ppmv outlet organic HAPs concentration for combustion devices.
Non-Reactor Batch Process Vents	Uncontrolled emissions from collection of non-reactor batch process vents within the affected source greater than or equal to 0.25 tpy.	62 percent reduction for collection of non-reactor batch process vents within the affected source OR alternative standard of venting to a control device continuously achieving a 50 ppmv outlet organic HAPs concentration or 20 ppmv outlet organic HAPs concentration for combustion devices.
Heat Exchange Systems	No applicability criteria.	Monitor for leaks.
Equipment Leaks	The equipment contains or contacts ≥5 weight-percent organic HAP, and operates ≥300 hours per year.	Comply with subpart UU leak detection and repair program.

1. Alternative Standard

As an alternative to the standards presented above for storage vessels, continuous process vents, reactor batch process vents, and non-reactor batch process vents, you can choose to meet an alternative emission limit. Under the alternative emission limit, emissions requiring control may be vented to a control device continuously achieving an outlet concentration of 50 ppmv of organic HAPs or an outlet concentration of 20 ppmv of organic HAPs for combustion devices.

2. Aggregating Batch Process Vent Streams

Batch process vent streams may be combined and controlled at the same level as required for an individual reactor batch process vent.

3. Pollution Prevention Alternatives

For some batch emission episodes, you can operate a condenser as a process condenser for some episodes and as a control device for other batch emission episodes (*e.g.*, gassing operations), provided that certain pollution-prevention measures are taken.

Also, you can use process modifications (*e.g.*, reduced purge rate on a reactor vessel) to reduce emissions from new and existing affected sources. You can take credit toward the emission reduction requirements as part of demonstrating compliance through the permitting process.

B. Compliance and Performance Test Provisions

We based the compliance and performance test provisions on the Hazardous Organic NESHAP (HON), with the following exceptions. First, test methods are different because of the specific HAPs emitted by resins facilities. Second, the specific provisions for batch process vents are based on the provisions from the promulgated Group IV Polymers and Resins NESHAP (40 CFR part 63, subpart JJJ).

We added the following test methods for determining compliance specifically for formaldehyde: Method 316 (a manual method) and Method 320 (a Fourier Transform Infrared Spectroscopy (FTIR) method). You must use either Method 18 or Method 308 for testing for methanol.

Under the rule, if you have control devices receiving 10 tons per year (tpy) (9.1 Mg/yr) or less of uncontrolled HAPs emissions, you are not required to conduct a performance test and instead may perform a design evaluation to demonstrate initial compliance with the rule. Compliance requirements for each type of emission point are discussed briefly in the following paragraphs.

1. Storage Vessels

The standards for new storage vessels refer directly to the Generic MACT storage vessel provisions (40 CFR part 63, subpart WW). The control status of storage vessels is determined based on the storage vessel capacity and vapor pressure of the stored material. Vessels with capacities of 50,000 gallons or greater with vapor pressures of 2.45 pounds per square inch absolute (psia) or greater, and vessels with capacities of 90,000 gallons or greater with vapor pressures of 0.15 psia or greater, are required to reduce emissions of HAPs by 95 percent.

Compliance demonstration provisions include initial and periodic visual inspections of vessels, roof seals, and fittings, as well as internal inspections.

If you choose to comply with the alternative standard for storage vessels using a control device, you must conduct a performance test as specified in the rule to show initial compliance with the standard. Existing storage vessels are not required to be controlled.

2. Continuous Process Vents

The standards for continuous process vents refer directly to the Generic MACT closed vent system provisions (40 CFR part 63, subpart SS) for compliance provisions. At new affected sources, continuous process vents with a total resource effectivess (TRE) index value less than or equal to 1.2 must reduce emissions by 85 percent. The TRE calculation involves an emissions test or engineering assessment.

3. Batch Process Vents

Compliance is demonstrated by showing that, over a batch cycle for an individual reactor, the specified percent reduction is achieved. If a collection of reactor vents is sent to the same control device, compliance is demonstrated by showing the specified percent reduction is achieved over a representative period of time. To demonstrate this, you must develop an emissions profile that identifies each batch emission episode included in the batch process vent, and characterizes emissions from each batch emission episode on a mass emitted per unit time basis. Using this emissions profile, you must show that the periods of under-control and over-control of emissions balance and the batch cycle percent reduction, or the overall percent reduction, is achieved. The rule contains procedures for estimating emissions from individual batch emission episodes, estimating control device efficiency, and for demonstrating that the required percent reduction is achieved.

Procedures for demonstrating compliance with the alternative pound of HAPs per 1,000 pounds of product emission limit are also included in the rule.

4. Heat Exchange Systems

There are no performance test requirements for heat exchange systems. Compliance is demonstrated through the monitoring of cooling water to detect leaks in heat exchange systems. If a leak is detected, you must repair the heat exchange system.

5. Equipment Leaks

The standards for equipment leaks refer directly to the Generic MACT equipment leak provisions (40 CFR part 63, subpart UU). We retained the use of Method 21 in the rule 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 rule for the type of equipment being monitored. In the rule, we require the use of Method 18 to determine the organic content of a process stream.

6. Alternative Standard

a. Initial Compliance Demonstration. The alternative emission limit for storage vessels, continuous process vents, reactor batch process vents, and non-reactor batch process vents differs from the 50 ppmv, or 20 ppmv for combustion devices organic HAP outlet concentration alternative that accompanies the percent reduction requirements for storage vessels and continuous process vents in that a performance test specific to an individual emission point is not required. Instead, an initial demonstration that the control device continuously achieves an organic HAP outlet concentration equal to or less than 50 ppmv, or 20 ppmv for combustion devices is required.

b. Continuous Monitoring Device. An owner or operator may also comply with the 50 ppmv or 20 ppmv for a combustion device organic HAP outlet concentration limit through the use of a continuous emission monitor. An initial compliance demonstration or parametric monitoring is not required to comply with this alternative. Instead, an FTIR is used to continuously demonstrate that a control device achieves the required organic HAP outlet concentration.

C. Monitoring Requirements

After initial compliance is achieved, we require monitoring of HAPs emissions and control and recovery device operating parameters. Under the alternative standard, HAPs emissions are monitored directly as part of the outlet organic HAPs concentration of 50 ppmv, or 20 ppmv for combustion devices. Control device operating parameters are monitored as part of complying with the percent reduction requirements of the rule. The quantity of resin produced and resulting emissions are monitored as part of complying with the pound of HAPs per 1,000 pounds of resin product emission limits for reactor

batch process vents. Emissions per batch cycle are initially determined based on emission estimation equations provided in the rule, direct measurement, or engineering assessment, depending on certain criteria in the rule. You may determine continuous compliance based on these initial emission estimates until a process change makes them no longer appropriate.

We require continuous parameter monitoring for control devices, except where the control device receives less than 1 ton per year of uncontrolled HAPs. In these cases, you must conduct a daily or per batch demonstration to demonstrate that the control device is operating properly. Additionally, if you have control devices serving storage vessels, you are not required to conduct continuous parameter monitoring unless you specify continuous monitoring in the monitoring plan required by the referenced 40 CFR part 63, subpart SS provisions. However, if you use a control device for a storage vessel, you must identify the appropriate monitoring procedures to be followed for compliance demonstration purposes. Further, if a control device serves both a storage vessel(s) and another emission point subject to the rule, the control device is subject to continuous parameter monitoring if the other emission point is subject to continuous parameter monitoring.

You must monitor parameters when emissions are vented to the control device. The rule directly references the 40 CFR part 63, subpart SS monitoring requirements for continuous process vents and storage vessels. However, there are general monitoring requirements specified in the rule (*e.g.*, establishment of parameter monitoring levels) that apply to all emission points.

In the rule, we identify parameters to be monitored for most control devices expected to be used for emission points regulated by the rule. Parameter monitoring levels are established based on design evaluation for control devices with uncontrolled emissions less than 10 tons per year. For all other control devices required to conduct continuous parameter monitoring, parameter monitoring levels are established based on a performance test, but can be supplemented by manufacturer's recommendations and/or an engineering assessment. If you choose to supplement results of the performance test using manufacturer's recommendations and/or engineering assessment, the established parameter monitoring level is subject to review and approval by the Administrator.

You can determine parameter monitoring averages based on all recorded values except for values recorded under certain conditions, for example, under conditions of start-up, shutdown, or malfunction. Parameter averages must be daily averages for control devices serving continuous process vents, storage vessels (if required), or equipment leaks. Parameter averages may be either batch cycle daily averages or block averages for batch process vents. Parameter averages based on batch cycle daily averages cover a 24-hour period, based on the defined operating day, and may or may not cover multiple batch cycles for the batch process vent. A batch cycle daily average may also cover partial batch cycles and, therefore, we require that you provide the information required to calculate parameter monitoring compliance for partial batch cycles. Parameter averages based on block averages cover the complete batch cycle, regardless of the length of time for the batch cycle.

We included provisions for alternate monitoring parameters in the rule. You must apply for approval to monitor an alternate parameter.

D. Recordkeeping and Reporting Requirements

The general recordkeeping and reporting requirements of this rule are very similar to those found in the HON (40 CFR part 63, subparts F, G, and H). You are also required to comply with the notification, recordkeeping, and reporting requirements in the general provisions for this rule, subpart A of 40 CFR part 63. We included a table in the rule that designates which sections of subpart A apply to this rule. Specific recordkeeping and reporting requirements for each type of emission point are also included in the rule. The rule references the recordkeeping and reporting requirements for continuous process vents, storage vessels, and equipment leaks.

You are required to keep records and submit reports of information necessary to document compliance for affected sources. You must keep records for 5 years. The following reports must be submitted to the Administrator as appropriate: (1) Precompliance Report, (2) Notification of Compliance Status, (3) Periodic Reports, and (4) Other Reports. The requirements for each of the four reports are summarized below. In addition, if you are complying with the equipment leak requirements contained in subpart UU, the closed vent requirements in subpart SS, or the storage tank requirements in subpart WW, you must follow the recordkeeping and reporting requirements in the respective subpart.

1. Precompliance Report

You must submit the Precompliance Report no later than 12 months prior to the compliance date. The Precompliance Report includes the following, as appropriate: compliance extension requests; requests to monitor alternative parameters; intent to use alternative controls; intent to use the alternative continuous monitoring and recordkeeping allowed by the rule; requests for approval to use engineering assessment to estimate emissions from a batch emissions episode; information related to establishing parameter monitoring levels; information specified in § 63.1417(e)(2)(iii) of subpart OOO when following the procedures in § 63.1417(e)(2) of subpart OOO for determining compliance with the batch process vent standards; and requests for ceasing to collect monitoring data during a start-up, shutdown, or malfunction when that monitoring equipment would be damaged if it did not cease to collect monitoring data.

You may submit supplements to the Precompliance Report to request the Administrator's approval of items, such as those previously discussed, or to clarify or modify information previously submitted.

2. Notification of Compliance Status

You must submit the Notification of Compliance Status 150 days after the affected source's compliance date. It includes the information necessary to demonstrate that compliance has been achieved for emission points required to be controlled by the rule. Information in the report includes, but is not limited to, the results of any performance tests, one complete test report for each test method used for a particular kind of emission point, TRE determinations for continuous process vents, design analyses for storage vessels and for certain batch process vents, data or other information used to demonstrate use of engineering assessment to estimate emissions for a batch emissions episode, the determination of applicability for flexible operation units, and monitored parameter levels for each emission point and supporting data for the designated level.

3. Periodic Reports

Generally, you are required to submit Periodic Reports semiannually. However, there is an exception. The Administrator may request that you submit quarterly reports for certain emission points that the Administrator identifies. After 1 year, semiannual

reporting can be resumed, unless the Administrator requests continuation of quarterly reports.

Periodic Reports include information required to be reported under the recordkeeping and reporting provisions for each emission point. For continuously monitored parameters, the data for those periods when the parameters are above the maximum or below the minimum established levels are included in the reports. Periodic Reports also include results of any performance tests conducted during the reporting period and instances when required inspections revealed problems.

4. Other Reports

You are also required to submit other reports, including: the notification of inspections required for storage vessels; and reports of changes to the primary product for an APPU or process unit; reports of addition of one or more APPUs, addition of one or more emission points, or change in the status of emission points.

V. What Did We Consider in Developing the Rule?

A. Relationship to Other Rules

If you have affected sources subject to this rule, you may also be subject to other existing rules (see § 63.1401(g)–(j) in the rule).

Affected sources subject to this rule may have storage vessels subject to the New Source Performance Standards (NSPS) for Volatile Organic Liquid Storage Vessels (40 CFR part 60, subpart Kb). For storage vessels subject to and complying with the NSPS, this rule requires that such storage vessels remain in compliance with the NSPS because the NSPS level of control (*i.e.*, 95 percent) is more stringent than the control level for the final rule (*i.e.*, 50 percent). For storage vessels subject to the NSPS but that did not have to apply controls (*e.g.*, the storage vessels store an organic liquid but the vapor pressure of the stored material is below the applicability criteria), this rule states that after the compliance date for the final rule, such storage vessels are only required to comply with this rule and are no longer subject to subpart Kb.

Affected sources subject to this rule may have cooling towers subject to the NESHAP for Industrial Cooling Towers (40 CFR part 63, subpart Q). There is no conflict between the requirements of subpart Q and this rule. Subpart Q prohibits the use of certain chemicals in the cooling tower water, and this rule implements a leak detection and repair program for organic HAPs. Therefore, if you have affected sources subject to both rules, you must comply with both rules. If you own or operate shared heat exchange systems, you may also find that they are already subject to the HON provisions (40 CFR part 63, subpart F). In such cases, compliance with the HON provisions constitutes compliance with the requirements of this rule.

Affected sources subject to this rule may also be subject to the NSPS for Equipment Leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemicals Manufacturing Industry (40 CFR part 60, subpart VV) and/or the National Emission Standards for Organic Hazardous Air Pollutants (*i.e.*, HON) for Equipment Leaks (40 CFR part 63, subpart H). After the compliance date for this final rule, you are only required to comply with this rule for such affected sources and are no longer subject to 40 CFR part 60, subpart VV, or to CFR part 63, subpart H. This rule directly references the Generic MACT equipment leak provisions contained in subpart UU. The provisions contained in subpart UU are equivalent to the HON provisions contained in the proposed rule, and therefore, equivalent to the HON. The provisions contained in subpart UU are more stringent than subpart VV.

Another likely instance of interaction between this rule and other rules is related to storage vessels already covered by the HON; this is likely to occur at amino/phenolic resins production facilities that are collocated with formaldehyde plants subject to the HON. In such cases, a formaldehyde storage vessel supplying formaldehyde to the amino/phenolic resins facility is likely to be subject to the HON. The storage vessel assignment procedures in this rule address such situations. If a storage vessel is already subject to another part 63 standard, that storage vessel is considered to be assigned to the process unit subject to the part 63 standard and is not subject to this rule.

B. Stakeholder and Public Participation

Prior to proposal of the rule, representatives from other interested EPA offices and programs, including Regional Offices and State environmental agency personnel, participated in the rulemaking process. In addition, the industry provided responses to a survey conducted in 1992, and we met with industry members to obtain their input during the regulatory development process. The proposed rule reflected the results of all of those interactions and the information provided by the industry.

We proposed the rule for Amino/Phenolic Resins Production in the **Federal Register** on December 14, 1998 (63 FR 68832), and we specifically requested comments on the basis for the percent reduction standards for reactor batch process vents, development of separate control requirements for reactor and non-reactor batch process vents, methanol emissions from amino/phenolic resins production, use of solvent-based and non-solvent-based alternative emission limits, use of Fourier Transform Infrared Spectroscopy and performance specification 15 (PS–15), definitions of amino and phenolic resin, applicability criteria alternative for storage vessels, and heat exchange systems. We received five comment letters from amino/phenolic resins producers and one letter from control device manufacturers. In addition, after proposal, we considered follow-up information provided by the industry in decisions affecting the final rule. We received no comments from environmental groups or State or local environmental agencies.

We carefully considered the comments and made changes to the proposed rule where determined to be appropriate. We discuss the most significant comments and responses in section VII of this preamble. A detailed discussion of all significant comments and responses on the proposed rule can be found in the BID for amino/phenolic resins, which is referenced in the **ADDRESSES** section of this preamble.

VI. What Are the Impacts of the Standards?

The rule affects 40 amino/phenolic resins facilities that are major sources in themselves or that are located within a major source. The impacts are presented relative to a baseline reflecting the level of control in the absence of the rule. The estimate of the impacts is presented for existing facilities only, since no new facilities are projected to be constructed. For a facility or emission point within a facility already in compliance with the standards, no impacts were estimated.

A. Primary Air Impacts

The standards are estimated to reduce organic HAPs emissions from all existing sources by 361 tpy from a baseline level of 703 tpy. This is a 51 percent reduction. Table 3 summarizes the organic HAPs emission reductions for each of the emission points.

TABLE 3.—ORGANIC HAPS EMISSION REDUCTIONS BY EMISSION POINT FOR EXISTING SOURCES

Emission point	Baseline emissions (tpy)	Emissions after final rule (tpy)	Emission reduction (tpy)	Percent reduction (%)
Reactor Batch Process Vents	223.1	40.2	182.87	82
Non-reactor Batch Process Vents	120.1	60.6	59.5	49.5
Continuous Process Vents	128.3	128.3	0	0
Storage Tanks	72.1	72.1	0	0
Equipment Leaks	159.4	41.0	118.4	74.3
Total	703.1	342.3	360.8	51.3

B. Non-Air Environmental Impacts

The standards are not expected to increase the generation of solid waste at any amino/phenolics resin facility. The use of scrubbers to control emissions will increase water consumption as a result of evaporation and bleed-off (see the proposal preamble at 63 FR 68854 for details). Based upon available information, we expect that affected facilities will be able to either send the scrubber wastewater to a treatment facility or recycle the scrubber wastewater back into the process. Therefore, the use of scrubbers will result in minimal, if any, adverse wastewater impacts.

C. Energy Impacts

We do not anticipate any significant increase in national annual energy usage as a result of this rule. Energy impacts include changes in energy use, typically increases, and secondary air impacts associated with increased energy use. Increases in energy use are associated with fuel for the operation of control equipment; in this case, the use of scrubbers to control reactor vents. Energy credits are attributable to the prevention of organic HAPs emissions from equipment leaks. Secondary air impacts associated with increased energy use are the emission of particulates, sulfur dioxides (SO_X), and nitrogen oxides (NO_X). These secondary impacts are associated with power plants that would supply the increased energy demand.

D. Cost Impacts

Cost impacts include the capital costs of new control equipment, the cost of energy (supplemental fuel 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 the standards. There are no estimated cost impacts for new facilities because no new facilities are expected to be constructed.

Under the rule, the total capital costs for existing sources are estimated at $2.3 million (1998 dollars), and total annual costs are estimated at $3.3 million (1998 dollars) per year, which includes $1.4 million for monitoring, recordkeeping, and reporting. The actual compliance cost impacts of the rule may be less than presented because of the potential to use common control devices, to upgrade existing control devices, and to vent emissions streams into current control devices. 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.

E. Economic Impacts

An economic impact analysis was performed at proposal to estimate the impacts of the rule on affected businesses in the Amino/Phenolic Resins Production source category. That analysis showed that the price and output changes for affected businesses in this source category were an increase of 0.08 percent in product price and output decrease of 0.05 percent in product output, respectively, for amino resin producers and similar estimates for phenolic resin producers (0.07 percent and 0.02 percent, respectively). No plant closures were expected in this source category.

The estimated annual compliance costs of the final rule are roughly $1.9 million as shown in section VI.C. This is a reduction from the compliance costs that were input to the economic impact analysis performed at proposal. Given this reduction in estimated costs, the economic impacts of the final rule would be lower than those estimated at proposal. We, therefore, conclude that the increase in product price would be no more than 0.08 percent for amino resin producers, and 0.07 percent for phenolic resin producers, and the decrease in product outputs would be no more than 0.05 percent for amino resin producers and 0.02 percent for phenolic resin producers.

VII. What Significant Comments Did We Consider and What Major Changes Did We Make to the Proposed Standards?

The major changes that we made to the rule based on public comments include: (1) Reducing the percent reduction standard for reactor batch process vents at existing affected sources and including different alternative emission limits for solvent-based and non-solvent-based resin production, (2) revising the standards for non-reactor batch process vents at new and existing affected sources, (3) deleting the control requirements for storage vessels at existing affected sources, (4) revising the applicability criteria for storage vessels at new affected sources, (5) deleting the HON control level of 98 percent emission reduction for continuous process vents with a TRE value less than or equal to 1.0, (6) dropping the wastewater provisions, and (7) making changes to encourage pollution prevention.

In recognition of the fact that the most commonly used control devices for the amino/phenolic resins industry are recovery devices (*e.g.*, condensers and scrubbers) and not combustion devices, and that 50 ppmv of organic HAPs is a more representative outlet concentration for a recovery device than 20 ppmv, we have increased the minimum HAPs concentration level for defining a process vent from 20 ppmv to 50 ppmv. However, the 50 ppmv mass emission limit is more stringent than the rule requirement to reduce emissions by 83 percent. The 50 ppmv is being offered as an alternative to the required control level and is not intended to be equivalent. In concert with this change in the definition of process vent, we have made changes to the alternative standards for storage vessels (§ 63.1404(c)), continuous process vents (§ 63.1405(f)), reactor batch process vents (§ 63.1406(d)), and non-reactor batch process vents (§ 63.1406(d)). These provisions have been changed to allow you to meet a 50 ppmv emission limit when using a recovery device, but you are still required to meet a 20 ppmv

emission limit when using a combustion device. We determined that 20 ppmv is a representative outlet concentration for combustion devices.

In order to minimize cross referencing and streamline the rule, we changed the proposed rule format. In changing the rule format our intent was not to change the requirements of the proposed standard, but rather to make the final rule easier to understand and implement. The most significant change has been to reference provisions promulgated for the Generic MACT (GMACT) standard (64 FR 34854, June 30, 1999). Instead of referencing the HON for requirements for continuous process vents, equipment leaks, and storage tanks, we reference equivalent GMACT provisions. For closed vent streams from continuous process vents and storage tanks, we reference 40 CFR part 63, subpart SS. For control of storage tanks through the use of floating roofs, we reference 40 CFR part 63, subpart WW. Additionally, for control of equipment leaks, we reference 40 CFR part 63, subpart UU. The control requirements are equivalent to the HON requirements in the proposed rule and do not in any way change the substantive requirements of the rule.

Additionally, we have adopted the GMACT recordkeeping and reporting requirements in the final rule where the GMACT requirements are easier to understand or less burdensome. In instances where, the GMACT requirements are less flexible or more burdensome than the requirements in the proposed rule, we have added language to preserve the flexibility of the proposed rule.

Comments: Two commenters presented new test data to replace their original data which were used in assessing the MACT floor for reactor batch process vents at proposal. In general, the new data indicated that the control devices at several facilities were achieving lower percent emission reductions than reported in the 1992 survey responses used at proposal. The commenters also presented information showing that one facility no longer produces amino/phenolic resins, and another facility does not produce amino/phenolic resins as their primary product. Also, the commenters argued that one facility shares its primary control device (a catalytic incinerator) with another operation covered by a separate MACT source category and, thus, should be removed from the analysis.

Response: Using information submitted by the industry, we revised the MACT floor based on a new set of top performing amino/phenolic resins facilities. The MACT floor for existing sources is set by the average performance achieved by the best performing 12 percent of existing sources.

We elected to set the MACT floor level of control based on the arithmetic average of the control device performance of the top five facilities, which results in a required control level of 82.6 percent (rounded to 83 percent). Although we have discretion to interpret "average" as either the arithmetic mean, median, or mode, we selected arithmetic average, since it corresponds to an available control device, and since the universe of control device performance across the industry is a broad continuum. The provisions in the final rule reflect this change in the percent reduction requirement for reactor batch process vents at existing affected sources.

There has been no change to the standard for new affected sources. The same facility that was selected as the best performing facility in the proposal analysis is selected for the reanalysis and, thus, represents new source MACT. We continue to require a 95 percent emission reduction across the batch cycle for reactor batch process vents at new affected sources in the final rule.

Comments: In order to better address the diversity of processes and subsequent emissions of facilities in the industry, commenters suggested that solvent-based and non-solvent-based resin processes have separate requirements, especially for the alternative emission limit (*i.e.,* pound of HAPs per 1,000 pounds of product). The commenters stated that the proposed alternative emission limit reflects only non-solvent-based resin manufacturing. One commenter submitted HAPs emissions data representing phenolic resin manufacturing at its facility, which showed that over 87 percent of the total emissions were attributed to the added solvent. The commenter concluded that failure to make this distinction in the emission standards would result in unfair competition between solvent-based and non-solvent-based resin manufacturers, as the former would need more stringent controls, resulting in a higher cost to control their higher emissions.

Response: We agree with the commenters that separate alternative emission limits to account for the different emission levels for solvent-based and non-solvent-based resin production are appropriate. At proposal, the rule offered a single alternative emission limit value, applicable to both solvent-based and non-solvent-based resin production. However, in reviewing the data and comments since proposal, we recognize that an 83 percent emissions reduction for a solvent-based process is significantly different in terms of a mass emission rate from an 83 percent reduction achieved by a non-solvent-based process. Therefore, separate emission limits (*i.e.,* one for solvent-based resins and one for non-solvent-based resins) yields an alternative that better equates to the floor-level of control than the single mass emission limit in the proposed rule.

For existing affected sources, the alternative emission limits in the final rule are 0.0057 pound of HAPs per 1,000 pounds of non-solvent-based resin produced, and 0.0567 pound of HAPs per 1,000 pounds of solvent-based resin produced. For new affected sources, the alternative emission limits are 0.0004 pound of HAPs per 1,000 pounds of non-solvent-based resin produced, and 0.045 pound of HAP per 1,000 pounds of solvent-based resin produced.

The revised alternative emission limits are based on mass emissions data from the top five performing facilities used to develop the 83 percent control level for the existing source floor. Three of the facilities in the floor were non-solvent-based resin producers and two facilities were solvent-based resin producers. The alternative emission limit for existing facilities was developed by averaging the emissions (HAPs per lb. of product) for the two solvent-based resin facilities to develop the solvent-based resin alternative emission limit. Similarly, the emissions of the three non-solvent-based resin facilities were averaged to develop the alternative emission limitation for the non-solvent-based resin facilities. In this way, we determined the mass emission limit that corresponds to the 83 percent reduction requirement for each type of facility. For new sources the best performing of the two solvent-based facilities was selected to represent the mass emission limit. The best performing non-solvent based facility was chosen for the non-solvent-based new source mass emission limit. By using the five floor facilities to develop the alternative emission limit, we ensured equivalency between the alternative limit and the floor value of an 83 percent reduction for existing sources and a 95 percent reduction for new sources.

We project that solvent-based resin manufacturers will most likely comply with the percent reduction standard, whereas most non-solvent-based resin manufacturers will comply with the alternative emission limit, potentially with little, if any, secondary control

required. A single alternative emission limit recalculated based on the average performance of the top 12 percent (5 facilities) would allow many non-solvent-based resin manufacturers to emit significantly more HAPs than they are currently emitting.

Averaging the emission limits within each industry segment (solvent-based and non-solvent-based) results in values with an order of magnitude difference. Information from other facilities in the data base supports our conclusion that solvent emissions from solvent-based resin production causes the uncontrolled HAPs emission rate to be about an order of magnitude higher than the emission rate from non solvent-based resin production.

The pound of HAPs per 1,000 pounds of resin product emission limits are presented as alternatives to the percent reduction requirements of the rule. As such, they are meant to express a performance level equivalent to the facilities judged to represent the MACT floor. Therefore, in developing the alternative emission limits, we only considered the population making up the top five performing facilities. In calculating the separate alternative limits, we decided that the presence of two solvent-based and three non-solvent-based resin manufacturers among the top five performing facilities was adequate representation for each segment of the industry.

Comment: Commenters objected to the stringency of the proposed standard for non-reactor batch process vents at new and existing affected sources and the methodology used in developing the standards. One commenter submitted revised control device performance data and requested that the EPA recalculate the non-reactor batch process vent standards using these revised control device efficiencies.

Another commenter claimed that the EPA had mistakenly attributed control to process condensers that are used on their non-reactor batch process vents, and thereby misrepresented the actual control being achieved for non-reactor batch process vents at their facility. Through discussions with this commenter, the commenter had identified three non-reactor batch process vents where they believe the primary condenser is acting as a process condenser.

Also, one commenter objected to the EPA's use of a weighted average to represent the overall performance for an affected source and requested that a straight average be used instead.

Response: We incorporated revised control device performance data into a revised analysis of the MACT floor control level for non-reactor batch process vents. Based on the revised analysis, we are reducing the standard for non-reactor batch process vents at new affected sources from an overall emission reduction of 83 percent to 76 percent for sources with uncontrolled emissions from the collection of non-reactor batch process vents within the affected source greater than or equal to 0.25 tons per year. Similarly, we are also reducing the standard for non-reactor batch process vents at existing affected sources from an overall emission reduction of 68 percent to 62 percent for sources with uncontrolled emissions from the collection of non-reactor batch process vents within the affected source greater than or equal to 0.25 tons per year.

We disagree with using a straight average of control device efficiencies to determine the control level for an individual facility. We believe that the control level should represent the total mass reduction for that facility. Using a straight average of control device efficiencies would result in an inaccurate representation of the actual performance of a facility. For example, if a facility had five non-reactor batch process vents, controlled the single batch process vent that has 90 percent of the emissions, and did not control the other batch process vents, a straight average would represent this facility as poorly controlled; when in fact it is a well-controlled facility.

For existing sources, the MACT floor is based on averaging the individual control levels of the five best performing facilities (top 12 percent). We based the MACT floor for new sources on the single best controlled facility.

Comments: One commenter objected to the methodology used in developing the applicability criteria for non-reactor batch process vents. The commenter objected to the fact that emissions from a single vent, not emissions from a single facility, set the uncontrolled emissions applicability criteria and objected to using the lowest level of uncontrolled emissions (*i.e.*, the smallest value), contrasting this decision to the approach used for storage vessels.

The commenter requested that EPA develop new applicability criteria for non-reactor batch process vents that are based on individual non-reactor batch process vents, rather than on a facilitywide basis. The commenter requested that the new applicability criteria be expressed as pound of emissions per 1,000 pounds of product, as was done for reactor batch process vents, and that they be based on a TRE calculation or calculation from EPA's guideline document entitled "Control of Volatile Organic Compound Emissions from Batch Processes," EPA–453/R–93–017.

Response: We note that not all facilities reported non-reactor batch process vents, although we assume that all facilities have non-reactor batch process vents and stated so in the preamble to the proposed rule. We requested additional data on the presence, emissions, and control status of non-reactor batch process vents in the proposal preamble. No additional data were provided as part of public comments.

Furthermore, the only data available for the reported non-reactor batch process vents are emissions. With emissions being the only information available, approaches like the TRE equation are not possible, and the ability to develop or use other vent-by-vent approaches to applicability criteria is restricted.

Based on data available to the Administrator, we are retaining the MACT floor, defined as a facilitywide control level and a facilitywide applicability criterion.

With regard to the commenter's objection that emissions from a single vent set the uncontrolled emissions cutoff, we did not seek out a single vent to represent the facilitywide emissions cutoff for existing affected sources. The available data indicated that the facility with the lowest emissions happened to only report a single, non-reactor batch process vent.

In response to the commenter's objection to using the facility with the lowest level of uncontrolled emissions to set the facilitywide uncontrolled emissions cutoff for existing affected sources, we must set applicability criteria that will continue to require control for those facilities already controlled at the baseline. We also believe that the commenter misunderstands the approach used for non-reactor batch process vents, compared to the approach used for storage vessels, because the applicability criteria define which facilities must apply controls, not which vents, and because the control requirement is on a total, facilitywide basis, not an individual vent basis. All five facilities defining the MACT floor for existing sources have applied controls to non-reactor batch process vents; therefore, the applicability criteria include all five facilities.

Comments: Some commenters challenged the accuracy of data and information used by EPA as the basis for the proposed standards for storage vessels. The commenters stated that

some of the storage vessels in the database were, in fact, not raw material storage vessels and other storage vessels were already part of their HON MACT affected source.

Response: We addressed these comments by requesting a confirmation of storage vessel data for each of the MACT floor facilities and by conducting a reanalysis of the MACT floor based on the confirmed data. Our reanalysis of the data concludes that there is no floor level of control for the existing source MACT floor and that the new source MACT floor determined at proposal continues to be appropriate.

For existing affected sources, we evaluated the HON level of control for storage vessels as a regulatory alternative beyond the MACT floor of no control. Based on this evaluation, we concluded that the HON control level for storage vessels is not appropriate for the known storage vessel population at amino/phenolic resins facilities, since none of the reported storage vessels meet the HON applicability criteria. Further, the HON control level for storage vessels is not cost effective for a projected, theoretical amino/phenolic resins facility storage vessel population.

Although the revised storage vessel data led us to conclude that the new source MACT floor control level is still appropriate, the applicability criteria, which determines which storage vessels must be controlled, have changed. The final rule now requires that storage vessels at new affected sources with a capacity greater than or equal to 50,000 gallons and with a vapor pressure greater than or equal to 2.45 psia must reduce emissions by 95 percent. Storage vessels at new affected sources with a capacity greater than or equal to 90,000 gallons and with a vapor pressure greater than or equal to 0.15 psia are also required to reduce emissions by 95 percent. The distinction between the storage of aqueous formaldehyde and other chemicals (non-aqueous formaldehyde) that we made in the proposed rule is no longer necessary because a large number of formaldehyde storage vessels were deleted from the analysis.

Comments: One commenter cited some issues related to the use of the TRE equation in the proposed rule. First, the commenter stated that the TRE equation is not well suited for low concentrations (*e.g.*, 100 to 200 ppmv) or low flow emission streams. Second, the commenter stated that the TRE equation should be modified to reflect the reduction of efficiency as the inlet concentration decreases. The commenter stated that the TRE equation assumes that the emission reduction achieved will always be 98 percent, but that this is not the case with low concentration emission streams. The commenter also stated that the effectiveness of incineration declines significantly at inlet concentrations of approximately 1,000 to 1,500 ppmv.

Response: We based the proposed two-tiered standard for continuous process vents at new affected sources on the MACT floor level of control (85 percent emission reduction) for vents that meet the applicability criterion and the HON process vent provisions (98 percent emission reduction). (The proposed rule did not require control of continuous process vents at existing sources.) The applicability criterion chosen to represent the specific continuous process vents that are controlled at the MACT floor is the HON TRE equation for a thermal incinerator. The HON process vent provisions were evaluated as a regulatory alternative beyond the MACT floor for continuous process vents. Although the TRE values at proposal showed that none of the continuous process vents considered in the analysis would be caught by the HON TRE applicability for new sources, we determined that if a new source were to have a continuous process vent within the accepted cost effectiveness (*i.e.*, with a TRE of 1.0 or less), it should be controlled. Therefore, the two-tiered approach was used at proposal. We agree with the commenter that the combustion efficiency is reduced as the inlet concentration decreases and, thus, the TRE equation is not an appropriate method for assessing the cost effectiveness of control beyond the MACT floor for continuous process vents in the amino/phenolic resins industry. Therefore, we deleted the second tier of the continuous process vent standard requiring 98 percent emission reduction for continuous process vents with a TRE value less than or equal to 1.0.

In the final rule, we continue to use the TRE equation as the applicability criteria for continuous process vents at the MACT floor. This decision is based on using the TRE equation to identify certain continuous process vents (*i.e.*, applicability criteria) as opposed to using the TRE equation to determine the cost effectiveness of controls. In the final rule, the standard for continuous process vents at new affected sources is 85 percent emission reduction for continuous process vents with TRE values less than or equal to 1.2.

Comments: Two commenters stated that control of wastewater streams should not be required for new affected sources. One commenter explained that the HAPs commonly present in amino/phenolic resins wastewater streams, such as formaldehyde and methanol, have low emission potential because they are highly soluble and biodegradable. In addition, the commenters stated that attempts to remove highly soluble HAPs from wastewater could lead to an increase in air emissions. The commenters challenged the assumptions used in determining that wastewater control is cost effective for new affected sources. One of the commenters disagreed with EPA's use of "hypothetical" wastewater streams, as opposed to data from actual facilities. The second commenter claimed that the wastewater provisions are not cost effective (ranging up to $41,000 per ton). The commenters also stated that EPA's assumption that flow and concentration data reported by industry were representative values (*i.e.*, annual averages) was in conflict with the rule's background document, which stated that the survey response data represented peak, rather than average or normal process conditions. One commenter concluded that if EPA had used the average figures for the new source applicability criteria, that no stream would have been required to control.

Response: We removed the wastewater control requirements for new affected sources from the final rule. At proposal, the new source wastewater requirements were determined to be a cost effective, above-the-floor MACT standard. We used the HON costing algorithm to estimate the cost of controlling wastewater streams which assumes that a combustion device is available to support the steam stripper; this is not an appropriate assumption for the amino/phenolic resins industry. Therefore, the cost analysis at proposal underestimated the costs of controlling wastewater streams for the amino/phenolic resins industry. We projected that if the cost of a combustion device were added to the costs estimated at proposal, the cost effectiveness of the HON wastewater requirements would not be acceptable.

Comments: One commenter requested that the rule allow approaches to encourage pollution prevention through stewardship and source control. The commenter specifically requested that the rule include pollution-prevention compliance alternatives that encourage emission reduction of HAPs through changes in operating practices, raw material substitutions, and process and equipment design modifications. In support of the commenter's request to allow the use of pollution-prevention measures, we received follow-up

information from the industry that included several examples of the environmental benefits (reduced emissions) achievable through the use of pollution-prevention measures.

The commenter stated that their facility has over-sized condensers after their reactors which operate during gassing operations to recover valuable solvent. The commenter stated that unless the rule defines their condensers as a control device during gassing operations, they would be forced to turn off the condenser during this phase to have enough emissions going to a control device to achieve the specified percent reduction. The commenter pointed out that shutting off the condenser would result in 70 pounds per hour of HAP emissions going to a control device that could have been recovered and reused.

The commenter further pointed out that other facilities in the industry typically operate smaller condensers, and they are not operated during the reactor degassing phase. Under this more typical operating scenario, the emissions exiting the process condenser would be much higher and, thus, the percentage reduction would be achievable. The commenter pointed out that under the Pharmaceuticals Production NESHAP, the condenser immediately following a reactor vessel can be a process condenser during some operations (*i.e.*, reflux) and a control device during other operations (*i.e.*, gassing). The commenter requested that EPA adopt the approach used in the Pharmaceuticals Production NESHAP.

The commenter stated that in addition to recovering material with process condensers, there are many other types of pollution prevention that the rule should encourage. One example provided was the use of a reduced nitrogen purge rate for the reactor. The commenter stated that the emission of HAPs during purging operations could be reduced by up to 80 percent if the nitrogen purge rate was reduced. The commenter pointed out that although this process change would save energy, nitrogen, and raw materials, like the condenser situation, the change would result in an emissions rate too low to then be further controlled to meet the specified percent HAPs emission reduction.

Response: We agree with the commenter that the rule should encourage compliance through pollution-prevention alternatives. To that end, we made two groups of changes to the final rule. First, we made changes to allow a condenser to operate as a process condenser for some batch emission episodes and to operate as a control device for other batch emission episodes (*e.g.*, gassing operations), provided that certain pollution-prevention measures are taken. Second, we made changes to encourage and clarify the use of process modifications (*e.g.*, reduced purge rate on a reactor vessel) to reduce emissions and to receive credit toward the emission reduction requirements of the rule.

We are establishing these changes in concert with the philosophy of pollution prevention. We have the potential to achieve equal or better pollution reduction, while also reducing emissions to other media. However, we do not have enough quantitative data to know how much of a reduction in emissions a facility can achieve through using pollution-prevention measures. Since we do not know what percent reduction in emissions to assign to the pollution-prevention approach, we cannot directly compare it to more traditional approaches. For these reasons, while there is a facility in the industry using some of these pollution-prevention approaches, we did not attempt to assign them a percent emissions reduction and include them in a determination of the floor.

To implement the changes described above, we revised several definitions, added a definition of *inprocess recycling*, specified in the batch process vent performance testing and compliance demonstration provisions when a condenser can function as a control device, and added a recordkeeping/demonstration requirement to ensure that inprocess recycling is taking place.

We revised the definitions of *air pollution control device*, *process condenser*, and *uncontrolled HAP emissions* as part of making this change. The revisions to the definition of *air pollution control device* specify the conditions under which a condenser, that at times operates as a process condenser, can be considered to be a control device. The revisions to the definition of *uncontrolled emissions* allow emissions to be calculated prior to a condenser that is operating as a control device provided the recovered HAPs are used in inprocess recycling. When a condenser operates as a control device, the condenser must not be operating as a process condenser. Uncontrolled emissions are still calculated after a condenser when it is operating as a process condenser.

We intended for the proposed standards to provide flexibility to use pollution-prevention measures, such as reduced purge rates. To ensure sources have the flexibility to implement a variety of pollution-prevention measures, we made minor changes in the final rule in terms of the definition of control device and added a definition of *control technology*. The new definition of control technology will allow the implementation of reduced reactor purge rates and other pollution-prevention measures.

We are adding these measures to the final rule to provide facilities flexibility and the opportunity to take credit for their pollution-prevention measures, provided certain conditions are met. We do not, however, assume that a facility using a pollution-prevention approach will be operating in compliance with the standard. Any facility using this approach must demonstrate that it is meeting the percent reduction required by the rule.

Comments: Two commenters expressed concerns regarding the equipment leak analysis supporting the proposed standard (*i.e.*, the HON leak detection and repair (LDAR) program) for equipment leaks. The commenters' main concerns were that: (1) The use of the average synthetic organic chemical manufacturing industry (SOCMI) emission factors overstated emissions from amino/phenolic resins facilities, (2) the costs were understated (*e.g.*, by always using the lower cost assumption), and (3) experience with LDAR programs at other facilities showed that LDAR programs were costly and ineffective. The commenters believed that no LDAR program should be implemented for amino/phenolic resins facilities or, at most, a LDAR program based on the presumptive MACT level (*i.e.*, the monthly LDAR program pursuant to SOCMI subpart VV to 40 CFR part 63) should be implemented. One commenter also stated that the State of Massachusetts Regulation CMR 7.18(19), upon which the MACT floor for new facilities was based, had been mischaracterized.

Response: In consideration of these comments, we conducted a reanalysis of the MACT floor and regulatory alternatives above the floor for implementing the LDAR program for emissions from equipment leaks for both new and existing affected sources. We made the following major changes in the reanalysis:

- Only included those facilities that provided facility-specific information on component counts, percent HAPs contacting the components, and time in HAPs service.
- Used the State of Massachusetts Regulation CMR 7.18(19) in lieu of SOCMI subpart VV to represent the new source MACT floor.
- Used the State of Massachusetts Regulation CMR 7.18(19) instead of

SOCMI subpart VV to 40 CFR part 63 as a regulatory alternative above the floor (MACT floor is no control) for existing sources.

The average SOCMI emission factors continue to reflect the best data available to represent LDAR emissions from this industry.

We modified the costing algorithm to include costs associated with components in heavy liquid service; these costs were not included at proposal. However, we concluded that other assumptions used in the proposal costing are valid and have been retained in the reanalysis. We continue to believe that facilities will try to minimize their costs in implementing LDAR programs, and the use of assumptions that minimize costs is, therefore, reasonable.

The results of the reanalysis confirm that it is cost effective to go beyond the MACT floor for existing and new affected sources to include a HON-based LDAR program at amino/phenolic resins facilities in the final rule. The average incremental cost effectiveness of implementing the HON-based LDAR program is $1,677 per ton of emission reduction for both new and existing affected sources.

Comments: Two commenters stated that heat exchange systems should not be regulated for the following reasons. First, there were no data or other evidence to justify including the provisions. Second, the MACT floor for the control of heat exchange systems was not determined, and an analysis of control beyond the MACT floor was not done.

These two commenters stated that the pressure on the cooling side of process condensers, which is a commonly used heat exchange system, normally exceeds the pressure on the process side. This means that the cooling water would tend to leak into the process liquid, rather than the process liquid leaking into the cooling water and ultimately resulting in HAPs emissions from the cooling towers. Therefore, the commenters reasoned that the requirement for routine measurements and recordkeeping of the heat exchange systems is not warranted.

Response: We believe that heat exchange systems are a potential source of emissions; therefore, we retained the work practice standard in the final rule. We are not aware that the operation of heat exchange systems in the amino/phenolic resins industry is different than their operation in the SOCMI, which were determined to warrant control under the HON MACT (40 CFR part 63, subpart F). The compounds in Table 4 of the HON MACT (40 CFR part 63, subpart F) include formaldehyde, methanol, phenol, toluene, and xylene as HAPs with potential to be emitted from cooling towers. These are the major HAPs emitted by the amino/phenolic resins industry.

The heat exchange system requirements are a specific example of an emission control program necessary for the source to be operated in a manner consistent with good air pollution control practices, as specified in § 63.6(e)(1)(I) of the General Provisions for 40 CFR part 63 regulations. Because some form of monitoring is already being conducted to meet State requirements or other rules, the cost of monitoring the heat exchange system for leaks is minimal. The program is already being applied if an APPU uses a shared cooling system at sites covered by the HON or other polymer and resin rules.

Finally, the final rule retains the monitoring exemption included at proposal for a heat exchange system that operates with a pressure on the cooling water side at least 35 kilopascals greater than the maximum pressure on the process side. With this pressure differential, any leakage would be into the process fluid, not into the cooling water.

VIII. What Are the Administrative Requirements of the Rule?

A. Executive Order 12866

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

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, 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 entitlements, 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 Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" and is therefore not subject to OMB review.

B. Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the rule meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not

subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

D. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not include a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. The maximum total annual cost of this rule for any year has been estimated to be less than $3 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments since it does not impose any obligations on such governments. Therefore, today's final rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility

After considering the economic impacts of today's final rule on small entities, EPA has determined that this action will not have a significant economic impact on a substantial number of small entities and that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. We have determined that of the twenty affected firms, only six are small businesses. The mean annual cost as a percentages of an affected small firm sales will be much less than 1 percent (0.08 percent), and no higher than 0.38 percent for any affected small firm

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. In order to minimize the impact of the rule for leaking equipment, we have exempted firms producing less than 881 tpy (800 Mg/yr) from complying with requirements to have a leak detection and repair program.

G. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1856.02) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street SW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the Act (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is

safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The rule requires maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the rule) is estimated to be 32,252 labor hours per year at a total annual cost of $1,441,539. This estimate includes a one-time performance test and report (with repeat tests where needed); one-time purchase and installation of bag leak detection systems; one-time submission of a startup, shutdown, and malfunction plan with semiannual reports for any event when the procedures in the plan were not followed; semiannual excess emission reports; maintenance inspections; notifications; and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at $80,000, with no operation and maintenance costs.

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.

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 OMB control number(s) for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 or 48 CFR Chapter 15 in a subsequent **Federal Register** document after OMB approves the ICR.

H. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test method, sampling procedures, and business practices) that are developed or adopted by one or more voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards, and none were brought to our attention in comments. Therefore, we have decided to retain the standards in the proposed rule.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the SBREFA of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Therefore, EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective January 20, 2000.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Amino/phenolic resins production, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 15, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

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 OOO to read as follows:

Subpart OOO—National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins

Sec.

§ 63.1400 Applicability and designation of affected sources.

(a) *Applicability.* The provisions of this subpart apply to the owner or operator of processes that produce amino/phenolic resins and that are located at a plant site that is a major source as defined in § 63.2.

(b) *Affected source.* The affected source is:

(1) The total of all amino/phenolic resin process units (APPU);

(2) The associated heat exchange systems;

(3) Equipment required by, or utilized as a method of compliance with, this subpart which may include control devices and recovery devices;

(4) Equipment that does not contain organic hazardous air pollutants (HAPs) and is located within an APPU that is part of an affected source;

(5) Vessels and equipment storing and/or handling material that contain no organic HAP and/or organic HAP as impurities only;

(6) Equipment that is intended to operate in organic HAP service for less than 300 hours during the calendar year;

(7) Each waste management unit; and

(8) Maintenance wastewater.

(c) *Existing affected source.* The affected source to which the existing source provisions of this subpart apply is defined in paragraph (b) of this section.

(d) *New affected source.* The affected source to which the new source provisions of this subpart apply is:

(1) Each affected source defined in paragraph (b) of this section that commences construction or reconstruction after December 14, 1998;

(2) Each additional group of one or more APPU and associated heat exchange systems that has the potential to emit 10 tons per year or more of any organic HAP or 25 tons per year or more of any combination of organic HAP that commences construction after December 14, 1998; or

(3) Each group of one or more process units and associated heat exchange systems that are converted to APPUs after December 14, 1998, that has the potential to emit 10 tons per year or more of any organic HAP or 25 tons per year or more of any combination of organic HAP.

(e) *APPUs without organic HAP.* An APPU that is part of an affected source, as defined in paragraph (c) or (d) of this section, but that does not use or manufacture any organic HAP, is not subject to any other provisions of this subpart and is not required to comply with the provisions of subpart A of this part. When requested by the Administrator, the owner or operator shall demonstrate that the APPU does not use or manufacture 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, engineering calculations, or process knowledge.

(f) *Exemption from equipment leak provisions.* Affected sources with actual annual production of amino/phenolic resin equal to or less than 800 megagrams per year (Mg/yr) for the 12-month period preceding December 14, 1998 are exempt from the equipment leak provisions specified in § 63.1410. The owner or operator utilizing this exemption shall recheck the actual annual production of amino/phenolic resins for each 12-month period following December 14, 1998. The beginning of each 12-month period shall be the anniversary of December 14, 1998. If the actual annual production of amino/phenolic resins is greater than 800 Mg/yr for any 12-month period, the owner or operator shall comply with § 63.1410 for the life of the affected source or until the affected source is no longer subject to the provisions of this subpart.

(g) *Primary product determination and applicability.* For purposes of this paragraph, amino resins and phenolic resins shall be considered to be the same product and production time or production mass of amino and phenolic resins shall be combined for purposes of determining the primary product under this paragraph (g). If the owner or operator determines that a process unit is not an APPU under paragraphs (g)(1) through (4) of this section, the owner or operator shall, when requested by the Administrator, demonstrate that the process unit is not an APPU.

(1) *Applicability determinations for process units producing multiple products.* A process unit that produces more than one intended product at the same time is an APPU if amino/phenolic resin production accounts for the greatest percent of the annual design capacity on a mass basis. If a process unit has the same annual design capacity on a mass basis for two or more products, the process unit shall be an APPU if amino/phenolic resins are one of those products.

(2) *Flexible operations process unit determination based on operating time.* A flexible operations process unit is an APPU if amino/phenolic resins will be produced for the greatest operating time over the 5 years following December 14, 1998 at existing process units, or for the first year after the process unit begins production of any product for new process units.

(3) *Flexible operations process unit determination based on mass production basis.* A flexible operations process unit that will manufacture multiple products equally based on operating time is an APPU if amino/phenolic resins account for the greatest percentage of the expected production on a mass basis over the 5 years following December 14, 1998 at existing process units, or for the first year after the process unit begins production of any product for new process units.

(4) *Flexible operations process unit default determination.* If the owner or operator cannot determine whether or not amino/phenolic resins are the primary product of a flexible operations process unit in accordance with paragraphs (g)(2) and (3) of this section, the flexible operations process unit shall be designated as an APPU if amino/phenolic resins were produced for 5 percent or greater of the total operating time since December 14, 1998 for existing process units. The flexible operations process unit shall be designated as an APPU if the owner or operator anticipates that amino/phenolic resins will be manufactured in the flexible operations process unit at any time in the first year after the date the unit begins production of any product for new process units.

(5) *Annual applicability determination for non-APPUs that have produced amino/phenolic resins.* Once per year beginning December 14, 2003, the owner or operator of each flexible operations process unit that is not designated as an APPU, but that has produced amino/phenolic resins at any time in the preceding 5-year period or since the date that the unit began production of any product, whichever is shorter, shall perform an evaluation to determine whether the process unit has become an APPU. A flexible operations process unit has become an APPU if amino/phenolic resins were produced for the greatest operating time over the preceding 5-year period or since the date that the process unit began production of any product, whichever is shorter.

(6) *Applicability determination for non-APPUs that have not produced amino/phenolic resins.* The owner or operator that anticipates the production of amino/phenolic resins in a process unit that is not designated as an APPU, and in which no amino/phenolic resins have been produced in the previous 5-year period or since the date that the process unit began production of any product, whichever is shorter, shall determine if the process unit will become an APPU. The owner or operator shall use the procedures in paragraphs (g)(1) through (4) of this section to determine if the process unit is designated as an APPU, with the following exception: for existing process units, production shall be projected for the 5 years following the date that the owner or operator anticipates initiating the production of amino/phenolic

resins, instead of the 5 years following December 14, 1998.

(7) *Redetermination of applicability to APPU that are flexible operations process units.* Whenever changes in production occur that could reasonably be expected to cause a flexible operations process unit to no longer be an APPU (*i.e.*, amino/phenolic resins will no longer be the primary product according to the determination procedures in paragraphs (g)(2) through (4) of this section), the owner or operator shall reevaluate the status of the process unit as an APPU. A flexible operations process unit has ceased to be an APPU subject to this subpart if the following criteria are met:

(i) If amino/phenolic resins were not produced for the greatest operating time over the preceding 5-year period or since the date that the process unit began production of any product, whichever is shorter;

(ii) If the new primary product, which is not amino/phenolic resins, is subject to another subpart of this part; and

(iii) If the owner or operator has notified the Administrator of the pending change in status for the flexible operations process unit, as specified in § 63.1417(h)(4).

(8) *APPU terminating production of all amino/phenolic resins.* If an APPU terminates the production of all amino/phenolic resins and does not anticipate the production of any amino/phenolic resins in the future, the process unit is no longer an APPU and is not subject to this subpart after notification is made to the Administrator, as specified in § 63.1417(h)(4).

(h) *Storage vessel applicability determination.* The owner or operator of a storage vessel at a new affected source shall determine assignment to a process unit as follows:

(1) If a storage vessel is already subject to another subpart of part 63 on January 20, 2000, said storage vessel shall continue to be assigned 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 be assigned to that process unit.

(3) If a storage vessel is shared among process units, then the storage vessel shall be assigned 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., said 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 one or more of those process units is an APPU subject to this subpart, the storage vessel shall be assigned to any of the APPUs.

(5) [Reserved]

(6) If the predominant use of a storage vessel varies from year to year, then predominant use shall be determined based on the use as follows:

(i) For existing affected sources, use shall be determined based on the following:

(A) The year preceding January 20, 2000; or

(B) The expected use for the 5 years following January 20, 2000.

(ii) For new affected sources, use shall be determined based on the first 5 years after initial start-up.

(7) Where the storage vessel is located in a tank farm (including a marine tank farm), the assignment of the storage vessel shall be determined according to paragraphs (h)(7)(i) and (ii) of this section. Only those storage vessels where a portion or all of the input into or output from the storage vessel is hardpiped directly to one or more process units are covered by this paragraph.

(i) The storage vessel is assigned to a process unit if the product or raw material entering or leaving the process unit flows directly into (or from) the storage vessel in the tank farm without passing through any intervening storage vessel. An intervening storage vessel means a storage vessel connected by hardpiping both to the process unit and to the storage vessel in the tank farm.

(ii) If there are two or more process units that meet the criteria of paragraph (h)(7)(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 paragraphs (h)(3) through (6) of this section.

(8) If the storage vessel begins receiving material from (or sending material to) a process unit that was not included in the initial determination, or ceases to receive material from (or send material to) a process unit, the owner or operator shall reevaluate the applicability of this subpart to the storage vessel according to the procedures in paragraphs (h)(3) through (7) of this section.

(i) *Applicability of other subparts to this subpart.* Paragraphs (i)(1) through (5) describe the applicability of other subparts to this subpart.

(1) After the compliance dates specified in this section, a storage vessel that is assigned to an affected source subject to this subpart that is also subject to and complying with the provisions of 40 CFR part 60, subpart Kb, shall continue to comply with 40 CFR part 60, subpart Kb. After the compliance dates specified in this section, a storage vessel that is assigned to an affected source subject to this subpart that is also subject to the provisions of 40 CFR part 60, subpart Kb, but the owner or operator has not been required to apply controls as part of complying with 40 CFR part 60, subpart Kb, is required to comply only with the provisions of this subpart. After the compliance dates specified in this section, said storage vessel shall no longer be subject to 40 CFR part 60, subpart Kb.

(2) Affected sources subject to this subpart that are also subject to the provisions of subpart Q of this part shall comply with both subparts.

(3) 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 60, subpart VV, or the provisions of subpart H of this part, is required to comply only with the provisions of this subpart. After the compliance dates specified in this section, said source shall no longer be subject to 40 CFR part 60, subpart VV, or subpart H of this part, as appropriate.

(4) After the applicable compliance date specified in this subpart, if a heat exchange system subject to this subpart is also subject to a standard identified in paragraph (i)(4)(i) or (ii) of this section, compliance with the applicable provisions of the standard identified in paragraph (i)(4)(i) or (ii) of this section shall constitute compliance with the applicable provisions of this subpart with respect to that heat exchange system.

(i) Subpart F of this part.

(ii) A subpart of this part that requires compliance with § 63.104 (e.g., subpart U of this part).

(5) After the compliance dates specified in this subpart, if any combustion device, recovery device or recapture device subject to this subpart is also subject to monitoring, recordkeeping, and reporting requirements in 40 CFR part 264, subparts AA, BB, or CC, or is subject to monitoring and recordkeeping requirements in 40 CFR part 265, subparts AA, BB, or CC, and the owner or operator complies with the periodic reporting requirements under 40 CFR part 264, subparts AA, BB, or CC, that would apply to the device if the facility had final-permitted status, the owner or operator may elect to comply either with the monitoring, recordkeeping and reporting requirements of this subpart, or with the monitoring, recordkeeping and reporting requirements in 40 CFR parts 264 and/or 265, as described in this paragraph, which shall constitute

compliance with the monitoring, recordkeeping and reporting requirements of this subpart. If the owner or operator elects to comply with the monitoring, recordkeeping, and reporting requirements in 40 CFR parts 264 and/or 265, the owner or operator shall report all information required by § 63.1417(f), Periodic Reports, as part of complying with the requirements of 40 CFR parts 264 and/or 265.

(j) *Applicability of General Provisions.* Table 1 of this subpart specifies the provisions of subpart A of this part that apply and do not apply to owners and operators of affected sources subject to this subpart.

(k) *Applicability of this subpart during periods of start-up, shutdown, malfunction, or non-operation.* Paragraphs (k)(1) through (4) of this section shall be followed during periods of start-up, shutdown, malfunction, or non-operation of the affected source or any part thereof.

(1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. The emission limitations of this subpart and the emission limitations referred to in this subpart shall not apply during periods of start-up, shutdown, or malfunction. During periods of start-up, shutdown, or malfunction, the owner or operator shall follow the applicable provisions of the start-up, shutdown, and malfunction plan required by § 63.6(e)(3). However, if a start-up, shutdown, malfunction, or period of non-operation of one portion of an affected source does not affect the ability of a particular emission point to comply with the emission limitations to which it is subject, then that emission point shall still be required to comply with the applicable emission limitations of this subpart during the start-up, shutdown, malfunction, or period of non-operation. For example, if there is an overpressure in the reactor area, a storage vessel that is part of the affected source would still be required to be controlled in accordance with § 63.1404.

(2) The emission limitations set forth in 40 CFR part 63, subpart UU, as referred to in § 63.1410, shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which § 63.1410 applies, or during periods of start-up, shutdown, malfuncton, or process unit shutdown. During periods of start-up, shutdown, malfunction, or process unit shutdown, the owner or operator shall follow the applicable provisions of the start-up, shutdown, and malfunction plan required by § 63.6(e)(3).

(3) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during periods of start-up, shutdown, or malfunction; or during times when emissions are being routed to such items of equipment if the shutdown would contravene requirements of this subpart applicable to such items of equipment. This paragraph does not apply if the item of equipment is malfunctioning. This paragraph also does not apply if the owner or operator shuts down the compliance equipment (other than monitoring systems) to avoid damage due to a contemporaneous start-up, shutdown, or malfunction of the affected source or portion thereof. If the owner or operator has reason to believe that monitoring equipment would be damaged due to a contemporaneous start-up, shutdown, or malfunction of the affected source or portion thereof, the owner or operator shall provide documentation supporting such a claim in the Precompliance Report as provided in § 63.1417(d)(9) or in a supplement to the Precompliance Report. Once approved by the Administrator in accordance with § 63.1417(d)(9), the provision for ceasing to collect, during a start-up, shutdown, or malfunction, monitoring data that would otherwise be required by the provisions of this subpart shall be incorporated into the start-up, shutdown, malfunction plan for the affected source, as stated in paragraph (k) of this section.

(4) During start-ups, shutdowns, and malfunctions when the emission limitations of this subpart do not apply pursuant to paragraphs (k)(1) through (3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions to the extent practical. For purposes of this paragraph, the term "excess emissions" means emissions in excess of those that would have occurred if there were no start-up, shutdown, or malfunction and the owner or operator complied with the relevant provisions of this subpart. The measures to be taken shall be identified in the applicable start-up, shutdown, and malfunction plan, and may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the affected source. Back-up control devices are not required, but may be used if available.

§ 63.1401 Compliance schedule.

(a) New affected sources that commence construction or reconstruction after December 14, 1998, shall be in compliance with this subpart upon initial start-up or January 20, 2000, whichever is later.

(b) Existing affected sources shall be in compliance with this subpart no later than 3 years after January 20, 2000.

(c) If an affected source using the exemption provided in § 63.1400(f) has an actual annual production of amino/phenolic resins exceeding 800 Mg/yr for any 12-month period, the owner or operator shall comply with the provisions of § 63.1410 for the affected source within 3 years. The starting point for the 3-year compliance time period shall be the end of the 12-month period in which actual annual production for amino/phenolic resins exceeds 800 Mg/yr.

(d) Pursuant to section 112(i)(3)(B) of the Clean Air Act, an owner or operator may request an extension allowing the existing affected 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 permitting authority as part of the operating permit application or to the Administrator as a separate submittal or as part of the Precompliance Report.

(1) Requests for extensions shall be submitted no later than 120 days prior to the compliance dates specified in paragraphs (a) and (b) of this section and shall include the data described in § 63.6(i)(6)(i)(A), (B), and (D). The dates specified in § 63.6(i) for submittal of requests for extensions shall not apply to this subpart.

(2) An owner or operator may submit a compliance extension request less than 120 days prior to the compliance dates specified in paragraphs (a) and (b) of this section provided that the need for the compliance extension arose after that date, and the need arose due to circumstances beyond reasonable control of the owner or operator. This request shall include, in addition to the information specified in § 63.6(i)(6)(i)(A), (B), and (D), a statement of the reasons additional time is needed and the date when the owner or operator first learned of the circumstances necessitating a request for compliance extension.

(e) All terms in this subpart that define a period of time for completion of required tasks (*e.g.*, weekly, monthly, quarterly, annual), unless specified

otherwise, 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 paragraph (e)(2)(i) or (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 3 days for tasks that must be performed weekly, 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 of multiple successive periods, 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.

§ 63.1402 Definitions.

(a) The following terms used in this subpart shall have the meaning given them in §§ 63.2, 63.101, 63.111, and 63.161 as specified after each term:

Act (§ 63.2)
Administrator (§ 63.2)
Annual average concentration (§ 63.111)
Annual average flow rate (§ 63.111)
Automated monitoring and recording system (§ 63.111)
Boiler (§ 63.111)
Bottoms receiver (§ 63.161)
By compound (§ 63.111)
By-product (§ 63.101)
Car-seal (§ 63.111)
Closed-vent system (§ 63.111)
Combustion device (§ 63.111)
Commenced (§ 63.2)
Compliance date (§ 63.2)
Connector (§ 63.161)
Construction (§ 63.2)
Continuous monitoring system (§ 63.2)
Distillation unit (§ 63.111)
Duct work (§ 63.161)
Emission standard (§ 63.2)
EPA (§ 63.2)
External floating roof (§ 63.111)
First attempt at repair (§ 63.111)
Flame zone (§ 63.111)
Floating roof (§ 63.111)
Flow indicator (§ 63.111)
Fuel gas (§ 63.101)
Fuel gas system (§ 63.101)
Hard-piping (§ 63.111)
Hazardous air pollutant (§ 63.2)
Impurity (§ 63.101)
Inorganic hazardous air pollutant service (§ 63.161)
Incinerator (§ 63.111)
Instrumentation system (§ 63.161)
Internal floating roof (§ 63.111)
Lesser quantity (§ 63.2)
Major source (§ 63.2)
Open-ended valve or line (§ 63.161)
Operating permit (§ 63.101)
Organic monitoring device (§ 63.111)
Owner or operator (§ 63.2)
Performance evaluation (§ 63.2)
Performance test (§ 63.2)
Permitting authority (§ 63.2)
Plant site (§ 63.101)
Potential to emit (§ 63.2)
Primary fuel (§ 63.111)
Process heater (§ 63.111)
Process unit shutdown (§ 63.161)
Process wastewater (§ 63.111)
Reactor (§ 63.111)
Reconstruction (§ 63.2)
Routed to a process or route to a process (§ 63.161)
Run (§ 63.2)
Secondary fuel (§ 63.111)
Sensor (§ 63.161)
Specific gravity monitoring device (§ 63.111)
Start-up, shutdown, and malfunction plan (§ 63.101)
State (§ 63.2)
Surge control vessel (§ 63.161)
Temperature monitoring device (§ 63.111)
Test method (§ 63.2)
Total resource effectiveness (TRE) index value (§ 63.111)
Treatment process (§ 63.111)
Unit operation (§ 63.101)
Visible emission (§ 63.2)

(b) All other terms used in this subpart shall have the meaning given them in this section. If a term is defined in §§ 63.2, 63.101, 63.111, or 63.161 or defined in 40 CFR part 63, subparts SS, UU, or WW and in this section, it shall have the meaning given in this section for purposes of this subpart.

Aggregate batch vent stream means a process vent containing emissions from at least one reactor batch process vent and at least one additional reactor or non-reactor batch process vent where the emissions are ducted, hardpiped, or otherwise connected together for a continuous flow.

Amino resin means a thermoset resin produced through the reaction of formaldehyde, or a formaldehyde containing solution (e.g., aqueous formaldehyde), with compound(s) that contain the amino group; these compounds include melamine, urea, and urea derivatives. Formaldehyde substitutes are exclusively aldehydes.

Amino/phenolic resin means one or both of the following:

(1) Amino resin; or

(2) Phenolic resin.

Amino/phenolic resin. process unit (APPU) means a collection of equipment assembled and connected by hardpiping or ductwork used to process raw materials and to manufacture an amino/phenolic resin as its primary product. This collection of equipment includes unit operations; process vents; storage vessels, as determined in § 63.1400(h); and the equipment that is subject to the equipment leak provisions as specified in § 63.1410. Utilities, lines and equipment not containing process fluids, and other non-process lines, such as heating and cooling systems which do not combine their materials with those in the processes they serve, are not part of the amino/phenolic resin process unit. An amino/phenolic resin process unit consists of more than one unit operation.

Batch cycle means the operational step or steps, from start to finish, that occur as part of a batch unit operation.

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 mode means the discontinuous bulk movement of material through a unit operation. Mass, temperature, concentration, and other properties may vary with time. For a unit operation operated in a batch mode (i.e., batch unit operation), the addition of material and withdrawal of material do not typically occur simultaneously.

Batch process vent means a process vent from a batch unit operation within an affected source. Batch process vents are either reactor batch process vents or non-reactor batch process vents.

Batch unit operation means a unit operation operated in a batch mode.

Block means the time period that comprises a single batch cycle.

Combustion device burner means a device designed to mix and ignite fuel and air to provide a flame to heat and oxidize waste organic vapors in a combustion device.

Continuous mode means the continuous movement of material through a unit operation. Mass, temperature, concentration, and other

properties typically approach steady-state conditions. For a unit operation operated in a continuous mode (*i.e.*, continuous unit operation), the simultaneous addition of raw material and withdrawal of product is typical.

Continuous process vent means a process vent from a continuous unit operation within an affected source. Process vents that are serving as control devices are not subject to additional control requirements.

Continuous record means documentation, either in hard copy or computer readable form, of data values measured at least once every 15 minutes and recorded at the frequency specified in § 63.1416(c) or (h).

Continuous recorder means a data recording device that either records an instantaneous data value at least once every 15 minutes or records 1 hour or more frequent block average values.

Continuous unit operation means a unit operation operated in a continuous mode.

Control device means any combustion device, recovery device, or recapture device. Such equipment includes, but is not limited to, absorbers, carbon adsorbers, condensers, incinerators, flares, boilers, and process heaters. For continuous process vents, recapture devices are considered control devices but recovery devices are not considered control devices. Condensers operating as process condensers are not considered control devices. For a condenser that sometimes operates as a process condenser to be considered a control device, it shall not be operating as a process condenser for a given batch emission episode, and it shall recycle of the recovered material within the process.

Control technology means any process modification or use of equipment that reduces organic HAP emissions. Examples include, but are not limited to, product reformulation to reduce solvent content and/or use, batch cycle time reduction to reduce the duration of emissions, reduction of nitrogen purge rate, and the lowering of process condenser coolant temperatures.

Controlled organic HAP emissions means the quantity of organic HAP discharged to the atmosphere from a control device.

Emission point means an individual continuous process vent, batch process vent, aggregate batch vent stream, storage vessel, equipment leak, or heat exchange system.

Equipment means , for the purposes of the provisions in § 63.1410, each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system in organic HAP service; and any control devices or systems required by § 63.1410. For purposes of this subpart, surge control vessels and bottom receivers are not equipment for purposes of regulating equipment leak emissions. Surge control vessels and bottoms receivers are regulated as non-reactor batch process vents for the purposes of this subpart.

Equipment leak means emissions of organic HAP from a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, or instrumentation system that either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP.

Existing process unit means any process unit that is not a new process unit.

Flexible operations process unit means a process unit that periodically manufactures different chemical products, polymers, or resins by alternating raw materials or operating conditions. These units are also referred to as campaign plants or blocked operations.

Heat exchange system means any cooling tower system or once-through cooling water system (e.g., river or pond water) designed and intended to operate to not allow contact between the cooling medium and process fluid or gases (*i.e.*, a noncontact system). A heat exchange system may include more than one heat exchanger and may include recirculating or once-through cooling systems.

Highest-HAP recipe for a product means the recipe of the product with the highest total mass of organic HAP charged to the reactor during the production of a single batch of product.

Initial start-up means the first time a new or reconstructed affected source begins production, or, for equipment added or changed, the first time the equipment is put into operation. Initial start-up does not include operation solely for testing equipment. Initial start-up does not include subsequent start-ups of an affected source or portion thereof following malfunctions or shutdowns, or following changes in product for flexible operation process units, or following recharging of equipment in batch operation. Further, for purposes of §§ 63.1401 and 63.1410, initial start-up does not include subsequent start-ups of affected sources or portions thereof following malfunctions or process unit shutdowns.

Inprocess recycling means a recycling operation in which recovered material is used by a unit operation within the same affected source. It is not necessary for recovered material to be used by the unit operation from which they were recovered.

Maintenance wastewater means wastewater generated by the draining of process fluid from components in the APPU into an individual drain system prior to or during maintenance activities. Maintenance wastewater can be generated during planned and unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewaters include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of low legs and high point bleeds, draining of pumps into an individual drain system, and draining of portions of the APPU for repair. The generation of wastewater from the routine rinsing or washing of equipment in batch operation between batches is not maintenance wastewater for the purposes of this subpart.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment or process equipment, or failure of a process to operate in a normal or usual manner, or opening of a safety device. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Maximum representative operating conditions means, for purposes of testing or measurements required by § 63.1413, those conditions which reflect the highest organic HAP emissions reasonably expected to be vented to the control device or emitted to the atmosphere. For affected sources that produce the same product(s) using multiple recipes, the production of the highest-HAP recipe is reflective of maximum representative operating conditions.

Maximum true vapor pressure means the equilibrium partial pressure exerted by the total organic HAP in the stored liquid at the temperature equal to the highest calendar-month average of the liquid storage temperature for liquids stored above or below the ambient temperature, or at the local maximum monthly average temperature as reported by the National Weather Service for liquids stored at the ambient temperature, as determined:

(1) In accordance with methods described in American Petroleum Institute Publication 2517, Evaporative Loss From External Floating-Roof Tanks (incorporated by reference as specified in § 63.14); or

(2) As obtained from standard reference texts; or

(3) As determined by the American Society for Testing and Materials Method D2879–83 (incorporated by reference as specified in § 63.14); or

(4) Any other method approved by the Administrator.

Multicomponent system means, as used in conjunction with batch process vents, a stream whose liquid and/or vapor contains more than one compound.

Net heating value means the difference between the heat value of the recovered chemical stream and the minimum heat value required to ensure a stable flame in the combustion device. This difference must have a positive value when used in the context of "recovering chemicals for fuel value" (*e.g.*, in the definition of "recovery device" in this section).

New process unit means a process unit for which the construction or reconstruction commenced after December 14, 1998.

Non-reactor batch process vent means a batch process vent originating from a unit operation other than a reactor. Non-reactor batch process vents include, but are not limited to, batch process vents from filter presses, surge control vessels, bottoms receivers, weigh tanks, and distillation systems.

Non-solvent-based resin means an amino/phenolic resin manufactured without the use of a solvent as described in the definition of solvent-based resin.

On-site or *On site* means, with respect to records required to be maintained by this subpart or required by another subpart referenced by this subpart, records are stored at a location within a major source which encompasses the affected source. On-site includes, but is not limited to, storage at the affected source or APPU to which the records pertain, or storage in central files elsewhere at the major source.

Operating day means the period defined by the owner or operator in the Notification of Compliance Status required by § 63.1417(e). The operating day is the period for which daily average monitoring values and batch cycle daily average monitoring values are determined.

Organic hazardous air pollutant(s) (organic HAP) means one or more of the chemicals listed in Table 2 of this subpart or any other chemical which is:

(1) Knowingly produced or introduced into the manufacturing process other than as an impurity; and

(2) Listed in Table 2 of subpart F of this part.

Phenolic resin means a thermoset resin that is a condensation product of formaldehyde and phenol, or a formaldehyde substitute and/or a phenol substitute. Substitutes for formaldehyde are exclusively aldehydes and include acetaldehyde or furfuraldehyde. Substitutes for phenol include other phenolic starting compounds such as cresols, xylenols, p-tert-butylphenol, p-phenylphenol, nonylphenol, and resorcinols.

Process condenser means a condenser functioning so as to recover material as an integral part of a unit operation(s). A process condenser shall support a vapor-to-liquid phase change for periods of equipment operation that are at or above the boiling or bubble point of substance(s) at the liquid surface. Examples of process condensers include distillation condensers, reflux condensers, and condensers used in stripping or flashing operations. In a series of condensers, all condensers up to and including the first condenser with an exit gas temperature below the boiling or bubble point of the substance(s) at the liquid surface are considered to be process condensers. All condensers in line prior to a vacuum source are considered process condensers when the vacuum source is being operated. A condenser may be a process condenser for some batch emission episodes and, when meeting certain conditions, may be a control device for other batch emission episodes.

Process unit means a collection of equipment assembled and connected by hardpiping or ductwork used to process raw materials and to manufacture a product.

Process vent means a gaseous emission stream from a unit operation where the gaseous emission stream is discharged to the atmosphere either directly or after passing through one or more control, recovery, or recapture devices. Unit operations that may have process vents are condensers, distillation units, reactors, or other unit operations within the APPU. Emission streams that are undiluted and uncontrolled containing less than 50 parts per million volume (ppmv) organic HAP, as determined through process knowledge that no organic HAP are present in the emission stream or using an engineering assessment as discussed in § 63.1414(d)(6); test data using the test methods specified in § 63.1414(a); or any other test method that has been validated according to the procedures in Method 301 of appendix A of this part are not considered process vents. Process vents exclude relief valve discharges, gaseous streams routed to a fuel gas system(s), and leaks from equipment regulated under § 63.1410. Process vents that are serving as control devices are not subject to additional control requirements.

Product means a resin, produced using the same monomers and varying in additives (e.g., initiators, terminators, etc.), catalysts, or in the relative proportions of monomers, that is manufactured by a process unit. With respect to resins, more than one recipe may be used to produce the same product. Product also means a chemical that is not a resin that is manufactured by a process unit. By-products, isolated intermediates, impurities, wastes, and trace contaminants are not considered products.

Reactor batch process vent means a batch process vent originating from a reactor.

Recapture device means an individual unit of equipment capable of and used for the purpose of recovering chemicals, but not normally for use, reuse, or sale. For example, a recapture device may recover chemicals primarily for disposal. Recapture devices include, but are not limited to, absorbers, carbon adsorbers, and condensers.

Recipe means a specific composition from among the range of possible compositions that may occur within a product, as defined in this section. A recipe is determined by the proportions of monomers and, if present, other reactants and additives that are used to make the recipe. For example, a methylated amino resin and a non-methylated amino resin are both different recipes of the same product, amino resin.

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for use, reuse, fuel value (i.e., net heating value); or for sale for use, reuse, or fuel value (i.e., net heating value). Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. For the purposes of the monitoring, recordkeeping, or reporting requirements of this subpart, recapture devices are considered recovery devices.

Safety device means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purposes of this subpart, a safety device is not used for routine

venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, combustible, explosive, reactive, or hazardous materials.

Shutdown means for purposes including, but not limited to, periodic maintenance, replacement of equipment, or repair, the cessation of operation of an affected source, an APPU(s) within an affected source, or equipment required or used to comply with this subpart, or the emptying or degassing of a storage vessel. For purposes of the batch process vent provisions in §§ 63.1406 through 63.1408, the cessation of equipment in batch operations is not a shutdown, unless the equipment undergoes maintenance, is replaced, or is repaired.

Solvent-based resin means an amino/phenolic resin that consumes a solvent (*i.e.,* methanol, xylene) as a reactant in the resin producing reaction. The use of a solvent as a carrier (i.e., adding methanol to the product/water solution after the reaction is complete) does not meet this definition.

Start-up means the setting into operation of an affected source, an APPU(s) within an affected source, a unit operation within an affected source, or equipment required or used to comply with this subpart, or a storage vessel after emptying and degassing. For both continuous and batch unit operations, start-up includes initial start-up and operation solely for testing equipment. For both continuous and batch unit operations, start-up does not include the recharging of equipment in batch operation. For continuous unit operations, start-up includes transitional conditions due to changes in product for flexible operation process units. For batch unit operations, start-up does not include transitional conditions due to changes in product for flexible operation process units.

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 may occur.

Storage vessel means a tank or other vessel that is used to store liquids that contain one or more organic HAP. 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 and/or organic HAP as impurities only;

(5) Wastewater storage tanks;

(6) Surge control vessels or bottoms receivers; and

(7) Vessels and equipment storing and/or handling amino/phenolic resin.

Supplemental combustion air means the air that is added to a vent stream after the vent stream leaves the unit operation. Air that is part of the vent stream as a result of the nature of the unit operation is not considered supplemental combustion air. Air required to operate combustion device burner(s) is not considered supplemental combustion air.

Uncontrolled organic HAP emissions means the organic HAP emitted from a unit operation prior to introduction of the emission stream into a control device. Uncontrolled HAP emissions are determined after any condenser that is operating as a process condenser. If an emission stream is not routed to a control device, uncontrolled organic HAP emissions are those organic HAP emissions released to the atmosphere.

Vent stream, as used in reference to batch process vents, aggregate batch vent streams, continuous process vents, and storage vessels, means the emissions from that emission point.

Waste management unit means the equipment, structure(s), and/or device(s) used to convey, store, treat, or dispose of wastewater streams or residuals. Examples of waste management units include: wastewater tanks, surface impoundments, individual drain systems, and biological wastewater treatment units. Examples of equipment that may be waste management units include containers, air flotation units, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. If such equipment is used for recovery, then it is part of an APPU and is not a waste management unit.

Wastewater is either a process wastewater or maintenance wastewater and means water that:

(1) Contains either:

(i) An annual average concentration of organic HAP, as indicated on Table 2 of this subpart, of at least 5 parts per million by weight and has an annual average flow rate of 0.02 liter per minute or greater; or

(ii) An annual average concentration of organic HAP, as indicated on Table 2 of this subpart, of at least 10,000 parts per million by weight at any flow rate.

(2) Is discarded from an APPU that is part of an affected source.

(3) Does not include:

(i) Stormwater from segregated sewers;

(ii) Water from fire-fighting and deluge systems in segregated sewers;

(iii) Spills;

(iv) Water from safety showers;

(v) Water from testing of deluge systems; and

(vi) Water from testing of firefighting systems.

Wastewater stream means a stream that contains wastewater as defined in this section.

§ 63.1403 Emission standards.

(a) *Provisions of this subpart.* Except as allowed under paragraph (b) of this section, the owner or operator of an affected source shall comply with the provisions of §§ 63.1404 through 63.1410, as appropriate. When emissions are vented to a control device or control technology as part of complying with this subpart, emissions shall be vented through a closed vent system meeting the requirements of 40 CFR part 63, subpart SS (national emission standards for closed vent systems, control devices, recovery devices).

(b) *Combined emission streams.* When emissions of different kinds (*e.g.,* emissions from continuous process vents, storage vessels, etc.) are combined at a new affected source, and at least one of the emission streams would be required by this subpart to apply controls in the absence of combination with other emission streams, the owner or operator shall comply with the requirements of paragraph (b)(1) or (2) of this section, as appropriate.

(1) For any combined vent stream that includes one or more aggregate batch vent streams, comply with the provisions for aggregate batch vent streams.

(2) For any combined vent stream that does not include one or more aggregate batch vent streams:

(i) Reactor batch process vents and non-reactor batch process vents shall

comply with the provisions for reactor batch process vents and non-reactor batch process vents, as appropriate.

(ii) The remaining emissions (*i.e.*, storage vessel and/or continuous process vent emissions) included in the combined vent stream shall comply the provisions for storage vessels when storage vessel emissions are included and shall comply with the provisions for continuous process vents in the absence of storage vessel emissions (*i.e.*, when only continuous process vents are included).

(c) *Compliance for flexible operations process units.* With the exceptions specified in paragraphs (c)(1) and (2) of this section, owners or operators of APPUs that are flexible operations process units shall comply with the provisions of this subpart at all times, regardless of the product being manufactured. Once it has been determined that an emission point requires control during manufacture of amino/phenolic resins, that emission point shall be controlled at all times regardless of the product being manufactured.

(1) When a flexible operations process unit is manufacturing a product in which no organic HAP are used or manufactured, the owner or operator is not required to comply with the provisions of this subpart or with the provisions of subpart A of this part during manufacture of that product. When requested by the Administrator, the owner or operator shall demonstrate that no organic HAP are used or manufactured.

(2) When a flexible operations process unit is manufacturing a product subject to subpart GGG of this part, the owner or operator is not required to comply with the provisions of this subpart during manufacture of that product (*i.e.*, a pharmaceutical).

§ 63.1404 Storage vessel provisions.

(a) *Emission standards.* For each storage vessel located at a new affected source that has a capacity of 50,000 gallons or greater and vapor pressure of 2.45 pounds per square inch absolute (psia) or greater or has a capacity of 90,000 gallons or greater and vapor pressure of 0.15 psia or greater, the owner or operator shall comply with either paragraph (a) (1) or (2) of this section. As an alternative to complying with paragraph (a) of this section, an owner or operator may comply with paragraph (b) of this section.

(1) Reduce emissions of total organic HAP by 95 weight-percent. Control shall be achieved by venting emissions through a closed vent system to any combination of control devices meeting the requirements of 40 CFR part 63, subpart SS (national emission standards for closed vent systems, control devices, recovery devices). When complying with the requirements of 40 CFR part 63, subpart SS, the following apply for purposes of this subpart:

(i) Design evaluations are allowed for control devices that control emission points with total emissions less than 10 tons of organic HAP per year before control (i.e., small control devices).

(ii) When 40 CFR part 63, subpart SS refers to specific test methods for the measurement of organic HAP concentration, the test methods presented in § 63.1414(a) shall be used.

(iii) The option to measure TOC instead of organic HAP, as a basis for demonstrating compliance, is not allowed.

(iv) Excused excursions are not allowed.

(v) The provisions in § 63.1403(b), rather than the provisions in § 63.982(f), are to be followed for combined vent streams.

(vi) When a scrubber is used as a control device, the owner or operator shall follow the guidance provided in this subpart for design evaluations or performance tests, as appropriate, and for monitoring, recordkeeping, and reporting.

(vii) When there are conflicts between the due dates for reports presented in 40 CFR part 63, subpart SS and this subpart, reports shall be submitted according to the due dates presented in this subpart.

(viii) When there are conflicts between the recordkeeping and reporting requirements presented in 40 CFR part 63, subpart SS and this subpart, the owner or operator shall either follow both sets of requirements (*i.e.*, follow the requirements in 40 CFR part 63, subpart SS for emission points covered by 40 CFR part 63, subpart SS and follow the requirements of this subpart for emission points covered by this subpart) or shall follow the set of requirements they prefer. If an owner or operator chooses to follow just one set of requirements, the owner or operator shall identify which set of requirements are being followed and which set of requirements are being disregarded in the appropriate report.

(2) Comply with the requirements of 40 CFR part 63, subpart WW (national emission standards for storage vessels (control level 2)). When complying with the requirements of 40 CFR part 63, subpart WW, the following apply for purposes of this subpart:

(i) When there are conflicts between the due dates for reports presented in 40 CFR part 63, subpart WW and this subpart, reports shall be submitted according to the due dates presented in this subpart.

(ii) When there are conflicts between the recordkeeping and reporting requirements presented in 40 CFR part 63, subpart WW and this subpart, the owner or operator shall either follow both sets of requirements (*i.e.*, follow the requirements in 40 CFR part 63, subpart WW for emission points covered by 40 CFR part 63, subpart WW and follow the requirements of this subpart for emission points covered by this subpart) or shall follow the set of requirements they prefer. If an owner or operator chooses to follow just one set of requirements, the owner or operator shall identify which set of requirements are being followed and which set of requirements are being disregarded in the appropriate report.

(b) *Alternative standard.* Vent all organic HAP emissions from a storage vessel meeting either of the capacity and vapor pressure criteria specified in paragraph (a) of this section to a combustion control device achieving an outlet organic HAP concentration of 20 ppmv or less or to a non-combustion control device achieving an outlet organic HAP concentration of 50 ppmv or less. Any storage vessels that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraph (a)(1) or (2) of this section.

§ 63.1405 Continuous process vent provisions.

(a) *Emission standards.* For each continuous process vent located at a new affected source with a Total Resource Effectiveness (TRE) index value, as determined following the procedures specified in § 63.1412(j), less than or equal to 1.2, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section. As an alternative to complying with paragraph (a) of this section, an owner or operator may comply with paragraph (b) of this section.

(1) Vent all emissions of organic HAP to a flare.

(2) Reduce emissions of total organic HAP by 85 weight-percent or to a concentration of 20 ppmv when using a combustion control device or to a concentration of 50 ppmv when using a non-combustion control device, whichever is less stringent. Control shall be achieved by venting emissions through a closed vent system to any combination of control devices meeting the requirements of 40 CFR part 63, subpart SS (national emission standards for closed vent systems, control devices, recovery devices). When complying

with the requirements of 40 CFR part 63, subpart SS, the following apply for purposes of this subpart:

(i) Design evaluations are allowed for control devices that control emission points with total emissions less than 10 tons of organic HAP per year before control (*i.e.*, small control devices).

(ii) When 40 CFR part 63, subpart SS refers to specific test methods for the measurement of organic HAP concentration, the test methods presented in § 63.1414(a) shall be used.

(iii) The option to measure TOC instead of organic HAP, as a basis for demonstrating compliance, is not allowed.

(iv) Excused excursions are not allowed.

(v) The provisions in § 63.1403(b), rather than the provisions in § 63.982(f), are to be followed for combined vent streams.

(vi) When a scrubber is used as a control device, the owner or operator shall follow the guidance provided in this subpart for design evaluations or performance tests, as appropriate, and for monitoring, recordkeeping, and reporting.

(vii) When there are conflicts between the due dates for reports presented in 40 CFR part 63, subpart SS and this subpart, reports shall be submitted according to the due dates presented in this subpart.

(viii) When there are conflicts between the recordkeeping and reporting requirements presented in 40 CFR part 63, subpart SS and this subpart, the owner or operator shall either follow both sets of requirements (*i.e.*, follow the requirements in 40 CFR part 63, subpart SS for emission points covered by 40 CFR part 63, subpart SS and follow the requirements of this subpart for emission points covered by this subpart) or shall follow the set of requirements they prefer. If an owner or operator chooses to follow just one set of requirements, the owner or operator shall identify which set of requirements are being followed and which set of requirements are being disregarded in the appropriate report.

(b) *Alternative standard.* Vent all organic HAP emissions from a continuous process vent meeting the TRE value specified in paragraph (a) of this section to a combustion control device achieving an outlet organic HAP concentration of 20 ppmv or less or to a non-combustion control device achieving an outlet organic HAP concentration of 50 ppmv or less. Any continuous process vents that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraphs (a)(1) or (2) of this section.

§ 63.1406 Reactor batch process vent provisions.

(a) *Emission standards.* Owners or operators of reactor batch process vents located at new or existing affected sources shall comply with paragraph (a)(1) or (2) of this section, as appropriate. As an alternative to complying with paragraph (a) of this section, an owner or operator may comply with paragraph (b) of this section.

(1) The owner or operator of a reactor batch process vent located at a new affected source shall control organic HAP emissions by complying with either paragraph (a)(1)(i), (ii), or (iii) of this section.

(i) Vent all emissions of organic HAP to a flare.

(ii) Reduce organic HAP emissions for the batch cycle by 95 weight percent using a control device or control technology.

(iii) Reduce organic HAP emissions from the collection of all reactor batch process vents within the affected source, as a whole, to 0.0045 kilogram of organic HAP per megagram of product or less for solvent-based resin production, or to 0.0004 kilogram of organic HAP per megagram of product or less for non-solvent-based resin production.

(2) The owner or operator of a reactor batch process vent located at an existing affected source shall control organic HAP emissions by complying with either paragraph (a)(2)(i), (ii), or (iii) of this section.

(i) Vent all emissions of organic HAP to a flare.

(ii) Reduce organic HAP emissions for the batch cycle by 83 weight percent using a control device or control technology.

(iii) Reduce organic HAP emissions from the collection of all reactor batch process vents within the affected source, as a whole, to 0.0567 kilogram of organic HAP per megagram of product or less for solvent-based resin production, or to 0.0057 kilogram of organic HAP per megagram of product or less for non-solvent-based resin production.

(b) *Alternative standard.* Vent all organic HAP emissions from a reactor batch process vent to a combustion control device achieving an outlet organic HAP concentration of 20 ppmv or less or to a non-combustion control device achieving an outlet organic HAP concentration of 50 ppmv or less. Any reactor batch process vents that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraph (a)(1)(ii), or paragraph (a)(2)(ii) of this section.

(c) *Use of boiler or process heater.* If a boiler or process heater is used to comply with the requirements of paragraph (a)(1)(i) or (ii), or paragraph (a)(2)(i) or (ii) of this section, the reactor batch process vent shall be introduced into the flame zone of such a device.

§ 63.1407 Non-reactor batch process vent provisions.

(a) *Emission standards.* (1) Owners or operators of non-reactor batch process vents located at new or existing affected sources with 0.25 tons per year (0.23 megagrams per year) of uncontrolled organic HAP emissions or greater from the collection of non-reactor batch process vents within the affected source shall comply with the requirements in paragraph (a)(2) or (3) of this section, as appropriate. As an alternative to complying with paragraph (a)(2) or (3) of this section, an owner or operator may comply with paragraph (b) of this section. Owners or operators shall determine uncontrolled organic HAP emissions from the collection of non-reactor batch process vents within the affected source as specified in paragraph (d) of this section. If the owner or operator finds that uncontrolled organic HAP emissions from the collection of non-reactor batch process vents within the affected source are less than 0.25 tons per year (0.23 megagrams per year), non-reactor batch process vents are not subject to the control requirements of this section. Further, the owner or operator shall, when requested by the Administrator, demonstrate that organic HAP emissions for the collection of non-reactor batch process vents within the affected source are less than 0.25 tons per year (0.23 megagrams per year).

(2) The owner or operator of a non-reactor batch process vent located at a new affected source shall:

(i) Vent all emissions of organic HAP to a flare; or

(ii) For the collection of non-reactor batch process vents within the affected source, reduce organic HAP emissions for the batch cycle by 76 weight percent using a control device or control technology.

(3) The owner or operator of a non-reactor batch process vent located at an existing affected source shall:

(i) Vent all emissions of organic HAP to a flare; or

(ii) For the collection of non-reactor batch process vents within the affected source, reduce organic HAP emissions for the batch cycle by 62 weight percent

using a control device or control technology.

(b) *Alternative standard.* Comply with either paragraph (b)(1) or (2) of this section.

(1) *Control device outlet concentration.* Vent all organic HAP emissions from a non-reactor batch process vent to a combustion control device achieving an outlet organic HAP concentration of 20 ppmv or less or to a non-combustion control device achieving an outlet organic HAP concentration or 50 ppmv or less. Any reactor batch process vents that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraph (a)(2) or (3) of this section.

(2) *Mass emission limit.* Include the emissions from all non-reactor batch process vents in the compliance demonstration required for reactor batch process vents complying with the mass emission limits specified in § 63.1406(a)(1)(iii) and (a)(2)(iii), as appropriate. This compliance option may only be used when the owner or operator has elected to comply with the mass emission limit for reactor batch process vents.

(c) *Use of boiler or process heater.* If a boiler or process heater is used to comply with paragraph (a)(2)(ii) or (a)(3)(ii) of this section, the reactor batch process vent shall be introduced into the flame zone of such a device.

(d) *Determining uncontrolled organic HAP emissions.* Owners or operators shall determine uncontrolled organic HAP emissions from the collection of non-reactor batch process vents within the affected source based on engineering assessment as described in § 63.1414(d)(6).

§ 63.1408 Aggregate batch vent stream provisions.

(a) *Emission standards.* Owners or operators of aggregate batch vent streams at a new or existing affected source shall comply with either paragraph (a)(1) or (2) of this section, as appropriate. As an alternative to complying with paragraph (a)(1) or (2) of this section, an owner or operator may comply with paragraph (b) of this section.

(1) The owner or operator of an aggregate batch vent stream located at a new affected source shall:

(i) Vent all emissions of organic HAP to a flare; or

(ii) Reduce organic HAP emissions by 95 weight percent or to a concentration of 20 ppmv when using a combustion control device or to a concentration of 50 ppmv when using a non-combustion control device, whichever is less stringent, on a continuous basis.

(2) The owner or operator of an aggregate batch vent stream located at an existing affected source shall:

(i) Vent all emissions of organic HAP to a flare; or

(ii) Reduce organic HAP emissions by 83 weight percent or to a concentration of 20 ppmv when using a combustion control device or to a concentration of 50 ppmv when using a non-combustion control device, whichever is less stringent, on a continuous basis.

(b) *Alternative standard.* Comply with either paragraph (b)(1) or (2) of this section.

(1) *Control device outlet concentration.* Vent all organic HAP emissions from an aggregate batch vent stream to a combustion control device achieving an outlet organic HAP concentration of 20 ppmv or less or to a non-combustion control device achieving an outlet organic HAP concentration of 50 ppmv or less. Any aggregate batch vent streams that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraphs (a)(1) or (a)(2) of this section.

(2) *Mass emission limit.* Include the emissions from all aggregate batch vent streams in the compliance demonstration required for reactor batch process vents complying with the mass emission limits specified in § 63.1406(a)(1)(iii) and (a)(2)(iii), as appropriate. This compliance option may only be used when the owner or operator has elected to comply with the mass emission limit for reactor batch process vents.

§ 63.1409 Heat exchange system provisions.

(a) Unless one or more of the conditions specified in paragraphs (a)(1) through (6) of this section are met, owners and operators of sources subject to this subpart shall monitor each heat exchange system used to cool process equipment in an affected source, according to the provisions in either paragraph (b) or (c) of this section. Whenever a leak is detected, the owner or operator shall comply with the requirements in paragraph (d) of this section.

(1) The heat exchange system is operated with the minimum pressure on the cooling water side at least 35 kilopascals greater than the maximum pressure on the process side.

(2) There is an intervening cooling fluid, containing less than 5 percent by weight of total HAP listed in column A of Table 2 of this subpart, between the process and the cooling water. This intervening fluid serves to isolate the cooling water from the process fluid, and the intervening fluid is not sent through a cooling tower or discharged. For purposes of this section, discharge does not include emptying for maintenance purposes.

(3) The once-through heat exchange system is subject to a National Pollution Discharge Elimination System (NPDES) permit with an allowable discharge limit of 1 part per million or less above influent concentration or 10 percent or less above influent concentration, whichever is greater.

(4) The once-through heat exchange system is subject to an NPDES permit that:

(i) Requires monitoring of a parameter(s) or condition(s) to detect a leak of process fluids into cooling water;

(ii) Specifies or includes the normal range of the parameter or condition;

(iii) Requires monitoring for the parameters selected as leak indicators no less frequently than monthly for the first 6 months and quarterly thereafter; and

(iv) Requires the owner or operator to report and correct leaks to the cooling water when the parameter or condition exceeds the normal range.

(5) The recirculating heat exchange system is used to cool process fluids that contain less than 5 percent by weight of total HAP listed in column A of Table 2 of this subpart.

(6) The once-through heat exchange system is used to cool process fluids that contain less than 5 percent by weight of total HAP listed in column B of Table 2 of this subpart.

(b) The owner or operator who elects to comply with the requirements of paragraph (a) of this section by monitoring the cooling water for the presence of one or more organic HAP or other representative substances whose presence in cooling water indicate a leak shall comply with the requirements specified in paragraphs (b)(1) through (6) of this section. The cooling water shall be monitored for total HAP, total volatile organic compounds, total organic carbon, one or more speciated HAP compounds, or other representative substances that would indicate the presence of a leak in the heat exchange system.

(1) The cooling water shall be monitored monthly for the first 6 months and quarterly thereafter to detect leaks.

(2)(i) For recirculating heat exchange systems (cooling tower systems), the monitoring of speciated HAP or total HAP refers to the HAP listed in column A of Table 2 of this subpart.

(ii) For once-through heat exchange systems, the monitoring of speciated HAP or total HAP refers to the HAP listed in column B of Table 2 of this subpart.

(3) The concentration of the monitored substance(s) in the cooling water shall be determined using any EPA-approved method listed in part 136 of this chapter, as long as the method is sensitive to concentrations as low as 10 parts per million and the same method is used for both entrance and exit samples. Alternative methods may be used upon approval by the Administrator.

(4) The samples shall be collected either at the entrance and exit of each heat exchange system or at locations where the cooling water enters and exits each heat exchanger or any combination of heat exchangers.

(i) For samples taken at the entrance and exit of recirculating heat exchange systems, the entrance is the point at which the cooling water leaves the cooling tower prior to being returned to the process equipment, and the exit is the point at which the cooling water is introduced to the cooling tower after being used to cool the process fluid.

(ii) For samples taken at the entrance and exit of once-through heat exchange systems, the entrance is the point at which the cooling water enters, and the exit is the point at which the cooling water exits the plant site or chemical manufacturing process units.

(iii) For samples taken at the entrance and exit of each heat exchanger or any combination of heat exchangers, the entrance is the point at which the cooling water enters the individual heat exchanger or group of heat exchangers, and the exit is the point at which the cooling water exits the heat exchanger or group of heat exchangers.

(5) A minimum of three sets of samples shall be taken at each entrance and exit as defined in paragraph (b)(4) of this section. The average entrance and exit concentrations shall then be calculated. The concentration shall be corrected for the addition of any makeup water or for any evaporative losses, as applicable.

(6) A leak is detected if the exit mean concentration is found to be greater than the entrance mean concentration using a one-sided statistical procedure at the 0.05 level of significance, and the amount by which it is greater is at least 1 part per million or 10 percent of the entrance mean, whichever is greater.

(c) The owner or operator who elects to comply with the requirement of paragraph (a) of this section by monitoring using a surrogate indicator of heat exchange system leaks shall comply with the requirements specified in paragraphs (c)(1) through (3) of this section. Surrogate indicators that could be used to develop an acceptable monitoring program are ion specific electrode monitoring, pH, conductivity or other representative indicators.

(1) The owner or operator shall prepare and implement a monitoring plan that documents the procedures that will be used to detect leaks of process fluids into cooling water. The plan shall require monitoring of one or more surrogate indicators or monitoring of one or more process parameters or other conditions that indicate a leak. Monitoring that is already being conducted for other purposes may be used to satisfy the requirements of this section. The plan shall include the information specified in paragraphs (c)(1)(i) and (ii) of this section.

(i) A description of the parameter or condition to be monitored and an explanation of how the selected parameter or condition will reliably indicate the presence of a leak.

(ii) The parameter level(s) or conditions(s) that constitute a leak. This shall be documented by data or calculations showing that the selected levels or conditions will reliably identify leaks. The monitoring must be sufficiently sensitive to determine the range of parameter levels or conditions when the system is not leaking. When the selected parameter level or condition is outside that range, a leak is indicated.

(iii) The monitoring frequency which shall be no less frequent than monthly for the first 6 months and quarterly thereafter to detect leaks.

(iv) The records that will be maintained to document compliance with the requirements of this section.

(2) If a substantial leak is identified by methods other than those described in the monitoring plan and the method(s) specified in the plan could not detect the leak, the owner or operator shall revise the plan and document the basis for the changes. The owner or operator shall complete the revisions to the plan no later than 180 days after discovery of the leak.

(3) The owner or operator shall maintain, at all times, the monitoring plan that is currently in use. The current plan shall be maintained on-site, or shall be accessible from a central location by computer or other means that provides access within 2 hours after a request. If the monitoring plan is superseded, the owner or operator shall retain the most recent superseded plan at least until 5 years from the date of its creation. The superseded plan shall be retained on-site (or accessible from a central location by computer or other means that provides access within 2 hours after a request) for at least 6 months after its creation.

(d) If a leak is detected according to the criteria of paragraph (b) or (c) of this section, the owner or operator shall comply with the requirements in paragraphs (d)(1) and (2) of this section, except as provided in paragraph (e) of this section.

(1) The leak shall be repaired as soon as practical but not later than 45 calendar days after the owner or operator receives results of monitoring tests indicating a leak. The leak shall be repaired unless the owner or operator demonstrates that the results are due to a condition other than a leak.

(2) Once the leak has been repaired, the owner or operator shall confirm that the heat exchange system has been repaired within 7 calendar days of the repair or startup, whichever is later.

(e) Delay of repair of heat exchange systems for which leaks have been detected is allowed if the equipment is isolated from the process. Delay of repair is also allowed if repair is technically infeasible without a shutdown and any one of the conditions in paragraph (e)(1) or (2) of this section are met. All time periods in paragraphs (e)(1) and (2) of this section shall be determined from the date when the owner or operator determines that delay of repair is necessary.

(1) If a shutdown is expected within the next 2 months, a special shutdown before that planned shutdown is not required.

(2) If a shutdown is not expected within the next 2 months, the owner or operator may delay repair as provided in paragraph (e)(2)(i) or (ii) of this section. Documentation of a decision to delay repair shall state the reasons repair was delayed and shall specify a schedule for completing the repair as soon as practical.

(i) If a shutdown for repair would cause greater emissions than the potential emissions from delaying repair, the owner or operator may delay repair until the next shutdown of the process equipment associated with the leaking heat exchanger. The owner or operator shall document the basis for the determination that a shutdown for repair would cause greater emissions than the emissions likely to result from delaying repair as specified in paragraphs (e)(2)(i)(A) and (B) of this section.

(A) The owner or operator shall calculate the potential emissions from the leaking heat exchanger by multiplying the concentration of total HAP listed in column A of Table 2 of

this subpart in the cooling water from the leaking heat exchanger by the flowrate of the cooling water from the leaking heat exchanger by the expected duration of the delay. The owner or operator may calculate potential emissions using total organic carbon concentration instead of total HAP listed in column A of Table 2 of this subpart.

(B) The owner or operator shall determine emissions from purging and depressurizing the equipment that will result from the unscheduled shutdown for the repair.

(ii) If repair is delayed for reasons other than those specified in paragraph (e)(2)(i) of this section, the owner or operator may delay repair up to a maximum of 120 calendar days. The owner shall demonstrate that the necessary parts or personnel were not available.

§ 63.1410 Equipment leak provisions.

The owner or operator of each affected source shall comply with the requirements of 40 CFR part 63, subpart UU (national emission standards for equipment leaks (control level 2)) for all equipment, as defined under § 63.1402, that contains or contacts 5 weight-percent HAP or greater and operates 300 hours per year or more. The weight-percent HAP is determined for equipment using the organic HAP concentration measurement methods specified in § 63.1414(a). When complying with the requirements of 40 CFR part 63, subpart SS, as referred to by 40 CFR part 63, subpart UU, the following apply for purposes of this subpart:

(a) Design evaluations are allowed for control devices that control emission points with total emissions less than 10 tons of organic HAP per year before control (*i.e.*, small control devices).

(b) When 40 CFR part 63, subpart SS refers to specific test methods for the measurement of organic HAP concentration, the test methods presented in § 63.1414(a) shall be used.

(c) The option to measure TOC instead of organic HAP, as a basis for demonstrating compliance, is not allowed.

(d) Excused excursions are not allowed.

(e) The provisions in § 63.1403(b), rather than the provisions in § 63.982(f), are to be followed for combined vent streams.

(f) When a scrubber is used as a control device, the owner or operator shall follow the guidance provided in this subpart for design evaluations or performance tests, as appropriate, and for monitoring, recordkeeping, and reporting.

(g) When there are conflicts between the due dates for reports presented in 40 CFR part 63, subpart SS and this subpart, reports shall be submitted according to the due dates presented in this subpart.

(h) When there are conflicts between the recordkeeping and reporting requirements presented in 40 CFR part 63, subpart SS and this subpart, the owner or operator shall either follow both sets of requirements (*i.e.*, follow the requirements in 40 CFR part 63, subpart SS for emission points covered by 40 CFR part 63, subpart SS and follow the requirements of this subpart for emission points covered by this subpart) or shall follow the set of requirements they prefer. If an owner or operator chooses to follow just one set of requirements, the owner or operator shall identify which set of requirements are being followed and which set of requirements are being disregarded in the appropriate report.

§ 63.1411 [Reserved]

§ 63.1412 Continuous process vent applicability assessment procedures and methods.

(a) *General.* The provisions of this section provide procedures and methods for determining the applicability of the control requirements specified in § 63.1405 to continuous process vents.

(b) *Sampling sites.* Sampling sites shall be located as follows:

(1) *Sampling site location.* The sampling site for determining volumetric flow rate, regulated organic HAP concentration, total organic HAP, net heating value, and TRE index value, shall be after the final recovery device (if any recovery devices are present) but prior to the inlet of any control device that is present and prior to release to the atmosphere.

(2) *Sampling site selection method.* Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling site. No traverse site selection method is needed for process vents smaller than 0.33 foot (0.10 meter) in nominal inside diameter.

(c) *Applicability assessment requirement.* The organic HAP concentrations, volumetric flow rates, heating values, organic HAP emission rates, TRE index values, and engineering assessment control applicability assessment requirements are to be determined during maximum representative operating conditions for the process, except as provided in paragraph (d) of this section, or unless the Administrator specifies or approves alternate operating conditions. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of an applicability test.

(d) *Exceptions.* The owner or operator is not required to conduct a test that will cause any of the following situations:

(1) Causing damage to equipment;

(2) Necessitating that the owner or operator make a product that does not meet an existing specification for sale to a customer; or

(3) Necessitating that the owner or operator make a product in excess of demand.

(e) *Organic HAP concentration.* The organic HAP concentrations, used for TRE index value calculations in paragraph (j) of this section, shall be determined using the procedures specified in either § 63.1414(a) or by using the engineering assessment procedures in paragraph (k) of this section.

(f) *Volumetric flow rate.* The volumetric flow rate shall be determined using the procedures specified in § 63.1414(a), or by using the engineering assessment procedures in paragraph (k) of this section.

(g) *Heating value.* The net heating value shall be determined as specified in paragraphs (g)(1) and (2) of this section, or by using the engineering assessment procedures in paragraph (k) of this section.

(1) The net heating value of the continuous process vent shall be calculated using Equation 1:

$$H_T = K_1\left(\sum_{j=1}^{n} D_j H_j\right) \qquad \text{[Eq. 1]}$$

Where:

H_T=Net heating value of the sample, megaJoules per standard cubic meter, where the net enthalpy per mole of process vent is based on combustion at 25 °C and 760 millimeters of mercury, but the standard temperature for determining the volume corresponding to 1 mole is 20 °C, as in the definition of Q_S (process vent volumetric flow rate).

K_1 = Constant, 1.740×10^{-7} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (megaJoules per kilocalorie), where standard temperature for (gram-mole per standard cubic meter) is 20 °C.

D_j=Organic HAP concentration on a wet basis of compound j in parts per million, as measured by procedures indicated in paragraph (e) of this section. For process vents that pass through a final stream jet and are not condensed, the moisture is assumed to be 2.3 percent by volume.

H_j=Net heat of combustion of compound j, kilocalorie per gram-mole, based on combustion at 25 °C and 760 millimeters of mercury.

(2) The molar composition of the process vent (D_j) shall be determined using the methods specified in paragraphs (g)(2)(i) through (iii) of this section:

(i) The methods specified in § 63.1414(a) to measure the concentration of each organic compound.

(ii) American Society for Testing and Materials D1946–90 to measure the concentration of carbon monoxide and hydrogen.

(iii) Method 4 of 40 CFR part 60, appendix A to measure the moisture content of the stack gas.

(h) *Organic HAP emission rate.* The emission rate of organic HAP in the continuous process vent, as required by the TRE index value equation specified in paragraph (j) of this section, shall be calculated using Equation 2:

$$E = K_2\left(\sum_{j=1}^{n} C_j M_j\right) Q_S \qquad [Eq.\ 2]$$

Where:

E=Emission rate of organic HAP in the sample, kilograms per hour.

K_2=Constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minutes/hour), where standard temperature for (gram-mole per standard cubic meter) is 20 °C.

n=Number of components in the sample.

C_j=Organic HAP concentration on a dry basis of organic compound j in parts per million as determined by the methods specified in paragraph (e) of this section.

M_j=Molecular weight of organic compound j, gram/gram-mole.

Q_S=Continuous process vent flow rate, dry standard cubic meter per minute, at a temperature of 20 °C.

(i) [Reserved]

(j) *TRE index value.* The owner or operator shall calculate the TRE index value of the continuous process vent using the equations and procedures in this paragraph, as applicable, and shall maintain records specified in § 63.1416(f).

(1) *TRE index value equation.* The equation for calculating the TRE index value is Equation 3:

$$TRE = 1/E_{HAP} * \left[A + B(Q_S) + C(H_T)\right] \qquad [Eq.\ 3]$$

Where:

TRE=TRE index value.

A, B, C=Coefficients presented in table 7 of this subpart.

E_{HAP}=Emission rate of total organic HAP, kilograms per hour, as calculated according to paragraph (h) or (k) of this section.

Q_S=Continuous process vent volumetric flow rate, standard cubic meters per minute, at a standard temperature of 20 °C, as calculated according to paragraph (f) or (k) of this section.

H_T=Continuous process vent net heating value, megaJoules per standard cubic meter, as calculated according to paragraph (g) or (k) of this section.

(2) *TRE index calculation.* The owner or operator of a continuous process vent shall calculate the TRE index value by using the equation and appropriate coefficients in Table 6 of this subpart. The owner or operator shall calculate the TRE index value for each control device scenario (*i.e.,* flare, thermal incinerator with 0 percent recovery, thermal incinerator with 70 percent recovery). The lowest TRE index value is to be compared to the applicability criteria specified in § 63.1405(a).

(k) *Engineering assessment.* For purposes of TRE index value determinations, engineering assessments may be used to determine continuous process vent flow rate, net heating value, and total organic HAP emission rate for the representative operating condition expected to yield the lowest TRE index value. Engineering assessments shall meet the requirements of paragraphs (k)(1) through (4) of this section.

(1) If the TRE index value calculated using engineering assessment is greater than 4.0, the owner or operator is not required to perform the measurements specified in paragraphs (e) through (h) of this section.

(2) If the TRE index value calculated using engineering assessment is less than or equal to 4.0, the owner or operator is required either to perform the measurements specified in paragraphs (e) through (h) of this section for control applicability assessment or comply with the control requirements specified in § 63.1405.

(3) Engineering assessment includes, but is not limited to, the following examples:

(i) Previous test results, provided the tests are representative of current operating practices.

(ii) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(iii) Maximum volumetric flow rate, organic HAP emission rate, organic HAP concentration, or net heating value limit specified or implied within a permit limit applicable to the continuous process vent.

(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, the following:

(A) Use of material balances based on process stoichiometry to estimate maximum organic HAP concentrations;

(B) Estimation of maximum volumetric flow rate based on physical equipment design such as pump or blower capacities;

(C) Estimation of organic HAP concentrations based on saturation conditions; and

(D) Estimation of maximum expected net heating value based on the stream concentration of each organic compound.

§ 63.1413 Compliance demonstration procedures.

(a) *General.* For each emission point, the owner or operator shall meet three stages of compliance, with exceptions specified in this subpart. First, the owner or operator shall conduct a performance test or design evaluation to demonstrate the performance of the control device or control technology being used. Second, the owner or operator shall meet the requirements for demonstrating initial compliance (*e.g.,* a demonstration that the required percent reduction is achieved). Third, the owner or operator shall meet the requirements for demonstrating continuous compliance through some form of monitoring (*e.g.,* continuous monitoring of operating parameters).

(1) *Large control devices and small control devices.* A large control device is a control device that controls emission points with total emissions of 10 tons of organic HAP per year or more before control. A small control device is a control device that controls emission points with total emissions less than 10 tons of organic HAP per year before control.

(i) *Large control devices.* Owners or operators are required to conduct a performance test for a large control device. The establishment of parameter monitoring levels shall be based on data obtained during the required performance test.

(ii) *Small control devices.* Owners or operators are required to conduct a design evaluation for a small control device. An owner or operator may choose to conduct a performance test for a small control device and such a performance test shall follow the procedures specified in this section, as appropriate. Whenever a small control device becomes a large control device, the owner or operator shall conduct a performance test following the procedures specified in this section, as appropriate. Notification that such a

performance test is required, the site-specific test plan, and the results of the performance test shall be provided to the Administrator as specified in § 63.1417. Except as provided in § 63.1415(a)(2), the parameter monitoring levels for small control devices shall be set based on the design evaluation required by paragraph (a)(3) of this section. Further, when setting the parameter monitoring level(s) based on the design evaluation, the owner or operator shall submit the information specified in § 63.1417(d)(7) for review and approval as part of the Precompliance Report.

(2) *Performance tests.* Performance testing shall be conducted in accordance with the General Provisions at § 63.7(a)(1), (a)(3), (d), (e)(1), (e)(2), (e)(4), (g), and (h), with the exceptions specified in paragraph (a)(1) of this section. Data shall be reduced in accordance with the EPA approved methods specified in this 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.

(i) *Additional control devices not requiring performance tests.* An owner or operator is not required to conduct a performance test when using one of the following control devices:

(A) A boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(B) A boiler or process heater into which the vent stream is introduced with the primary fuel or is used as the primary fuel.

(C) A boiler or process heater burning hazardous waste for which the owner or operator:

(*1*) Has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or

(*2*) Has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(D) A hazardous waste incinerator for which the owner or operator has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 264, subpart O, or has certified compliance with the interim status requirements of 40 CFR part 265, subpart O.

(E) A control device for which a performance test was already conducted for determining compliance with another regulation promulgated by the EPA, provided the test was conducted using the same Methods specified in this section, and either no deliberate process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes. Parameter monitoring levels established based on such a performance test may be used for purposes of demonstrating continuous compliance with this subpart.

(ii) *Exceptions to performance test requirements in the General Provisions.* (A) Performance tests shall be conducted at maximum representative operating conditions achievable during either the 6-month period ending 2 months before the Notification of Compliance Status required by § 63.1417(e) is due, or during the 6-month period surrounding the date of the performance test (*i.e.*, the period beginning 3 months prior to the performance test and ending 3 months after the performance test). In achieving maximum representative operating conditions, an owner or operator is not required to cause damage to equipment, make a product that does not meet an existing specification for sale to a customer, or make a product in excess of demand.

(B) When § 63.7(g) references the Notification of Compliance Status requirements in § 63.9(h), the requirements in § 63.1417(e) shall apply for purposes of this subpart.

(C) Performance tests shall be performed no later than 150 days after the compliance dates specified in this subpart (*i.e.*, in time for the results to be included in the Notification of Compliance Status), rather than according to the time periods in § 63.7(a)(2).

(3) *Design evaluations.* To demonstrate the organic HAP removal efficiency for a control device or control technology, a design evaluation shall address the composition and organic HAP concentration of the vent stream(s) entering the control device or control technology, the operating parameters of the control device or control technology, and other conditions or parameters that reflect the performance of the control device or control technology. A design evaluation also shall address other vent stream characteristics and control device operating parameters as specified in any one of paragraphs (a)(3)(i) through (vi) of this section, depending on the type of control device that is used. If the vent stream(s) is not the only inlet to the control device, the efficiency demonstration also shall consider all other vapors, gases, and liquids, other than fuels, received by the control device.

(i) For a scrubber, the design evaluation shall consider the vent stream composition, constituent concentrations, liquid-to-vapor ratio, scrubbing liquid flow rate and concentration, temperature, and the reaction kinetics of the constituents with the scrubbing liquid. The design evaluation shall establish the design exhaust vent stream organic compound concentration level and include the additional information in paragraphs (a)(3)(i)(A) and (B) of this section for trays and a packed column scrubber:

(A) Type and total number of theoretical and actual trays; and

(B) Type and total surface area of packing for entire column, and for individual packed sections if column contains more than one packed section.

(ii) For a condenser, the design evaluation shall consider the vent stream flow rate, relative humidity, and temperature and shall establish the design outlet organic HAP compound concentration level, design average temperature of the condenser exhaust vent stream, and the design average temperatures of the coolant fluid at the condenser inlet and outlet. The temperature of the gas stream exiting the condenser shall be measured and used to establish the outlet organic HAP concentration.

(iii) For a carbon adsorption system that regenerates the carbon bed directly onsite in the control device, such as a fixed-bed adsorber, the design evaluation shall consider the vent stream flow rate, relative humidity, and temperature and shall establish the design exhaust vent stream organic compound concentration level, adsorption cycle time, number and capacity of carbon beds, type and working capacity of activated carbon used for carbon beds, design total regeneration stream mass or volumetric flow over the period of each complete carbon bed regeneration cycle, design carbon bed temperature after regeneration, design carbon bed regeneration time, and design service life of carbon. For vacuum desorption, the pressure drop shall be included.

(iv) For a carbon adsorption system that does not regenerate the carbon bed directly onsite in the control device, such as a carbon canister, the design evaluation shall consider the vent stream mass or volumetric flow rate, relative humidity, and temperature and shall establish the design exhaust vent stream organic compound concentration level, capacity of carbon bed, type and working capacity of activated carbon used for carbon bed, and design carbon replacement interval based on the total carbon working capacity of the control device and source operating schedule.

(v) For an enclosed combustion device with a minimum residence time

of 0.5 seconds and a minimum temperature of 760 C, the design evaluation shall document that these conditions exist.

(vi) For a combustion control device that does not satisfy the criteria in paragraph (a)(3)(v) of this section, the design evaluation shall address the following characteristics, depending on the type of control device:

(A) For a thermal vapor incinerator, the design evaluation shall consider the autoignition temperature of the organic HAP, shall consider the vent stream flow rate, and shall establish the design minimum and average temperature in the combustion zone and the combustion zone residence time.

(B) For a catalytic vapor incinerator, the design evaluation shall consider the vent stream flow rate and shall establish the design minimum and average temperatures across the catalyst bed inlet and outlet.

(C) For a boiler or process heater, the design evaluation shall consider the vent stream flow rate, shall establish the design minimum and average flame zone temperatures and combustion zone residence time, and shall describe the method and location where the vent stream is introduced into the flame zone.

(4) *Establishment of parameter monitoring levels.* The owner or operator of a control device that has one or more parameter monitoring level requirements specified under this subpart, or specified under subparts referenced by this subpart, shall establish a maximum or minimum level, as denoted on Table 4 of this subpart, for each measured parameter using the procedures specified in paragraph (a)(4)(i) or (ii) of this section. Except as otherwise provided in this subpart, the owner or operator shall operate control devices such that the daily average, batch cycle daily average, or block average of monitored parameters, established as specified in this paragraph, remains above the minimum level or below the maximum level, as appropriate.

(i) *Establishment of parameter monitoring levels based on performance tests.* (A) *Emission points other than batch process vents.* During initial compliance testing, the appropriate parameter shall be continuously monitored during the required 1-hour test 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.

(B) *Aggregate batch vent streams.* For aggregate batch vent streams the monitoring level shall be established in accordance with paragraph (a)(4)(i)(A) of this section.

(C) *Batch process vents.* The monitoring level(s) shall be established using the procedures specified in paragraphs (a)(4)(i)(C)(*1*) or (*2*) of this section. For batch process vents complying with the percent reduction standards specified in § 63.1406 or § 63.1407, parameter monitoring levels shall be established by the design evaluation, or during the performance test so that the specified percent reduction from § 63.1406 or § 63.1407, as appropriate, is met.

(*1*) 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:

(*i*) During initial compliance testing, the appropriate parameter shall be monitored continuously and recorded once every 15 minutes at all times when batch emission episodes, or portions thereof, selected to be controlled are vented to the control device. A minimum of three recorded values shall be obtained for each batch emission episode, or portion thereof, regardless of the length of time emissions are occurring.

(*ii*) 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.

(*iii*) If the level to be established is a maximum operating parameter, the level shall be defined as the minimum of the average parameter values from each batch emission episode, or portion thereof, in the batch cycle selected to be controlled (*i.e.*, identify the batch emission episode, or portion thereof, which requires the lowest parameter value in order to assure compliance; the average parameter value that is necessary to assure compliance for that batch emission episode, or portion thereof, shall be the level for all batch emission episodes, or portions thereof, in the batch cycle that are selected to be controlled).

(*iv*) If the level to be established is a minimum operating parameter, the level shall be defined as the maximum of the average parameter values from each batch emission episode, or portion thereof, in the batch cycle selected to be controlled (*i.e.*, identify the batch emission episode, or portion thereof, which requires the highest parameter value in order to assure compliance; the average parameter value that is necessary to assure compliance for that batch emission episode, or portion thereof, shall be the level for all batch emission episodes, or portions thereof, in the batch cycle that are selected to be controlled).

(*v*) Alternatively, an average monitored parameter value shall be calculated for the entire batch cycle based on all values recorded during each batch emission episode, or portion thereof, selected to be controlled.

(*2*) Instead of establishing a single level for the batch cycle, as described in paragraph (a)(4)(i)(C)(*1*) 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 (a)(4)(i)(C)(*1*)(*i*) through (*v*) of this section.

(*3*) The batch cycle shall be defined in the Notification of Compliance Status, as specified in § 63.1417(e)(2). Said definition shall include an identification of each batch emission episode. The definition of batch cycle shall also include the information required to determine parameter monitoring compliance for partial batch cycles (*i.e.*, when part of a batch cycle is accomplished during 2 different operating days) for those parameters averaged on a batch cycle daily average basis.

(ii) *Establishment of parameter monitoring levels based on performance tests, engineering assessments, and/or manufacturer's recommendations.* Parameter monitoring levels may be established based on the parameter values measured during the performance test supplemented by engineering assessments and/or manufacturer's recommendations. Performance testing is not required to be conducted over the entire range of expected parameter values. When setting the parameter monitoring level(s) using the procedures specified in this paragraph, the owner or operator shall submit the information specified in § 63.1417(d)(7) for review and approval as part of the Precompliance Report.

(b) *Initial and continuous compliance for storage vessels.* (1) Initial compliance with the percent reduction standard specified in § 63.1404(a)(1) shall be demonstrated following the procedures in 40 CFR part 63, subpart SS.

(2) Initial compliance with the work practice standard specified in § 63.1404(a)(2) shall be demonstrated

following the procedures in 40 CFR part 63, subpart WW.

(3) Continuous compliance with the percent reduction standard specified in § 63.1404(a)(1) shall be demonstrated following the procedures in 40 CFR part 63, subpart SS.

(4) Continuous compliance with the work practice standard specified in § 63.1404(a)(2) shall be demonstrated following the procedures in 40 CFR part 63, subpart WW.

(5) Initial and continuous compliance with the alternative standard specified in § 63.1404(b) shall be demonstrated following the procedures in paragraph (f) of this section.

(c) *Initial and continuous compliance for continuous process vents.* (1) Initial compliance with the percent reduction standard specified in § 63.1405(a)(2) shall be demonstrated following the procedures in 40 CFR part 63, subpart SS.

(2) Initial compliance with § 63.1405(a)(1) (venting of emissions to a flare) shall be demonstrated following the procedures specified in paragraph (g) of this section.

(3) Continuous compliance with the percent reduction standard specified in § 63.1405(a)(2) shall be demonstrated following the procedures in 40 CFR part 63, subpart SS.

(4) Continuous compliance with § 63.1405(a)(1) (venting of emissions to a flare) shall be demonstrated following the continuous monitoring procedures specified in § 63.1415.

(5) Initial and continuous compliance with the alternative standard specified in § 63.1405(b) shall be demonstrated following the procedures in paragraph (f) of this section.

(d) *Initial and continuous compliance for aggregate batch vent streams.* (1) Initial compliance with the percent reduction standard specified in § 63.1408(a)(1)(ii) and (2)(ii) shall be demonstrated following the procedures for continuous process vents specified in paragraph (c)(1) of this section.

(2) Initial compliance with § 63.1408(a)(1)(i) and (2)(i) (venting of emissions to a flare) shall be demonstrated following the procedures specified in paragraph (g) of this section.

(3) Continuous compliance with the percent reduction standard specified in § 63.1408(a)(1)(ii) and (2)(ii) shall be demonstrated following the procedures for continuous process vents specified in paragraph (c)(3) of this section.

(4) Continuous compliance with § 63.1408(a)(1)(i) and (a)(2)(i) (venting of emissions to a flare) shall be demonstrated following the continuous monitoring procedures specified in § 63.1415.

(5) Initial and continuous compliance with the alternative standard specified in § 63.1408(b)(1) shall be demonstrated following the procedures in paragraph (f) of this section.

(6) Initial and continuous compliance with the mass emission limit specified in § 63.1408(b)(2) shall be demonstrated following the procedures in paragraph (e)(2) of this section.

(e) *Initial and continuous compliance for batch process vents.* (1) *Compliance with percent reduction standards.* Owners or operators opting to comply with the percent reduction standards specified in § 63.1406(a)(1)(ii) and (a)(2)(ii) or § 63.1407(a)(2)(ii) and (a)(3)(ii) shall select portions of the batch process vent emissions (*i.e.*, select batch emission episodes or portions of batch emission episodes) to be controlled such that the specified percent reduction is achieved for the batch cycle. Paragraphs (e)(1)(i) and (ii) of this section specify how the performance of a control device or control technology is to be determined. Paragraph (e)(1)(iii) of this section specifies how to demonstrate that the required percent emission reduction is achieved for the batch cycle.

(i) *Design evaluation.* The design evaluation shall comply with the provisions in paragraph (a)(3) of this section. The design evaluation shall include the value(s) and basis for the parameter monitoring level(s) required by § 63.1415. The design evaluation shall determine either of the following:

(A) *Each batch emission episode.* The control device efficiency for each batch emission episode that the owner or operator selects to control.

(B) *One or more representative batch emission episodes.* The control device efficiency for one or more batch emission episodes provided that the owner or operator demonstrates that the control device achieves the same or higher efficiency for all other batch emission episodes that the owner or operator selects to control.

(ii) *Performance test.* An owner or operator shall conduct performance tests following the procedures in paragraph (e)(1)(ii)(A) of this section, the procedures in paragraph (e)(1)(ii)(B) of this section, or a combination of the two procedures. Under paragraph (e)(1)(ii)(A) of this section, a performance test is conducted for each batch emission episode selected for control. Under paragraph (e)(1)(ii)(B) of this section, an owner or operator groups together several batch emission episodes and conducts a single performance test for the batch emission episode that is the most challenging, in terms of achieving emission reductions, for the control device or control technology; thereby demonstrating that the achieved emission reduction for the tested batch emission episode is the minimum control device or control technology performance expected for each batch emission episode in the group. An owner or operator may use the concept provided by paragraph (e)(1)(ii)(B) of this section for several different groups of batch emission episodes.

(A) *Testing each batch emission episode.* A performance test shall be performed for each batch emission episode, or portion thereof, that the owner or operator selects to control. Performance tests shall be conducted using the testing procedures specified in § 63.1414(a) and (b) and the following procedures:

(*1*) Only one test (*i.e.*, only one run) is required for each batch emission episode selected by the owner or operator for control.

(*2*) Except as specified in paragraph (e)(1)(ii)(A)(3) of this section, the performance test shall be conducted over the entire period of emissions selected by the owner or operator for control.

(*3*) An owner or operator may choose to test only those periods of the batch emission episode during which the emission rate for the entire batch emission episode can be determined or during which the organic HAP emissions are greater than the average emission rate of the batch emission episode. The owner or operator choosing either of these options shall develop an emission profile illustrating the emission rate (kilogram per unit time) over the entire batch emission episode, based on either process knowledge or test data, 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 to develop the emission profile provided the results are still relevant to the current batch process vent conditions. The emission profile shall be included in the site-specific test plan required by § 63.1417(h)(2).

(*4*) When choosing sampling sites using the methods specified in § 63.1414(a)(1), inlet sampling sites shall be located as specified in paragraphs (e)(1)(ii)(A)(*4*)(*i*) and (*ii*) of this section. Outlet sampling sites shall be located at the outlet of the control device prior to release to the atmosphere.

(*i*) The control device inlet sampling site shall be located at the exit from the batch unit operation after any condensers operating as process condensers and before any control device.

(*ii*) 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 concentrations in all batch process vents and primary and secondary fuels introduced into the boiler or process heater.

(B) *Testing only the most challenging batch emission episode.* Under this paragraph, an owner or operator groups together several batch emission episodes and conducts a single performance test for the batch emission episode that is the most challenging, in terms of achieving emission reductions, for the control device or control technology; thereby demonstrating that the achieved emission reduction for the tested batch emission episode is the minimum control device or control technology performance expected for each batch emission episode in the group. The owner or operator shall use the control device efficiency determined from the performance test for all the other batch emission episodes in that group for purposes of paragraph (e)(2)(iii) of this section. Performance tests shall be conducted using the testing procedures specified in § 63.1414(a) and (b) and the following procedures:

(*1*) The procedures specified in paragraphs (e)(2)(ii)(A)(*2*) through (*4*) of this section.

(*2*) Develop an emission profile illustrating the emission rate (kilogram/unit time) for each period of emissions to be addressed by the performance test. The emission profile shall be based on either process knowledge or test data. Examples of information that could constitute process knowledge include calculations based on material balances and process stoichiometry. Previous test results may be used to develop the emission profile provided the results are still relevant to the current batch process vent conditions. The emission profile shall be included in the site-specific test plan required by § 63.1417(h)(2).

(*3*) Provide rationale for why the control device efficiency for all the other batch emission episodes in the group will be greater than or equal to the control device efficiency achieved during the tested period of the most challenging batch emission episode in the group, as specified in the Notification of Compliance Status Report required by § 63.1417(e).

(iii) *Batch cycle percent reduction.* The percent reduction for the batch cycle for an individual reactor batch process vent and the overall percent reduction for the collection of non-reactor batch process vents within the affected source shall be determined using Equation 1 of this section and the control device efficiencies specified in paragraphs (e)(1)(iii)(A) through (C) of this section. All information used to calculate the batch cycle percent reduction for an individual reactor batch process vent, including a definition of the batch cycle identifying all batch emission episodes, shall be recorded as specified in § 63.1416 (d)(1)(ii). All information used to calculate the overall percent reduction for the collection of non-reactor batch process vents within the affected source, including a list of all batch emission episodes from the collection of non-reactor batch process vents within the affected source, shall be recorded as specified in § 63.1416 (d)(1)(ii). This information shall include identification of those batch emission episodes, or portions thereof, selected for control This information shall include estimates of uncontrolled organic HAP emissions for those batch emission episodes, or portions thereof, that are not selected for control, determined as specified in paragraph (e)(2)(iii)(D) or (E) of this section.

$$PR = \frac{\sum_{i=1}^{n} E_{unc} + \sum_{i=1}^{n} E_{inlet,con} - \sum_{i=1}^{n} (1-R) E_{inlet,con}}{\sum_{i=1}^{n} E_{unc} + \sum_{i=1}^{n} E_{inlet,con}} (100) \qquad [Eq.\ 1]$$

Where:

PR = Percent reduction.

E_{unc} = Mass rate of total organic HAP for uncontrolled batch emission episode i, kg/hr.

$E_{inlet,con}$ = Mass rate of 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 (e)(1)(iii)(A) through (e)(1)(iii)(C) of this section. The value of R may vary between batch emission episodes.

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.

(A) When conducting a performance test, the control efficiency of the control device shall be determined following the procedures in § 63.1414(b)(4).

(B) For combustion control devices listed in paragraphs (a)(2)(i)(A) and (B) of this section and for flares, the control efficiency in Equation 1 of this section shall be 98 percent.

(C) If a performance test is not required, the control efficiency shall be based on the design evaluation specified in paragraph (e)(1)(i) of this section.

(D) For batch process vents estimated through engineering assessment, as described in § 63.1414(f)(6), to emit less than 10 tons per year of uncontrolled organic HAP emissions, the owner or operator may use in Equation 1 of this section the emissions determined using engineering assessment or may determine organic HAP emissions using any of the procedures specified in § 63.1414(d).

(E) For batch process vents estimated through engineering assessment, as described in § 63.1414(d)(6), to emit 10 tons per year or greater of uncontrolled organic HAP emissions, organic HAP emissions shall be estimated following the procedures specified in § 63.1414(d).

(F) Owners or operators designating a condenser, sometimes operated as a process condenser, as a control device shall conduct inprocess recycling and follow the recordkeeping requirements specified in § 63.1416(d)(1)(vi).

(iv) *Initial compliance with percent reduction standards.* Initial compliance with the percent reduction standards specified in § 63.1406(a)(1)(ii) and (2)(ii) and § 63.1407(a)(2)(ii) and (3)(ii) is achieved when the owner or operator demonstrates, following the procedures in paragraphs (e)(1)(i) through (iii) of this section, that the required percent reduction is achieved.

(v) *Continuous compliance with percent reduction standards.* Continuous compliance with the percent reduction standards specified in § 63.1406(a)(1)(ii) and (2)(ii) and

§ 63.1407(a)(2)(ii) and (3)(ii) shall be demonstrated following the continuous monitoring procedures specified in § 63.1415.

(2) *Compliance with mass emission limit standards.* Each owner or operator shall determine initial and continuous compliance with the mass emission limits specified in § 63.1406 (a)(1)(iii) and (a)(2)(iii), according to the following procedures, as appropriate:

(i) If production at an affected source is exclusively non-solvent-based amino/phenolic resin or is exclusively solvent-based amino/phenolic resin, or an owner or operator chooses to meet the non-solvent-based emission limit, the owner or operator shall demonstrate initial and continuous compliance as follows:

(A) *Initial compliance.* Initial compliance shall be based on the average of the first 6 monthly average emission rate data points. The 6-month average shall be compared to the mass emission limit specified in § 63.1406 (a)(1)(iii) and (a)(2)(iii), as appropriate.

(B) *Continuous compliance.* For the first year of compliance, continuous compliance shall be based on a cumulative average monthly emission rate calculated each month based on the available monthly emission rate data points (*e.g.*, 7 data points after 7 months of operation, 8 data points after 8 months of operation) beginning the first month after initial compliance is demonstrated. The first continuous compliance cumulative average monthly emission rate shall be calculated using the first 7 monthly average emission rate data points. After the first year of compliance, a 12-month rolling average monthly emission rate shall be calculated each month based on the previous 12 monthly emission rate data points. Continuous compliance shall be determined by comparing the cumulative average monthly emission rate or the 12-month rolling average monthly emission rate to the mass emission limit specified in § 63.1406 (a)(1)(iii) and (a)(2)(iii), as appropriate.

(C) *Procedures to determine the monthly emission rate.* The monthly emission rate, kilograms of organic HAP per megagram of product, shall be determined at the end of each month using Equation 2 of this section:

Where:

ER=Emission rate of organic HAP from reactor batch process vents, kg of HAP/Mg product.

E_i=Emission rate of organic HAP from reactor batch process vent i as determined using the procedures specified in paragraph (e)(2)(i)(C)(*1*) of this section, kg/month.

RP_m=Amount of resin produced in one month as determined using the procedures specified in paragraph (e)(2)(i)(C)(*4*) of this section, Mg/month.

n=Number of batch process vents.

(*1*) The monthly emission rate of organic HAP, in kilograms per month, from an individual batch process vent (E_i) shall be determined using Equation 3 of this section. Once organic HAP emissions for a batch cycle (E_{cyclei}) have been estimated, as specified in either paragraph (e)(2)(i)(C)(*2*) or (*3*) of this section, the owner or operator may use the estimated organic HAP emissions (E_{cyclei}) to determine E_i using Equation 3 of this section until the estimated organic HAP emissions (E_{cyclei}) are no longer representative due to a process change or other reasons known to the owner or operator. If organic HAP emissions for a batch cycle (E_{cyclei}) are determined to no longer be representative, the owner or operator shall redetermine organic HAP emissions for the batch cycle (E_{cyclei}) following the procedures in paragraph (e)(2)(i)(C)(*2*) or (*3*) of this section, as appropriate.

$$Ei = \sum_{i=1}^{n} (N_i)(E_{cycle_i}) \qquad [Eq.\ 3]$$

Where:

E_i=Monthly emissions from a batch process vent, kg/month.

N_i=Number of type i batch cycles performed monthly, cycles/month.

E_{cyclei}=Emissions from the batch process vent associated with a single type i batch cycle, as determined using the procedures specified in either paragraph (e)(2)(i)(C)(*2*) or (*3*) of this section, kg/batch cycle.

n=Number of different types of batch cycles that cause the emission of organic HAP from the batch process vent.

(*2*) For reactor batch process vents estimated through engineering assessment, as described in § 63.1414(d)(6), to emit less than 10 tons per year of uncontrolled organic HAP emissions, the owner or operator may use the emissions determined using engineering assessment in Equation 3 of this section or may determine organic HAP emissions using any of the procedures specified in § 63.1414(d). For reactor batch process vents estimated through engineering assessment, as described in § 63.1414(d)(6), to emit 10 tons per year or greater of uncontrolled organic HAP emissions, uncontrolled organic HAP emissions from the batch emission episodes making up the batch cycle shall be estimated following the procedures specified in § 63.1414(d).

(*3*) For reactor batch process vents vented to a control device or control technology, controlled organic HAP emissions shall be determined as follows:

(*i*) Uncontrolled organic HAP emissions shall be determined following the procedures in paragraph (e)(2)(i)(C)(2) of this section.

(*ii*) Control device or control technology efficiency shall be determined using the procedures in paragraph (e)(1)(i) of this section for small control devices or the procedures in paragraph (e)(1)(ii) of this section for large control devices.

(*iii*) Controlled organic HAP emissions shall be determined by applying the control device or control technology efficiency, determined in paragraph (e)(2)(i)(C)(*3*)(*ii*) of this section, to the uncontrolled organic HAP emissions, determined in paragraph (e)(2)(i)(C)(*3*)(*i*) of this section.

(*4*) The rate of resin produced, RP_M (Mg/month), shall be determined based on production records certified by the owner or operator to represent actual production for the month. A sample of the records selected by the owner or operator for this purpose shall be provided to the Administrator in the Precompliance Report as required by § 63.1417(d).

(ii) If production at an affected source reflects a mix of solvent-based and non-solvent-based resin and the owner or operator does not choose to meet the non-solvent-based emission limit specified in § 63.1406 (a)(1)(iii) or (a)(2)(iii), as applicable, the owner or operator shall demonstrate initial and continuous compliance as follows:

(A) *Procedures for determining a site-specific emission limit.* A site-specific emission limit shall be determined using Equation 4 of this section.

$$SSEL = \frac{(MGs * ELs) + (MGns * ELns)}{MGs + MGns} \qquad [Eq.\ 4]$$

Where:

SSEL=Site specific emission limit, kg of organic HAP/Mg of product.

MGs=Megagrams of solvent-based resin product produced, megagrams.

MGns=Megagrams of non-solvent-based resin product produced, megagrams.

ELs=Emission limit for solvent-based resin product, kg organic HAP/Mg solvent-based resin product.

ELns=Emission limit for non-solvent-based resin product, kg organic HAP/Mg non-solvent-based resin product.

(B) *Initial compliance.* For purposes of determining initial compliance, the site-specific emission limit shall be based on production for the first 6 months beginning January 20, 2000 or the first 6 months after initial start-up, whichever is later. Using the site-specific emission limit, initial compliance shall be demonstrated using the procedures in paragraph (e)(2)(i)(A) of this section, as appropriate.

(C) *Continuous compliance.* For purposes of determining continuous compliance for the period of operation starting at the beginning of the 7th month and ending after the 12th month, the site-specific emission limit shall be determined each month based on production for the cumulative period. For purposes of determining continuous compliance after the first year of production, the site-specific emission limit shall be determined each month based on production for a 12-month rolling period. Using the site-specific emission limit, continuous compliance shall be demonstrated using the procedures in paragraph (e)(2)(i)(B) of this section, as appropriate.

(3) *Compliance by venting to a flare.* Initial compliance with the standards specified in § 63.1406(a)(1)(i) and (a)(2)(i) and § 63.1407(a)(2)(i) and (a)(3)(i) shall be demonstrated following the procedures specified in paragraph (g) of this section. Continuous compliance with these standards shall be demonstrated following the continuous monitoring procedures specified in § 63.1415.

(4) *Compliance with alternative standard.* Initial and continuous compliance with the alternative standard specified in §§ 63.1406(b) and 63.1407(b)(1) shall be demonstrated following the procedures in paragraph (f) of this section.

(f) *Compliance with alternative standard.* Initial and continuous compliance with the alternative standards in §§ 63.1404(b), 63.1405(b), 63.1406(b), 63.1407(b)(1), and 63.1408(b)(1) are demonstrated when the daily average outlet organic HAP concentration is 20 ppmv or less when using a combustion control device or 50 ppmv or less when using a non-combustion control device. To demonstrate initial and continuous compliance, the owner or operator shall follow the test method specified in § 63.1414(a)(6) and shall be in compliance with the monitoring provisions in § 63.1415(e) no later than the initial compliance date and on each day thereafter.

(g) *Flare compliance demonstrations.* Notwithstanding any other provision of this subpart, if an owner or operator of an affected source uses a flare to comply with any of the requirements of this subpart, the owner or operator shall comply with paragraphs (g)(1) through (3) of this section. When using a flare to comply, the owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP concentration. If a compliance demonstration has been conducted previously for a flare, using the techniques specified in paragraphs (g)(1) through (3) of this section, that compliance demonstration may be used to satisfy the requirements of this paragraph if either no deliberate process changes have been made since the compliance demonstration, or the results of the compliance demonstration reliably demonstrate compliance despite process changes.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4).

(2) Determine the net heating value of the gas being combusted using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

(h) *Deviations.* Paragraphs (h)(1) through (4) of this section describe deviations from the emission limits, the operating limits, the work practice standards, and the emission standard, respectively. Paragraph (h)(5) of this section describes situations that are not deviations. Paragraph (h)(6) of this section describes periods that are excluded from compliance determinations.

(1) *Deviations from the emission limit.* The following are deviations from the emission limit:

(i) Exceedance of the condenser outlet gas temperature limit (*i.e.*, having an average value higher than the established maximum level) monitored according to the provisions of § 63.1415(b)(3);

(ii) Exceedance of the outlet concentration (*i.e.*, having an average value higher than the established maximum level) monitored according to the provisions of § 63.1415(b)(8);

(iii) Exceedance of the mass emission limit (*i.e.*, having an average value higher than the specified limit) monitored according to the provisions of paragraph (e)(2) of this section; and

(iv) Exceedance of the organic HAP outlet concentration limit (*i.e.*, having an average value higher than the specified limit) monitored according to the provisions of § 63.1415(e).

(2) *Deviations from the operating limit.* Exceedance of the parameters monitored according to § 63.1415(b)(1), (b)(2), and (b)(4) through (7) are considered deviations from the operating limit. An exceedance of the monitored parameter has occurred if:

(i) The parameter, averaged over the operating day or block, is below a minimum value established during the initial compliance demonstration; or (ii) The parameter, averaged over the operating day or block, is above the maximum value established during the initial compliance demonstration.

(3) *Deviations from the work practice standard.* If all flames at the pilot light of a flare are absent, there has been a deviation from the work practice standard.

(4) *Deviation from the emission standard.* If an affected source is not operated during periods of start-up, shutdown, or malfunction in accordance with the affected source's Start-up, Shutdown, and Malfunction Plan, there has been a deviation from the emission standard. If monitoring data are insufficient, as described in paragraphs (h)(4)(i) through (iii) of this section, there has been a deviation from the emission standard.

(i) The period of control device or control technology operation is 4 hours or greater in an operating day, and monitoring data are insufficient to constitute a valid hour of data, as defined in paragraph (h)(4)(iii) of this section, for at least 75 percent of the operating hours;

(ii) The period of control device or control technology operation is less than 4 hours in an operating day, and more than one of the hours during the period of operation does not constitute a valid hour of data due to insufficient monitoring data; and

(iii) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (h)(4)(i) and (ii) of this section, if measured values are unavailable for any of the 15-minute periods within the hour. For data compression systems approved under § 63.1417(k)(3), monitoring data are insufficient to calculate a valid hour of

data if there are less than four data measurements made during the hour.

(5) *Situations that are not deviations.* If an affected source is operated during periods of start-up, shutdown, or malfunction in accordance with the affected source's Start-up, Shutdown, and Malfunction Plan, and any of the situations listed in paragraphs (h)(5)(i) through (iv) of this section occur, such situations shall not be considered to be deviations.

(i) The daily average value of a monitored parameter is above the maximum level or below the minimum level established;

(ii) Monitoring data cannot be collected during monitoring device calibration check or monitoring device malfunction;

(iii) Monitoring data are not collected during periods of start-up, shutdown, or malfunction; and

(iv) Monitoring data are not collected during periods of nonoperation of the affected source or portion thereof (resulting in cessation of the emissions to which the monitoring applies).

(6) *Periods not considered to be part of the period of control or recovery device operation.* The periods listed in paragraphs (h)(6)(i) through (v) of this section are not considered to be part of the period of control or recovery device operation for purposes of determining averages or periods of control device or control technology operation.

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments;

(ii) Start-ups;

(iii) Shutdowns;

(iv) Malfunctions; or

(v) Periods of nonoperation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

§ 63.1414 Test methods and emission estimation equations.

(a) *Test methods.* When required to conduct a performance test, the owner or operator shall use the test methods specified in paragraphs (a)(1) through (6) of this section, except where another section of this subpart requires either the use of a specific test method or the use of requirements in another subpart containing specific test method requirements.

(1) Method 1 or 1A, 40 CFR part 60, appendix A, shall be used for selection of the sampling sites if the flow measuring device is a pitot tube, except that references to particulate matter in Method 1A do not apply for the purposes of this subpart. No traverse is necessary when Method 2A or 2D, 40 CFR part 60, appendix A is used to determine gas stream volumetric flow rate.

(2) Method 2, 2A, 2C, or 2D, 40 CFR part 60, appendix A, is used for velocity and volumetric flow rates.

(3) Method 3, 40 CFR part 60, appendix A, is used for gas analysis.

(4) Method 4, 40 CFR part 60, appendix A, is used for stack gas moisture.

(5) The following methods shall be used to determine the organic HAP concentration.

(i) Method 316 or Method 320, 40 CFR part 60, appendix A, shall be used to determine the concentration of formaldehyde.

(ii) Method 18, 40 CFR part 60, appendix A, shall be used to determine the concentration of all organic HAP other than formaldehyde.

(iii) Method 308, 40 CFR part 60, appendix A, may be used as an alternative to Method 18 to determine the concentration of methanol.

(6) When complying with the alternative standard, as specified in § 63.1413(f), the owner or operator shall use a Fourier Transform Infrared Spectroscopy (FTIR) instrument following Method PS–15, 40 CFR part 60, appendix B.

(b) *Batch process vent performance testing procedures.*

(1) *Average batch vent flow rate determination.* The average batch vent flow rate for a batch emission episode shall be calculated using Equation 1 of this section:

$$AFR_{episode} = \frac{\sum_{i=1}^{n} FR_i}{n} \qquad [Eq. 1]$$

Where:

$AFR_{episode}$=Average batch vent flow rate for the batch emission episode, scmm.

FR_i=Volumetric flow rate for individual measurement i, taken every 15 minutes using the procedures in paragraph (a)(2) of this section, scmm.

n=Number of flow rate measurements taken during the batch emission episode.

(2) *Average batch vent concentration determination using an integrated sample.* If an integrated sample is taken over the entire batch emission episode to determine the average batch vent concentration of total organic HAP, organic HAP emissions shall be calculated using Equation 2 of this section:

$$E_{episode} = K\left[\sum_{j=1}^{n}(C_j)(M_j)\right]AFR(T_h) \qquad [Eq. 2]$$

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 batch vent concentration of sample organic HAP component j of the gas stream, dry basis, ppmv.

M_j=Molecular weight of sample organic HAP component j of the gas stream, gm/gm-mole.

AFR=Average batch vent flow rate of gas stream, dry basis, scmm.

T_h=Hours/episode.

n=Number of organic HAP in stream.

(3) *Average batch vent concentration determination using grab samples.* If grab samples are taken to determine the average batch vent concentration of total organic HAP, organic HAP emissions shall be calculated as follows:

(i) For each measurement point, the emission rate shall be calculated using Equation 3 of this section:

$$Epoint = K\left[\sum_{j=1}^{n} C_j M_j\right]FR \qquad [Eq. 3]$$

Where:

E_{point}=Emission rate for individual 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=Concentration of sample organic HAP component j of the gas stream, dry basis, ppmv.

M_j=Molecular weight of sample organic HAP 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.

(ii) The organic HAP emissions per batch emission episode shall be calculated using Equation 4 of this section:

$$E_{episode} = (DUR)\left[\sum_{i=1}^{n}\frac{E_i}{n}\right] \qquad [Eq. 4]$$

Where:

$_{episode}$=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.

(4) *Control device efficiency determination for a batch emission episode.* The control efficiency for the control device shall be calculated using Equation 5 of this section:

$$R = \frac{\sum_{i=1}^{n} E_{inlet,i} - \sum_{i=1}^{n} E_{outlet,i}}{\sum_{i=1}^{n} E_{inlet,i}}(100) \qquad [Eq. 5]$$

Where:

R=Control efficiency of control device, percent.

E_{inlet}=Mass rate of total organic HAP for batch emission episode i at the inlet to the control device as calculated under paragraph (b)(2) or (b)(3) of this section, kg/episode.

E_{outlet}=Mass rate of total organic HAP for batch emission episode i at the outlet of the control device, as calculated under paragraph (b)(2) or (b)(3) of this section, kg/episode.

n=Number of batch emission episodes in the batch cycle selected to be controlled.

(c) *Percent oxygen correction for combustion control devices.* If the control device is a combustion device, total organic HAP concentrations shall be corrected to 3 percent oxygen when supplemental combustion air is used to combust the emissions. The integrated sampling and analysis procedures of Method 3B, 40 CFR part 60, appendix A, shall be used to determine the actual oxygen concentration ($\%O_{2d}$). The samples shall be taken during the same time that the total organic HAP samples are taken. The concentration corrected to 3 percent oxygen (C_c) shall be computed using Equation 6 of this section:

$$C_c = C_m\left(\frac{17.9}{20.9 - \%O_{2d}}\right) \qquad \text{[Eq. 6]}$$

Where:

C_c=Concentration of total organic HAP corrected to 3 percent oxygen, dry basis, ppmv.

C_m=Total concentration of TOC in vented gas stream, average of samples, dry basis, ppmv.

$\%O_{2d}$=Concentration of oxygen measured in vented gas stream, dry basis, percent by volume.

(d) *Uncontrolled organic HAP emissions.* Uncontrolled organic HAP emissions for individual reactor batch process vents or individual non-reactor batch process vents shall be determined using the procedures specified in paragraphs (d)(1) through (8) of this section. To estimate organic HAP emissions from a batch emissions episode, owners or operators may use either the emissions estimation equations in paragraphs (d)(1) through (4) of this section, or direct measurement as specified in paragraph (d)(5) of this section. Engineering assessment may be used to estimate organic HAP emissions from a batch emission episode only under the conditions described in paragraph (d)(6) of this section. In using the emissions estimation equations in paragraphs (d)(1) through (4) of this section, individual component vapor pressure and molecular weight may be obtained from standard references. Methods to determine individual HAP partial pressures in multicomponent systems are described in paragraph (d)(9) of this section. Other variables in the emissions estimation equations may be obtained through direct measurement, as defined in paragraph (d)(5) of this section; through engineering assessment, as defined in paragraph (d)(6)(ii) of this section; by process knowledge; or by any other appropriate means. Assumptions used in determining these variables shall be documented as specified in § 63.1417. Once organic HAP emissions for the batch emission episode have been determined using either the emissions estimation equations, direct measurement, or engineering assessment, organic HAP emissions from a single batch cycle shall be calculated in accordance with paragraph (d)(7) of this section, and annual organic HAP emissions from the batch process vent shall be calculated in accordance with paragraph (d)(8) of this section.

(1) *Emissions from purging of empty vessels.* Organic HAP emissions from the purging of an empty vessel shall be calculated using Equation 7 of this section. Equation 7 of this section does not take into account evaporation of any residual liquid in the vessel:

$$E_{episode} = \frac{(V_{ves})(P)(MW_{wavg})}{RT}(1 - 0.37^{m}) \qquad \text{[Eq. 7]}$$

Where:

$E_{episode}$=Emissions, kg/episode.

V_{ves}=Volume of vessel, m^3.

P=Total organic HAP partial pressure, kPa.

MW_{wavg}=Weighted average molecular weight of organic HAP in vapor, determined in accordance with paragraph (d)(4)(i)(D) of this section, kg/kmol.

R=Ideal gas constant, 8.314 $m^3 \cdot kPa/kmol \cdot K$.

T=Temperature of vessel vapor space, K.

m=Number of volumes of purge gas used.

(2) *Emissions from purging of filled vessels.* Organic HAP emissions from the purging of a filled vessel shall be calculated using Equation 8 of this section:

$$E_{episode} = \frac{(y)(V_{dr})(P^2)(MW_{wavg})}{RT\left(P - \sum_{i=1}^{n} P_i x_i\right)}(T_m) \qquad \text{[Eq. 8]}$$

Where:

$E_{episode}$=Emissions, kg/episode.

y=Saturated mole fraction of all 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 organic HAP in vapor, determined in accordance with paragraph (d)(4)(i)(D) of this section, kg/kmol.

R=Ideal gas constant, 8.314 $m^3 \cdot kPa/kmol \cdot K$.

T=Temperature of vessel vapor space, K.

P_i=Vapor pressure of individual organic HAP i, kPa.

x_i=Mole fraction of organic HAP i in the liquid.

n=Number of organic HAP in stream.

T_m=Minutes/episode.

(3) *Emissions from vapor displacement.* Organic HAP emissions from vapor displacement due to transfer of material into or out of a vessel shall be calculated using Equation 9 of this section:

$$E_{episode} = \frac{(y)(V)(P)(MW_{wavg})}{RT} \qquad \text{[Eq. 9]}$$

Where:

$E_{episode}$=Emissions, kg/episode.

y=Saturated mole fraction of all organic HAP in vapor phase.

V=Volume of gas displaced from the vessel, m^3.

P=Pressure in vessel vapor space, kPa.

MW_{wavg}=Weighted average molecular weight of organic HAP in vapor, determined in accordance with paragraph (d)(4)(i)(D) of this section, kg/kmol.

R=Ideal gas constant, 8.314 $m^3 \cdot kPa/kmol \cdot K$.

T=Temperature of vessel vapor space, K.

(4) *Emissions from heating of vessels.* Organic HAP emissions caused by the heating of a vessel shall be calculated using the procedures in either paragraph (d)(4)(i),(ii), or (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 organic HAP emissions shall be calculated using the equations in paragraphs (d)(4)(i)(A) through (D) of this section.

(A) Organic HAP emissions caused by heating of a vessel shall be calculated using Equation 10 of this section. The assumptions made for this calculation are atmospheric pressure of 760 millimeters of mercury (mm Hg) and the displaced gas is always saturated with volatile organic compounds (VOC) vapor in equilibrium with the liquid mixture:

$$E_{episode} = \left[\frac{\sum_{i=1}^{n}(P_i)T1}{101.325 - \sum_{i=1}^{n}(P_i)T1} + \frac{\sum_{i=1}^{n}(P_i)T2}{101.325 - \sum_{i=1}^{n}(P_i)T2} \over 2 \right] * (\Delta\eta) \left[\frac{\left(MW_{wavg,T1} + MW_{wavg,T2}\right)}{2} \right] \quad \text{[Eq. 10]}$$

Where:
$E_{episode}$=Emissions, kg/episode.
$(P_i)_{T1}$, $(P_i)_{T2}$=Partial pressure (kPa) of each organic HAP i in the vessel headspace at initial (T1) and final (T2) temperature.
n=Number of organic HAP in stream.
$\Delta\eta$=Number of kilogram-moles (kg-moles) of gas displaced, determined in accordance with paragraph (d)(4)(i)(B) of this section.
101.325=Constant, kPa.
$(MW_{WAVG,T1})$, $(MW_{WAVG,T2})$=Weighted average molecular weight of total organic HAP in the displaced gas stream, determined in accordance with paragraph (d)(4)(i)(D) of this section, kg/kmol.

(B) The moles of gas displaced, Δ, is calculated using Equation 11 of this section:

$$\Delta\eta = \frac{V_{fs}}{R}\left[\left(\frac{Pa_1}{T_1}\right) - \left(\frac{Pa_2}{T_2}\right)\right] \quad \text{[Eq. 11]}$$

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 partial pressure in the vessel, kPa.
Pa_2=Final noncondensible gas partial pressure in the vessel, 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 12 of this section:

$$Pa = 101.325 - \sum_{i=1}^{n}(P_i)T \quad \text{[Eq. 12]}$$

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 each organic HAP i in the vessel headspace, kPa, at the initial or final temperature (T1 or T2).
n=Number of organic HAP in stream.

(D) The weighted average molecular weight of organic HAP in the displaced gas, MW_{wavg}, shall be calculated using Equation 13 of this section:

$$MW_{wavg} = \frac{\sum_{i=1}^{n}(\text{mass of C})_i(\text{molecular weight of C})_i}{\sum_{i=1}^{n}(\text{mass of C})_i} \quad \text{[Eq. 13]}$$

Where:
C=Organic HAP component
n=Number of organic HAP components in stream.

(ii) If the vessel contents are heated to a temperature greater than 50 K below the boiling point, then organic HAP emissions from the heating of a vessel shall be calculated as the sum of the organic HAP emissions calculated in accordance with paragraphs (d)(4)(ii)(A) and (B) of this section.

(A) For the interval from the initial temperature to the temperature 50 K below the boiling point, organic HAP emissions shall be calculated using Equation 10 of this section, 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, organic HAP 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 10 of this section.

(*1*) If the final temperature of the heatup is at or 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 process condenser, as defined in § 63.1402, is considered part of the process. Organic HAP emissions shall be calculated as the sum of emissions calculated using Equation 10 of this section, which calculates organic HAP emissions due to heating the vessel contents to the temperature of the gas exiting the condenser, and emissions calculated using Equation 9 of this section, which calculates emissions due to the displacement of the remaining saturated noncondensible gas in the vessel. The final temperature in Equation 10 of this section shall be set equal to the exit gas temperature of the condenser. Equation 9 of this section shall be used as written below in Equation 14 of this section, using free space volume, and T is set equal to the condenser exit gas temperature:

$$E_{episode} = \frac{(y)(V_{fs})(P)(MW_{wavg})}{RT} \quad [Eq. 14]$$

Where:
$E_{episode}$=Emissions, kg/episode.
y=Saturated mole fraction of all organic HAP in vapor phase.
V_{fs}=Volume of the free space in the vessel, m^3.
P=Pressure in vessel vapor space, kPa.
$MW_{w,avg}$=Weighted average molecular weight of organic HAP in vapor, determined in accordance with paragraph (d)(4)(i)(D) of this section. kg/kmol.
R=Ideal gas constant, 8.314 m^3·kPa/kmol·K.
T=Temperature of condenser exit stream, K.

(5) *Emissions determined by direct measurement.* The owner or operator may estimate annual organic HAP emissions for a batch emission episode by direct measurement. The test methods and procedures specified in paragraphs (a) and (b) of this section shall be used for direct measurement. If direct measurement is used, the owner or operator shall perform a test for the duration of a representative batch emission episode. Alternatively, the owner or operator may 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 shall develop an emission profile illustrating the emission rate (kilogram per unit time) over the entire batch emission episode, based on either process knowledge or test data, 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 to develop the emission profile provided the results are still relevant to the current batch process vent conditions. The emission profile shall be included in the site-specific test plan required by § 63.1417(h)(2).

(6) *Emissions determined by engineering assessment.* To use engineering assessment to estimate organic HAP emissions from a batch emission episode, owners or operators shall comply with paragraphs (d)(6)(i) through (iii) of this section.

(i) If the criteria specified in paragraphs (d)(6)(i)(A), (B), and (C) of this section are met for a specific batch emission episode, the owner or operator may use engineering assessment to estimate organic HAP emissions from that batch emission episode.

(A) Previous test data, where the measurement of organic HAP emissions was an outcome of the test, that show a greater than 20 percent discrepancy between the test value and the value estimated using the applicable equations in paragraphs (d)(1) through (4) of this section. Paragraphs (d)(6)(i)(A)(*1*) and (*2*) of this section describe test data that will be acceptable under this paragraph.

(*1*) Test data for the batch emission episode obtained during production of the product for which the demonstration is being made.

(*2*) Test data obtained for a batch emission episode from another process train where the test data were obtained during production of the product for which the demonstration is being made. Test data from another process train may be used only if the owner or operator can demonstrate that the data are representative of the batch emission episode for which the demonstration is being made, taking into account the nature, size, operating conditions, production rate, and sequence of process steps (*e.g.*, reaction, distillation, etc.) of the equipment in the other process train.

(B) Previous test data for the batch emission episode with the highest organic HAP emissions on a mass basis where the measurement of organic HAP emissions was an outcome of the test, where data were obtained during the production of the product for which the demonstration is being made, and where the data show a greater than 20 percent discrepancy between the test value and the value estimated using the applicable equations in paragraphs (d)(1) through (4) of this section. If the criteria in this paragraph are met, then engineering assessment may be used for all batch emission episodes associated with that batch cycle for the batch unit operation.

(C) The owner or operator has requested and been granted approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode. The request to use engineering assessment to estimate organic HAP emissions from a batch emissions episode shall contain sufficient information and data to demonstrate to the Administrator that engineering assessment is an accurate means of estimating organic HAP emissions for that particular batch emissions episode. The request to use engineering assessment to estimate organic HAP emissions for a batch emissions episode shall be submitted in the Precompliance Report, as required by § 63.1417(d).

(ii) 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 obtained under conditions representative of current process operating conditions;

(C) Flow rate or organic HAP emission rate specified or implied within a permit limit applicable to the batch process vent; and

(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;

(*3*) Estimation of organic HAP concentrations based on saturation conditions; and

(*4*) Estimation of organic HAP concentrations based on grab samples of the liquid or vapor.

(iii) Data or other information used to demonstrate that the criteria in paragraph (d)(6)(i) of this section have been met shall be reported as specified in paragraphs (d)(6)(iii)(A) and (B) of this section.

(A) Data or other information used to demonstrate that the criteria in paragraphs (d)(6)(i)(A) and (B) of this section have been met shall be reported in the Notification of Compliance Status, as required by § 63.1417(e)(9).

(B) The request for approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode as allowed under paragraph (d)(6)(i)(C) of this section, and sufficient data or other information for demonstrating to the Administrator that engineering assessment is an accurate means of estimating organic HAP emissions for that particular batch emissions episode shall be submitted with the Precompliance Report, as required by § 63.1417(d).

(7) *Emissions for a single batch cycle.* For each batch process vent, the organic HAP emissions associated with a single batch cycle shall be calculated using Equation 15 of this section:

Where:

$$E_{cycle} = \sum_{i=1}^{n} E_{episode_i} \qquad [Eq. 15]$$

E_{cycle}=Emissions for an individual batch cycle, kg/batch cycle.
$E_{episode_i}$=Emissions from batch emission episode i, kg/episode.
n=Number of batch emission episodes for the batch cycle.

(8) *Annual emissions from a batch process vent.* Annual organic HAP emissions from a batch process vent shall be calculated using Equation 16 of this section:

$$AE = \sum_{i=1}^{n} (N_i)(E_{cycle_i}) \qquad [Eq. 16]$$

Where:
AE=Annual emissions from a batch process vent, kg/yr.
N_i=Number of type i batch cycles performed annually, cycles/year.
E_{cycle_i}=Emissions from the batch process vent associated with a single type i batch cycle, as determined in paragraph (d)(7) of this section, kg/batch cycle.
n=Number of different types of batch cycles that cause the emission of organic HAP from the batch process vent.

(9) *Partial pressures in multicomponent systems.* Individual HAP partial pressures in multicomponent systems shall be determined using the appropriate method specified in paragraphs (d)(9)(i) through (iii) of this section.

(i) If the components are miscible, use Raoult's law to calculate the partial pressures;

(ii) If the solution is a dilute aqueous mixture, use Henry's law constants to calculate partial pressures;

(iii) If Raoult's law or Henry's law is not appropriate or available, the owner or operator may use any of the options in paragraph (d)(9)(iii)(A), (B), or (C) of this section.

(A) Experimentally obtained activity coefficients, Henry's law constants, or solubility data;

(B) Models, such as group-contribution models, to predict activity coefficients; or

(C) Assume the components of the system behave independently and use the summation of all vapor pressures from the HAPs as the total HAP partial pressure.

§ 63.1415 Monitoring requirements.

(a) *General requirements.* Each owner or operator of an emission point located at an affected source that uses a control device to comply with the requirements of this subpart and has one or more parameter monitoring level requirement specified under this subpart, shall install the monitoring equipment specified in paragraph (b) of this section in order to demonstrate continued compliance with the provisions of this subpart. All monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturer's specifications or other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(1) This monitoring equipment shall be in operation at all times when organic HAP emissions that are required to be controlled as part of complying with the emission limits specified in §§ 63.1404, 63.1405, 63.1406, 63.1407, and 63.1408 are vented to the control device.

(2) For control devices controlling less than 1 ton per year of uncontrolled organic HAP emissions, monitoring shall consist of a daily verification that the control device is operating properly. If the control device is used to control batch process vents alone or in combination with other emission points, the verification may be on a per batch cycle basis. This verification shall include, but not be limited to, a daily or per batch demonstration that the control device is working as designed. The procedure for this demonstration shall be submitted for review and approval as part of the Precompliance Report, as required by § 63.1417(d)(10).

(3) Nothing in this section shall be construed to allow a monitoring parameter excursion caused by an activity that violates other applicable provisions of subpart A, F, or G of this part.

(b) *Monitoring equipment.* The monitoring equipment specified in paragraphs (b)(1) through (8) of this section shall be installed as specified in paragraph (a) of this section. The parameters to be monitored are specified in Table 3 of this subpart.

(1) Where a scrubber is used, the following monitoring equipment is required.

(i) A pH monitoring device equipped with a continuous recorder to monitor the pH of the scrubber effluent.

(ii) A flow measurement device equipped with a continuous recorder shall be located at the scrubber influent for liquid flow. Gas stream flow shall be determined using one of the following procedures:

(A) The owner or operator may determine gas stream flow using the design blower capacity with appropriate adjustments for pressure drop.

(B) If the scrubber is subject to regulations in 40 CFR parts 264 through 266 that required a determination of the liquid to gas (L/G) ratio prior to the applicable compliance date for this subpart, the owner or operator may determine gas stream flow by the method that had been utilized to comply with those regulations. A determination that was conducted prior to the compliance date for this subpart may be utilized to comply with this subpart if it is still representative.

(C) The owner or operator may prepare and implement a gas stream flow determination plan that documents an appropriate method which will be used to determine the gas stream flow. The plan shall require determination of gas stream flow by a method which will at least provide a value for either a representative or the highest gas stream flow anticipated in the scrubber during representative operating conditions other than start-ups, shutdowns, or malfunctions. The plan shall include a description of the methodology to be followed and an explanation of how the selected methodology will reliably determine the gas stream flow, and a description of the records that will be maintained to document the determination of gas stream flow. The owner or operator shall maintain the plan as specified in § 63.1416(a).

(2) 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.

(3) Where a condenser is used, a condenser exit temperature (product side) monitoring device equipped with a continuous recorder is required.

(4) Where a carbon adsorber is used, an integrating regeneration steam flow or nitrogen flow, or pressure monitoring device having an accuracy of ±10 percent of the flow rate, level, or pressure, or better, capable of recording the total regeneration steam flow or nitrogen flow, or pressure (gauge or absolute) 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.

(5) 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.

(6) 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.

(7) 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 the primary fuel or are used as the primary fuel is exempt from this requirement.

(8) As an alternate to paragraphs (b)(1) through (7) of this section, the owner or operator may install an organic monitoring device equipped with a continuous recorder. Said organic monitoring device shall meet the requirements of Performance Specification 8 or 9 of 40 CFR part 60, appendix B, and shall be installed, calibrated, and maintained according to § 63.6.

(c) *Alternative monitoring parameters.* An owner or operator may request approval to monitor parameters other than those specified in Table 3 of this subpart. The request shall be submitted according to the procedures specified in § 63.1417(j). Approval shall be requested if the owner or operator:

(1) Uses a control device or control technology 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 3 of this subpart.

(d) *Monitoring of bypass lines.* Owners or operators using a vent system that contains bypass lines that could divert emissions away from a control device or control technology used to comply with the provisions of this subpart shall comply with either paragraph (d)(1) or (2) 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 § 63.1416(d)(3). The flow indicator shall be installed at the entrance to any bypass line that could divert emissions away from the control device or control technology and to the atmosphere; or

(2) Secure the bypass line damper or 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 damper or valve is maintained in the non-diverting position and emissions are not diverted through the bypass line. Records shall be generated as specified in § 63.1416(d)(3).

(e) *Monitoring for the alternative standards.* For control devices that are used to comply with the provisions of §§ 63.1404(b), 63.1405(b), 63.1406(b), 63.1407(b), or 63.1408(b) the owner or operator shall conduct continuous monitoring of the outlet organic HAP concentration whenever emissions are vented to the control device. Continuous monitoring of outlet organic HAP concentration shall be accomplished using an FTIR instrument following Method PS–15 of 40 CFR part 60, appendix B. The owner or operator shall calculate a daily average outlet organic HAP concentration.

§ 63.1416 Recordkeeping requirements.

(a) *Data retention.* Unless otherwise specified in this subpart, 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, as specified in paragraph (a)(1) of this section, with the exception listed in paragraph (a)(2) of this section.

(1) All applicable records shall be maintained in such a manner that they can be readily accessed. The most recent 6 months of records shall be retained on site or shall be accessible from a central location by computer or other means that provides access within 2 hours after a request. The remaining 4 and one-half years of records may be retained offsite. Records may be maintained in hard copy or computer-readable form including, but not limited to, on paper, microfilm, computer, floppy disk, CD–ROM, optical disc, magnetic tape, or microfiche.

(2) If an owner or operator submits copies of reports to the appropriate EPA Regional Office, the owner or operator is not required to maintain copies of reports. If the EPA Regional Office has waived the requirement of § 63.10(a)(4)(ii) for submittal of copies of reports, the owner or operator is not required to maintain copies of those reports.

(b) *Start-up, shutdown, and malfunction plan and records.* The owner or operator of an affected source shall develop and implement a start-up, shutdown, and malfunction plan as specified in § 63.6(e)(3) and shall keep the plan on-site. Records shall be kept as specified in paragraphs (b)(1) and (2) of this section. Records are not required for emission points that do not require control under this subpart.

(1) Records of the occurrence and duration of each start-up, shutdown, and malfunction of operation of process equipment, or control devices, or recovery devices, or continuous monitoring systems, or control technologies used to comply with this subpart during which excess emissions (as defined in § 63.1400(k)(4)) occur.

(2) For each start-up, shutdown, or malfunction during which excess emissions (as defined in § 63.1400(k)(4)) occur, records reflecting whether the procedures specified in the affected source's start-up, shutdown, and malfunction plan were followed and documentation of actions taken that are not consistent with the plan. For example, if a start-up, shutdown, and malfunction plan includes procedures for routing a control device to a backup control device (e.g., a halogenated stream could be routed to a flare during periods when the primary control device is out of service), records shall be kept of whether the plan was followed. These records may take the form of a "checklist" or other form of recordkeeping that confirms conformance with the start-up, shutdown, and malfunction plan for the event.

(c) *Monitoring records.* Owners or operators required to comply with § 63.1415 and, therefore, required to keep continuous records shall keep records as specified in paragraphs (c)(1) through (6) of this section.

(1) The owner or operator shall record either each measured data value or 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) average instead of all measured values. Owners or operators of batch process vents shall record each measured data value; if values are measured more frequently than once per minute, a single value for each minute may be recorded instead of all measured values.

(2) Daily average, batch cycle daily average, or block average values of each continuously monitored parameter shall be calculated for each operating day as specified in paragraphs (c)(2)(i) and (ii) of this section, except as specified in paragraphs (c)(3) and (4) of this section. The option of conducting parameter monitoring for batch process vents on a batch cycle daily average basis or a

block average basis is described in paragraph (d)(2) of this section.

(i) The daily average value, batch cycle daily average, or block average shall be calculated as the average of all parameter values recorded during the operating day, or batch cycle, as appropriate, except as specified in paragraph (c)(4) of this section. For batch process vents, only parameter values recorded during those batch emission episodes, or portions thereof, in the batch cycle that the owner or operator has selected to control in order to comply 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 for daily average values or batch cycle daily average values. The calculated average shall cover the entire period of the batch cycle for block average values. As specified in § 63.1413(a)(4)(i)(C)(*3*), the owner or operator shall provide the information needed to calculate batch cycle daily averages for operating days that include partial batch cycles.

(ii) The operating day shall be the period the owner or operator specifies in the operating permit or the Notification of Compliance Status for purposes of determining daily average values or batch cycle daily average values of monitored parameters. The block shall be the entire period of the batch cycle, as specified by the owner or operator in the operating permit or the Notification of Compliance Status for purposes of determining block average values of monitored parameters.

(3) If all recorded values for a monitored parameter during an operating day or block 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 block average, for that operating day. For these operating days or blocks, the records required in paragraph (c)(1) of this section shall also be retained for 5 years.

(4) Monitoring data recorded during periods identified in paragraphs (c)(4)(i) through (v) of this section shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods and any other periods during process or control device or recovery device or control technology operation when monitors are not operating:

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments;

(ii) Start-ups;

(iii) Shutdowns;

(iv) Malfunctions; and

(v) Periods of non-operation of the affected source (or portion thereof) resulting in cessation of the emissions to which the monitoring applies.

(5) The owner or operator who has received approval to monitor different parameters, under § 63.1417(j) as allowed under § 63.1415(e), than those specified for storage vessels, continuous process vents, or batch process vents shall retain for a period of 5 years each record specified in their approved Alternative Monitoring Parameters request.

(6) The owner or operator who has received approval to use alternative continuous monitoring and recordkeeping provisions as specified in § 63.1417(k) shall retain for a period of 5 years each record specified in their approved Alternative Continuous Monitoring request.

(d) *Batch process vent records.* (1) *Compliance demonstration records.* Each owner or operator of a batch process vent complying with § 63.1406 or § 63.1407 shall keep the following records, as applicable, readily accessible.

(i) If a batch process vent is seeking to demonstrate compliance with the alternative standard specified in § 63.1406(b) or § 63.1407(b), results of the initial compliance demonstration specified in § 63.1413(f).

(ii) If a batch process vent is seeking to demonstrate compliance with the percent reduction requirements of § 63.1406(a)(1)(ii) or § 63.1407(a)(2)(ii), records documenting the batch cycle percent reduction or overall percent reduction, as appropriate, as specified in § 63.1413(e)(1)(iii).

(iii) When using a flare to comply with § 63.1406(a)(1)(i) or § 63.1407(a)(2)(i):

(A) The flare design (i.e., steam-assisted, air-assisted or non-assisted);

(B) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required by § 63.1413(g); and

(C) Periods when all pilot flames were absent during the compliance determination required by § 63.1413(g).

(iv) The following information when using a control device or control technology, other than a flare, to achieve compliance with the percent reduction requirement of § 63.1406(a)(1)(ii) or § 63.1407(a)(2)(ii):

(A) For an incinerator, non-combustion control device, or other control technology, the percent reduction of organic HAP achieved for emissions vented to the control device or control technology, as determined using the procedures specified in § 63.1413(e)(1);

(B) For a boiler or process heater, a description of the location at which the vent stream is introduced into the boiler or process heater; and

(C) For a boiler or process heater with a design heat input capacity of less than 44 megawatts and where the vent stream is not introduced with the primary fuel or used as the primary fuel, the percent reduction of organic HAP achieved for emissions vented to the control device, as determined using the procedures specified in § 63.1413(e)(1).

(v) If a batch process vent is seeking to demonstrate compliance with the mass emission limits specified in § 63.1406(a)(1)(iii) or (a)(2)(iii) or specified in § 63.1407(b)(2), the following information:

(A) Results of the initial compliance demonstration specified in § 63.1413(e)(2).

(B) The organic HAP emissions from the batch process vent associated with each single type of batch cycle ($E_{cycle\ i}$) determined as specified in § 63.1413(e)(2).

(C) The site-specific emission limit required by § 63.1413(e)(2), as appropriate.

(vi) If an owner or operator designates a condenser sometimes operated as a process condenser as a control device, comply with either paragraph (d)(1)(vi)(A) or (B) of this section.

(A) Retain information, data, analyses to document inprocess recycling of the material recovered when the condenser is operating as a control device.

(B) When requested by the Administrator, demonstrate that material recovered by the condenser operating as a control device is reused in a manner meeting the definition of inprocess recycling.

(2) *Establishment of parameter monitoring level records.* For each parameter monitored according to § 63.1415(b) and Table 3 of this subpart, or for alternate parameters and/or parameters for alternate control devices or control technologies monitored according to § 63.1417(j) as allowed under § 63.1415(e), maintain documentation showing the establishment of the level that indicates proper operation of the control device or control technology as required by § 63.1415(c) for parameters specified in § 63.1415(b) and as required by § 63.1417(j) for alternate parameters. An

owner or operator may choose to monitor operating parameters for batch process vents on a batch cycle daily average basis or on a block average basis. The batch cycle daily average is based on parameter monitoring accomplished during the operating day (i.e., a 24-hour basis). The block average is based on the parameter monitoring accomplished during a single batch cycle. As defined in § 63.1402, the block shall be the period of time equal to a single batch cycle. Monitored parameter documentation shall include the following:

(i) Parameter monitoring data used to establish the level.

(ii) Identification that the parameter monitoring level is associated with a batch cycle daily average or a block average.

(iii) A definition of the batch cycle or block, as appropriate.

(3) *Controlled batch process vent continuous compliance records.* Continuous compliance records shall be kept as follows:

(i) Each owner or operator of a batch process vent that uses a control device or control technology to comply with the percent reduction requirements of § 63.1406(a)(1)(ii) or § 63.1407(a)(2)(ii) shall keep the following records, as applicable, readily accessible:

(A) Continuous records of the equipment operating parameters specified to be monitored under § 63.1415(b) as applicable, and listed in Table 3 of this subpart, or specified by the Administrator in accordance with § 63.1417(f) as allowed under § 63.1415(e). Said records shall be kept as specified under paragraph (c) of this section, except as follows:

(*1*) For carbon adsorbers, the records specified in Table 3 of this subpart shall be maintained in place of continuous records.

(*2*) For flares, the records specified in Table 4 of this subpart shall be maintained in place of continuous records.

(B) Records of the batch cycle daily average value or block average value of each continuously monitored parameter, as specified in paragraph (c) of this section.

(ii) Each owner or operator of a batch process vent that uses a control device or control technology to comply with § 63.1406 or § 63.1407 shall keep the following records, as applicable, readily accessible:

(A) Hourly records of whether the flow indicator for bypass lines specified in § 63.1415(d) was operating and whether a diversion was detected at any time during the hour. Also, records of the time and duration periods when the vent is diverted from the control device or control technology or the flow indicator specified in § 63.1415(d) is not operating.

(B) Where a seal or closure mechanism is used to comply with § 63.1415(d), hourly records of whether a diversion was detected at any time are not required. The owner or operator shall record whether the monthly visual inspection of the seals or closure mechanisms has been done and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line damper or 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.

(C) 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 or control technology operation when monitors are not operating.

(iii) Each owner or operator of a batch process vent seeking to demonstrate compliance with the alternative standard, as specified in § 63.1406(b) or § 63.1407(b), shall keep the records of continuous emissions monitoring described in § 63.1416(c).

(iv) Each owner or operator of a batch process vent seeking to demonstrate compliance with the mass emission limits, specified in § 63.1406(a)(1)(iii) or (a)(2)(iii), shall keep the following records, as applicable, readily accessible.

(A) The cumulative average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

(B) If there is a deviation from the mass emission limit, as specified in § 63.1413(h), the individual monthly emission rate data points making up the cumulative average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

(C) If it becomes necessary to redetermine ($E_{cycle\ i}$) for a reactor batch process vent, as specified in § 63.1413(e)(2), the new value(s) for ($E_{cycle\ i}$).

(D) If an owner or operator is demonstrating compliance using the procedures in § 63.1413(e)(2), the monthly value of the site-specific emission limit developed under § 63.1413(e)(2).

(e) *Aggregate batch vent stream records.* (1) *Compliance demonstration records.* Each owner or operator of an aggregate batch vent stream complying with § 63.1408(a)(1) or (2) shall keep the following records, as applicable, readily accessible:

(i) If an aggregate batch vent stream is in compliance with the percent reduction requirements of § 63.1408(a)(1)(ii) or (a)(2)(ii), owners or operators shall comply with the recordkeeping requirements for continuous process vents specified in 40 CFR part 63, subpart SS.

(ii) If an aggregate batch vent stream is in compliance with the alternative standard specified in § 63.1408(b), results of the initial compliance demonstration specified in § 63.1413(f).

(iii) When using a flare to comply with § 63.1408(a)(1)(i) or (a)(2)(i):

(A) The flare design (i.e., steam-assisted, air-assisted or non-assisted).

(B) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required by § 63.1413(g).

(C) Periods when all pilot flames were absent during the compliance determination required by § 63.1413(g).

(iv) If an aggregate batch vent stream is seeking to comply with the mass emission limits specified in § 63.1408(b)(2), results of the initial compliance demonstration specified in § 63.1413(e)(2). In addition, for each batch process vent, the emissions associated with each single type of batch cycle ($E_{cycle\ i}$), determined as specified in § 63.1413(e)(2), shall be recorded.

(2) *Establishment of parameter monitoring level records.* For each parameter monitored according to § 63.1415(b) and Table 3 of this subpart, or for alternate parameters and/or parameters for alternate control devices monitored according to § 63.1417(j) as allowed under § 63.1415(e), maintain documentation showing the establishment of the level that indicates proper operation of the control device as required by § 63.1415(c) for parameters specified in § 63.1415(b) and as required by § 63.1417(j) for alternate parameters. Monitored parameter documentation shall include the parameter monitoring data used to establish the level.

(3) *Controlled aggregate batch vent streams continuous compliance records.* The following continuous compliance records shall be kept, as applicable:

(i) Each owner or operator of an aggregate batch vent stream that uses a control device to comply with the percent reduction requirement of § 63.1408(a)(1)(ii) or (a)(2)(ii) shall keep the following records, as applicable, readily accessible:

(A) Continuous records of the equipment operating parameters

specified to be monitored under § 63.1415(b) as applicable, and listed in Table 3 of this subpart, or specified by the Administrator in accordance with § 63.1417(j) as allowed under § 63.1415(e). Records shall be kept as specified under paragraph (c) of this section, except as follows:

(*1*) For carbon adsorbers, the records specified in Table 3 of this subpart shall be maintained in place of continuous records.

(*2*) For flares, the records specified in Table 3 of this subpart shall be maintained in place of continuous records.

(B) Records of the daily average value of each continuously monitored parameter, as specified in paragraph (c) of this section.

(ii) Each owner or operator of an aggregate batch vent stream that uses a control device to comply with paragraph § 63.1408(a)(1) or (2) of this section shall keep the following records, as applicable, readily accessible:

(A) Hourly records of whether the flow indicator for bypass lines specified in § 63.1415(d) was operating and whether a diversion was detected at any time during the hour. Also, records of the times and durations of periods when the vent is diverted from the control device or the flow indicator specified in § 63.1415(d) is not operating.

(B) Where a seal or closure mechanism is used to comply with § 63.1415(d), hourly records of whether a diversion was detected at any time are not required. The owner or operator shall record whether the monthly visual inspection of the seals or closure mechanisms has been done, and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line damper or 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.

(C) 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.

(iii) Each owner or operator of an aggregate batch vent stream seeking to demonstrate compliance with the alternative standard, as specified in § 63.1408(b), shall keep the records of continuous emissions monitoring described in § 63.1416(c).

(iv) Each owner or operator of an aggregate batch vent stream seeking to demonstrate compliance with the mass emission limits, specified in § 63.1408(b)(2), shall keep the following records, as applicable, readily accessible:

(A) The rolling average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

(B) If there is a deviation from the emission limit, as specified in § 63.1413(h)(1), the individual monthly emission rate data points making up the rolling average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

(C) If it becomes necessary to redetermine (E_{cycle_i}) for a reactor batch process vent, as specified in § 63.1413(e)(2), the new value(s) for (E_{cycle_i}).

(f) *Continuous process vent records.* (1) *TRE index value records.* Each owner or operator of a continuous process vent shall maintain records of measurements, engineering assessments, and calculations performed according to the procedures of § 63.1412(j) to determine the TRE index value. Documentation of engineering assessments, described in § 63.1412(k), shall include all data, assumptions, and procedures used for the engineering assessments.

(2) *Volumetric flow rate records.* Each owner or operator of a continuous process vent shall record the volumetric flow rate as measured using the sampling site and volumetric flow rate determination procedures (if applicable) specified in § 63.1412(b) and (f) or determined through engineering assessment as specified in § 63.1412(k).

(3) *Organic HAP concentration records.* Each owner or operator shall record the organic HAP concentration as measured using the sampling site and organic HAP concentration determination procedures specified in § 63.1412(b)and (e), or determined through engineering assessment as specified in § 63.1412(k).

(4) *Process change records.* Each owner or operator of a continuous process vent shall keep up-to-date, readily accessible records of any process changes that change the control applicability for a continuous process vent. Records are to include any recalculation or measurement of the flow rate, organic HAP concentration, and TRE index value.

(g) *Other records or documentation.* (1) For continuous monitoring systems used to comply with this subpart, owners or operators shall keep records documenting the completion of calibration checks and records documenting the maintenance of continuous monitoring systems that are specified in the manufacturer's instructions or that are specified in other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(2) The owner or operator of an affected source granted a waiver under § 63.10(f) shall maintain any information demonstrating whether an affected source is meeting the requirements for a waiver of recordkeeping or reporting requirements.

(3) Owners or operators using the exemption from the equipment leak provisions provided by § 63.1400(f) shall comply with either paragraph (g)(3)(i) or (ii) of this section.

(i) The owner or operator shall retain information, data, and analysis used to document the basis for using the exemption provided by § 63.1400(f). Such information, data, and analysis shall be retained for the 12-month period preceding December 14, 1998 and for each 12-month period the affected source is in operation and using the exemption provided by § 63.1400(f). The beginning of each 12-month period shall be the anniversary of December 14, 1998.

(ii) When requested by the Administrator, the owner or operator shall demonstrate that actual annual production is equal to or less than 800 megagrams per year of amino/phenolic resin for the 12-month period preceding December 14, 1998, and for each 12-month period the affected source has been in operation and using the exemption provided by § 63.1400(f). The beginning of each 12-month period shall be the anniversary of December 14, 1998.

(4) The owner or operator of a heat exchange system located at an affected source shall retain the following records:

(i) Monitoring data required by § 63.1409 indicating a leak and the date when the leak was detected, and if demonstrated not to be a leak, the basis for that determination.

(ii) Records of any leaks detected by procedures subject to § 63.1409(c)(2) and the date the leak was detected.

(iii) The dates of efforts to repair leaks.

(iv) The method or procedure used to confirm repair of a leak and the date repair was confirmed.

(h) *Reduced recordkeeping program.* For any parameter with respect to any item of equipment, the owner or operator may implement the recordkeeping requirements specified in paragraph (h)(1) or (2) of this section as alternatives to the provisions specified in this subpart for storage vessels,

continuous process vents, batch process vents, or aggregate batch vent streams. The owner or operator shall retain for a period of 5 years each record required by paragraph (h)(1) or (2) of this section.

(1) The owner or operator may retain only the daily average, batch cycle daily average, or block average value, and is not required to retain more frequent values, for a parameter with respect to an item of equipment, if the requirements of paragraphs (h)(1)(i) through (vi) 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 Report required under § 63.1417(e) or, if the Notification of Compliance Status has already been submitted, in the Periodic Report immediately preceding implementation of the requirements of this paragraph as specified in § 63.1417(f)(10).

(i) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation other than start-ups, 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 or block constitute a single occurrence.

(ii) The monitoring system generates, updated at least hourly throughout each operating day, a running average of the parameter values that have been obtained during that operating day or block, and the capability to observe this running average is readily available on-site to the Administrator 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 (C) of this section. All instances in an operating day or block 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 1-hour average values; and

(C) The running average reflects a period of operation other than a start-up, shutdown, or malfunction.

(iii) The monitoring system is capable of detecting unchanging data during periods of operation other than start-ups, 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 or block constitute a single occurrence.

(iv) The monitoring system will alert the owner or operator by an alarm or other means 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 paragraphs (h)(1)(i) through (iv) of this section, at the times specified in paragraphs (h)(1)(v)(A) through (C). 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 (D) 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)(1) 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 (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, as provided in paragraph (a) of this section, except as provided in paragraph (h)(1)(vi)(D) of this section, 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 impair its ability to comply with the requirements of paragraph (h) of this section.

(D) Owners and operators subject to paragraph (h)(1)(vi)(B) of this section shall retain the current description of the monitoring system as long as the description is current. The current description shall, at all times, be retained on-site or be accessible from a central location by computer or other means that provides access within 2 hours after a request. The owner or operator shall retain all superseded descriptions for at least 5 years after the date of their creation. Superseded descriptions shall be retained on-site (or accessible from a central location by computer or other means that provides access within 2 hours after a request) for at least 6 months after their creation. Thereafter, superseded descriptions may be stored off-site.

(2) If an owner or operator has elected to implement the requirements of paragraph (h)(1) of this section for a parameter with respect to an item of equipment and a period of 6 consecutive months has passed without any deviation as defined in paragraph (h)(2)(iv) of this section, the owner or operator is no longer required to record the daily average, batch cycle daily average, or block average value for any operating day when the daily average, batch cycle daily average, or block 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 were required and/or approved by the Administrator.

(i) If the owner or operator elects not to retain the daily average, batch cycle daily average, or block average values, the owner or operator shall notify the Administrator in the next Periodic Report as specified in § 63.1417(f)(11). The notification shall identify the parameter and unit of equipment.

(ii) If, on any operating day or during any block after the owner or operator has ceased recording the daily average, batch cycle daily average, or block average values as provided in paragraph (h)(2) of this section, there is a deviation as defined in paragraph (h)(2)(iv) of this section, the owner or operator shall immediately resume retaining the daily average, batch cycle daily average, or block 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, batch cycle daily average, or block average value until another period of 6 consecutive months has passed without a deviation 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) through (iv) of this section for the duration specified in paragraph (h) of this section. For any calendar week, if compliance with paragraphs (h)(1)(i) through (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 value during a period of operation other than a start-up, shutdown, or malfunction.

(iv) For purposes of paragraph (h)(2) of this section, a deviation means that the daily average, batch cycle daily average, or block average value of monitoring data for a parameter is greater than the maximum, or less than the minimum established value, except that the daily average, batch cycle daily average, or block average value during any start-up, shutdown, or malfunction shall not be considered a deviation for purposes of paragraph (h)(2) of this section, if the owner or operator follows the applicable provisions of the start-up, shutdown, and malfunction plan required by § 63.6(e)(3).

§ 63.1417 Reporting requirements.

(a) *Reporting and notification.* In addition to the reports and notifications required by subpart A of this part as specified in Table 1 of this subpart, the owner or operator of an affected source shall prepare and submit the reports listed in paragraphs (d) through (i) of this section as applicable. All reports required by this subpart and the schedule for their submittal are listed in Table 5 of this subpart.

(b) *General.* Owners and operators are required to meet the reporting requirements of this subpart unless they can demonstrate that failure to submit information required to be included in a specified report was due to the circumstances described in paragraphs (b)(1) through (3) of this section. Examples of circumstances where this paragraph may apply include information related to newly-added equipment or emission points, changes in the process, changes in equipment required or utilized for compliance with the requirements of this subpart, or changes in methods or equipment for monitoring, recordkeeping, or reporting.

(1) The information was not known in time for inclusion in the report specified by this subpart.

(2) The owner or operator has been diligent in obtaining the information.

(3) The owner or operator submits a report according to the provisions of paragraphs (b)(3)(i) through (iii) of this section, as appropriate.

(i) If this subpart expressly provides for supplements to the report in which the information is required, the owner or operator shall submit the information as a supplement to that report. The information shall be submitted no later than 60 days after it is obtained, unless otherwise specified in this subpart.

(ii) If this subpart does not expressly provide for supplements, but the owner or operator must submit a request for revision of an operating permit pursuant to 40 CFR part 70 or part 71 due to circumstances to which the information pertains, the owner or operator shall submit the information with the request for revision to the operating permit.

(iii) In any case not addressed by paragraph (b)(3)(i) or paragraph (b)(3)(ii) of this section, the owner or operator shall submit the information with the first Periodic Report, as required by this subpart, which has a submission deadline at least 60 days after the information is obtained.

(c) *Submittals.* All reports required under this subpart shall be sent to the Administrator at the appropriate address listed in § 63.13. If acceptable to both the Administrator and the owner or operator of an affected source, reports may be submitted on electronic media.

(d) *Precompliance Report.* Owners or operators of affected sources requesting an extension for compliance; requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; requesting approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode as described in § 63.1414(d)(6)(i)(C); wishing to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii); establishing parameter monitoring levels based on a design evaluation as specified in § 63.1413(a)(3); following the procedures in § 63.1413(e)(2); or requesting approval to incorporate a provision for ceasing to collect monitoring data during a start-up, shutdown, or malfunction into the startup, shutdown, and malfunction plan when that monitoring equipment would be damaged if it did not cease to collect monitoring data, as permitted under § 63.1417(d)(9), shall submit a Precompliance Report according to the schedule described in paragraph (d)(1) of this section. The Precompliance Report shall contain the information specified in paragraphs (d)(2) through (11) of this section, as appropriate.

(1) The Precompliance Report shall be submitted to the Administrator no later than 12 months prior to the compliance date. Unless the Administrator objects to a request submitted in the Precompliance Report within 45 days after its receipt, the request shall be deemed approved. For new affected sources, the Precompliance Report shall be submitted to the Administrator with the application for approval of construction or reconstruction required by § 63.5(d), as specified on Table 1 of this subpart. Supplements to the Precompliance Report may be submitted as specified in paragraph (d)(11) of this section.

(2) A request for an extension for compliance, as specified in § 63.1401(d), may be submitted in the Precompliance Report. The request for a compliance extension will include the data outlined in § 63.6(i)(6)(i)(A), (B), and (D), as required in § 63.1401(d)(1).

(3) The alternative monitoring parameter information required in paragraph (j) of this section shall be submitted in the Precompliance Report 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 seeks to comply by monitoring a different parameter than those specified in this subpart.

(4) If the affected source seeks to comply using alternative continuous monitoring and recordkeeping as specified in paragraph (k) of this section, the owner or operator shall submit the information requested in paragraph (d)(4)(i) or (ii) of this section in the Precompliance Report:

(i) The owner or operator shall submit notification of the intent to use the provisions specified in paragraph (k) of this section; or

(ii) The owner or operator shall submit a request for approval to use alternative continuous monitoring and recordkeeping provisions as specified in paragraph (k) of this section.

(5) The owner or operator shall report the intent to use alternative controls to comply with the provisions of this subpart in the Precompliance Report. The Administrator may deem the alternative controls to be equivalent to the controls required by the standard under the procedures outlined in § 63.6(g).

(6) If a request for approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode, as specified in § 63.1414(d)(6)(i)(C), is being made, the information required by § 63.1414(d)(6)(iii)(B) shall be submitted in the Precompliance Report.

(7) If an owner or operator elects to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii), or will be establishing parameter monitoring levels based on a design evaluation as specified in § 63.1413(a)(3), the following information shall be submitted in the Precompliance Report:

(i) Identification of which procedures (*i.e.*, § 63.1413(a)(1)(i) or (ii)) are to be used; and

(ii) A description of how the parameter monitoring level is to be

established. If the procedures in § 63.1413(a)(4)(ii) are to be used, a description of how performance test data will be used shall be included.

(8) If an owner or operator is complying with the mass emission limit specified in § 63.1406(a)(1)(iii) or (a)(2)(iii), § 63.1407(b)(2), or § 63.1408(b)(2), the sample of production records specified in § 63.1413(e)(2) shall be submitted in the Precompliance Report.

(9) If the owner or operator is requesting approval to incorporate a provision for ceasing to collect monitoring data during a start-up, shutdown, or malfunction into the start-up, shutdown, and malfunction plan when that monitoring equipment would be damaged if it did not cease to collect monitoring data, the information specified in paragraphs (d)(9)(i) and (ii) of this section shall be supplied in the Precompliance Report or in a supplement to the Precompliance Report. The Administrator shall evaluate the supporting documentation and shall approve the request only if, in the Administrator's judgment, the specific monitoring equipment would be damaged by the contemporaneous start-up, shutdown, or malfunction.

(i) Documentation supporting a claim that the monitoring equipment would be damaged by the contemporaneous start-up, shutdown, or malfunction.

(ii) A request to incorporate such a provision for ceasing to collect monitoring data during a start-up, shutdown, or malfunction into the start-up, shutdown, and malfunction plan.

(10) The procedure for a control device controlling less than 1 ton per year of uncontrolled organic HAP emissions shall be submitted, as specified in § 63.1415(a)(2). Such a procedure shall meet the requirements specified in § 63.1415(a)(2).

(11) Supplements to the Precompliance Report may be submitted as specified in paragraph (d)(11)(i) or (ii) of this section. Unless the Administrator objects to a request submitted in a supplement to the Precompliance Report within 45 days after its receipt, the request shall be deemed approved.

(i) Supplements to the Precompliance Report may be submitted to clarify or modify information previously submitted.

(ii) Supplements to the Precompliance Report may be submitted to request approval to use alternative monitoring parameters, as specified in paragraph (j) of this section; to use alternative continuous monitoring and recordkeeping, as specified in paragraph (k) of this section; to use alternative controls, as specified in paragraph (d)(5) of this section; to use engineering assessment to estimate organic HAP emissions from a batch emissions episode, as specified in paragraph (d)(6) of this section; to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii) or (a)(3), as specified in paragraph (d)(7) of this section; or to include a provision for ceasing to collect monitoring data during a start-up, shutdown, or malfunction in the start-up, shutdown, and malfunction plan when that monitoring equipment would be damaged if it did not cease to collect monitoring data, as specified in paragraph (d)(9) of this section.

(e) *Notification of Compliance Status.* For existing and new affected sources, a Notification of Compliance Status shall be submitted within 150 days after the compliance dates specified in § 63.1401. For equipment leaks, the Notification of Compliance Status shall contain the information specified in 40 CFR part 63, subpart UU. For storage vessels, continuous process vents, batch process vents, and aggregate batch vent streams, the Notification of Compliance Status shall contain the information listed in paragraphs (e)(1) through (6) of this section.

(1) The results of any emission point applicability determinations, performance tests, design evaluations, inspections, continuous monitoring system performance evaluations, any other information used to demonstrate compliance, and any other information, as appropriate, required to be included in the Notification of Compliance Status under 40 CFR part 63, subpart WW and subpart SS, as referred to in § 63.1404 for storage vessels; under 40 CFR part 63, subpart SS, as referred to in § 63.1405 for continuous process vents; under § 63.1416(f)(1) through (3) for continuous process vents; under § 63.1416(d)(1) for batch process vents; and under § 63.1416(e)(1) for aggregate batch vent streams. In addition, each owner or operator shall comply with paragraphs (e)(1)(i) and (ii) of this section.

(i) For performance tests, applicability determinations, and estimates of organic HAP emissions that are based on measurements, the Notification of Compliance Status shall include one complete test report, as described in paragraph (e)(1)(ii) 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.

(ii) 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.

(2) For each monitored parameter for which a maximum or minimum level is required to be established, the Notification of Compliance Status shall contain the information specified in paragraphs (e)(2)(i) through (iv) of this section, unless this information has been established and provided in the operating permit.

(i) The required information shall include the specific maximum or minimum level of the monitored parameter(s) for each emission point.

(ii) 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 or control technology.

(iii) The required information shall include a definition of the affected source's operating day, as specified in § 63.1416(c)(2)(ii), for purposes of determining daily average values or batch cycle daily average values of monitored parameters. The required information shall include a definition of the affected source's block(s), as specified in § 63.1416(c)(2)(ii). for purposes of determining block average values of monitored parameters.

(iv) For batch 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 §§ 63.1413(e)(1)(iii) and 63.1416(c)(2)(ii).

(3) When the determination of applicability for process units, as made following the procedures in § 63.1400(g), indicates that a process unit is an APPU, an identification of the APPU and a statement indicating that the APPU is an APPU that produces more than one intended product at the same time, as specified in § 63.1400(g)(1), or is a flexible operations process unit as specified in § 63.1400(g)(2) through (4).

(4) [Reserved]

(5) The results for each predominant use determination for storage vessels belonging to an affected source subject to this subpart that is made under § 63.1400(h)(6).

(6) Notification that the owner or operator has elected to comply with § 63.1416(h), Reduced Recordkeeping Program.

(7) Notification that an affected source is exempt from the equipment leak provisions of § 63.1410 according to the provisions of § 63.1400(f), and the affected source's actual annual production of amino/phenolic resins for the 12-month period preceding December 14, 1998.

(8) An owner or operator with a combustion device, recovery device, or recapture device affected by the situation described in § 63.1400(i)(5) shall identify which rule shall be complied with for monitoring, recordkeeping, and reporting requirements, as allowed under § 63.1400(i)(5).

(9) Data or other information used to demonstrate that an owner or operator may use engineering assessment to estimate emissions for a batch emission episode, as specified in § 63.1413(d)(6)(iii)(A).

(f) *Periodic Reports.* For existing and new affected sources, each owner or operator shall submit Periodic Reports as specified in paragraph (f)(1) of this section. In addition, for equipment leaks subject to § 63.1410, the owner or operator shall submit the information specified in 40 CFR part 63, subpart UU, and for heat exchange systems subject to § 63.1409, the owner or operator shall submit the information specified in § 63.1409. Section 63.1415 shall govern the use of monitoring data to determine compliance for emissions points required to apply controls by the provisions of this subpart.

(1) Except as specified in paragraph (f)(12) of this section, a report containing the information in paragraph (f)(2) of this section or containing the information in paragraphs (f)(3) through (11) of this section, as appropriate, shall be submitted semiannually no later than 60 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.

(2) If none of the compliance exceptions specified in paragraphs (f)(3) through (11) of this section occurred during the 6-month period, the Periodic Report required by paragraph (f)(1) of this section shall be a statement that the affected source was in compliance for the preceding 6-month period and no activities specified in paragraphs (f)(3) through (11) of this section occurred during the preceding 6-month period.

(3) For an owner or operator of an affected source complying with the provisions of §§ 63.1404 through 63.1409 for any emission point, Periodic Reports shall include:

(i) All information specified in 40 CFR part 63, subpart WW and subpart SS for storage vessels; 40 CFR part 63, subpart SS for continuous process vents; § 63.1416(d)(3)(ii) for batch process vents; and § 63.1416(e) for aggregate batch vent stream.

(ii) The daily average values, batch cycle daily average values, or block average values of monitored parameters for deviations, as specified in § 63.1413(h), of operating parameters. In addition, the periods and duration of periods when monitoring data were not collected shall be specified.

(4) Notification if one or more emission point(s) or one or more APPU is added to an affected source. The owner or operator shall submit the following information:

(i) A description of the addition to the affected source;

(ii) Notification of applicability status (i.e., does the emission point require control) of the additional emission point, if appropriate, or notification of all emission points in the added APPU.

(5) If there is a deviation from the mass emission limit specified in § 63.1406(a)(1)(iii) or (a)(2)(iii), § 63.1407(b)(2), or § 63.1408(b)(2), the following information, as appropriate, shall be included:

(i) The cumulative average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

(ii) The individual monthly emission rate data points making up the cumulative average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

(iii) If an owner or operator is demonstrating compliance using the procedures in § 63.1413(e)(2)(ii), the monthly value of the site-specific emission limit.

(6) If any performance tests are reported in a Periodic Report, the following information shall be included:

(i) 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)(1)(ii) of this section.

(ii) 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.

(7) The Periodic Report shall include the results for each change made to a primary product determination for amino/phenolic resins made under § 63.1400(g).

(8) The Periodic Report shall include 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 § 63.1400(h)(6).

(9) If an owner or operator invokes the delay of repair provisions for a heat exchange system, the following information shall be submitted, as appropriate. If the leak remains unrepaired, the information shall also be submitted in each subsequent periodic report until repair of the leak is reported.

(i) The presence of the leak and the date that the leak was detected.

(ii) Whether or not the leak has been repaired. If the leak is repaired, the date the leak was successfully repaired. If the leak remains unrepaired, the expected date of repair.

(iii) The reason(s) for delay of repair. If delay of repair is invoked due to the reasons described in § 63.1409(e)(2). documentation of emissions estimates shall be included.

(10) Notification that the owner or operator has elected to comply with § 63.1416(h), Reduced Recordkeeping Program.

(11) Notification that the owner or operator has elected to not retain the daily average, batch cycle daily average, or block average values, as appropriate, as specified in § 63.1416(h)(2)(i).

(12) The owner or operator of an affected source shall submit quarterly reports for particular emission points as specified in paragraphs (f)(12)(i) through (iv) of this section.

(i) The owner or operator of an affected source shall submit quarterly reports for a period of 1 year for an emission point if the Administrator requests the owner or operator to submit quarterly reports for the emission point.

(ii) The quarterly reports shall include all information specified in paragraphs (f)(3) through (11) of this section applicable to the emission point for which quarterly reporting is required under paragraph (f)(12)(i) of this section. Information applicable to other emission points within the affected source shall be submitted in the semiannual reports required under paragraph (f)(1) of this section.

(iii) Quarterly reports shall be submitted no later than 60 days after the end of each quarter.

(iv) 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 unless the Administrator requests the owner or operator to continue to submit quarterly reports.

(g) *Start-up, shutdown, and malfunction reports.* For the purposes of this subpart, the semiannual start-up, shutdown, and malfunction reports shall be submitted on the same schedule as the Periodic Reports required under paragraph (f) of this section instead of being submitted on the schedule specified in § 63.10(d)(5)(i). Said reports shall include the information specified in § 63.1416(b)(1) and (2) and shall contain the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy.

(h) *Other reports.* Other reports shall be submitted as specified in paragraphs (h)(1) through (7) of this section.

(1) For storage vessels, the notifications of inspections required by 40 CFR part 63, subpart WW shall be submitted.

(2) A site-specific test plan shall be submitted no later than 90 days before the planned date for a performance test. Unless the Administrator requests changes to the site-specific test plan within 45 days after its receipt, the site-specific test plan shall be deemed approved. The test plan shall include a description of the planned test and rationale for why the planned performance test will provide adequate and representative results for demonstrating the performance of the control device. If required by § 63.1413(e)(1) or § 63.1414(d)(5), the test plan shall include an emission profile and rationale for why the selected test period is representative.

(3) The owner or operator shall notify the Administrator of the intention to conduct a performance test at least 30 days before the performance test is scheduled in order to allow the Administrator the opportunity to have an observer present during the test. If after 30 days notice for an initially scheduled performance test, there is delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected source shall notify the Administrator as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Administrator by mutual agreement.

(4) When the conditions of § 63.1400(g)(7) or the conditions of § 63.1400(g)(8) are met, notification of changes to the primary product for an APPU or process unit shall be submitted. When a notification is made in response to a change in the primary product under § 63.1400(g)(7), rationale for why it is anticipated that no amino/phenolic resins will be produced in the process unit in the future shall be included.

(5) Owners or operators of APPU or emission points (other than equipment leak components subject to § 63.1410) that are added to the affected source under the provisions of § 63.1400(d)(2) or (3) or under the provisions of § 63.5(b)(6) shall submit reports as specified in paragraphs (h)(5)(i) through (ii) of this section.

(i) Reports shall include:

(A) A description of the process change or addition, as appropriate;

(B) The planned start-up date and the appropriate compliance date; and

(C) Identification of the emission points (except equipment leak components subject to § 63.1410) specified in paragraphs (h)(5)(i)(C)(*1*) through (*3*) of this section, as applicable.

(*1*) All the emission points in an added APPU.

(*2*) All the emission points in an affected source that becomes a new affected source.

(*3*) All the added or created emission points resulting from a process change.

(ii) If the owner or operator wishes to request approval to use alternative monitoring parameters, alternative continuous monitoring or recordkeeping, alternative controls, engineering assessment to estimate organic HAP emissions from a batch emissions episode, or wishes to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(1)(ii) or (ii), a Precompliance Report shall be submitted no later than 180 days prior to the appropriate compliance date.

(6) The information specified in paragraphs (h)(6)(i) and (ii) of this section shall be submitted when a small control device becomes a large control device, as specified in § 63.1413(a)(1)(ii).

(i) Notification that a small control device has become a large control device and the site-specific test plan shall be submitted within 60 days of the date the small control device becomes a large control device. The site-specific test plan shall include the information specified in paragraph (h)(2) of this section. Approval of the site-specific test plan shall follow paragraph (h)(2) of this section.

(ii) Results of the performance test required by § 63.1413(a)(1)(ii) shall be submitted within 150 days of the date the small control device becomes a large control device.

(7) Whenever a continuous process vent becomes subject to control requirements under 40 CFR part 63, subpart SS, as a result of a process change, the owner or operator shall submit a report within 60 days after the performance test or applicability assessment, whichever is sooner. The report may be submitted as part of the next Periodic Report required by paragraph (f) of this section.

(i) The report shall include the following information:

(A) A description of the process change;

(B) The results of the recalculation of the organic HAP concentration, volumetric flow rate, and or TRE index value required under § 63.1412 and recorded under § 63.1416(f).

(C) A statement that the owner or operator will comply with the requirements specified in § 63.1405.

(ii) If a performance test is required as a result of a process change, the owner or operator shall specify that the performance test has become necessary due to a process change. This specification shall be made in the performance test notification to the Administrator, as specified in paragraph (h)(3) of this section.

(iii) If a process change does not result in additional applicable requirements, then the owner or operator shall include a statement documenting this in the next Periodic Report required by paragraph (f) of this section.

(i) *Operating permit application.* An owner or operator who submits an operating permit application instead of a Precompliance Report shall submit the information specified in paragraph (d) of this section, Precompliance Report, as applicable.

(j) *Alternative monitoring parameters.* The owner or operator who has been directed by any section of this subpart or any section of another subpart referenced by this subpart that expressly referenced this paragraph (j) to set unique monitoring parameters, or who requests approval to monitor a different parameter than those specified in § 63.1415(b), shall submit the information specified in paragraphs (j)(1) through (3) of this section in the Precompliance Report, as required by paragraph (d) 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 control technology is operated in conformance with its design and achieves the specified emission limit or percent reduction 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) 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 reporting 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 (j)(3)(i) or (ii) of this section is 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.

(k) *Alternative continuous monitoring.* An owner or operator choosing not to implement the monitoring provisions specified in § 63.1415 for storage vessels, continuous process vents, batch process vents, or aggregate batch vent streams may instead request approval to use alternative continuous monitoring provisions according to the procedures specified in paragraphs (k)(1) through (4) of this section. Requests shall be submitted in the Precompliance Report as specified in paragraph (d)(4) of this section if not already included in the operating permit application and shall contain the information specified in paragraphs (k)(2)(i) and (ii) of this section, as applicable.

(1) The provisions in § 63.8(f)(5)(i) 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 (k)(2)(i) and (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 or recovery device operating conditions, considering typical variability of the specific process and control or recovery 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 records all values that meet set criteria for variation from previously recorded values, in accordance with paragraphs (k)(3)(i) and (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 process vents, calculate hourly average 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, batch cycle daily average, or block average values of the monitored operating parameter based on all measured data; and

(F) If the daily average is not a deviation, as defined in § 63.1413(h), from the operating parameter, 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 (k)(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).

§ 63.1418 [Reserved]

§ 63.1419 Delegation of authority.

(a) This regulation can be administered by the US EPA, or a delegated authority such as a State, local, or tribal agency. If the US EPA Administrator has delegated this regulation to a State, local, or tribal agency, then that agency has the authority to administer and enforce this regulation. To find out if this regulation is delegated to a State, local, or tribal agency, contact the appropriate EPA Regional Office.

(b) In delegating implementation and enforcement authority of this regulation to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of US EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as follows.

(1) Approval of alternatives to the non-opacity emission standards in § 63.1403 through § 63.1410; § 63.1022 through § 63.1034, § 63.1062, § 63.1063(a) and (b), and § 63.1064 under § 63.6(h)(9).

(2) Approval of major alternatives to test methods under § 63.997 and § 63.1414 as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.996 and § 63.1415 as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.998, § 63.999, § 63.1038, § 63.1039, § 63.1065, § 63.1066, § 63.1416, and § 63.1417 as defined in § 63.90 of this chapter.

TABLE 1 TO SUBPART OOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES

Reference	Applies to subpart OOO	Explanation
63.1(a)(1)	Yes	§ 63.1402 specifies definitions in addition to or that supersede definitions in § 63.2.
63.1(a)(2)	Yes.	
63.1(a)(3)	Yes	§ 63.1401(i) identifies those standards which overlap with the requirements of subpart OOO of this part and specify how compliance shall be achieved.
63.1(a)(4)	Yes	Subpart OOO (this table) specifies the applicability of each paragraph in subpart A of this part.
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)	Yes.	
63.1(a)(11)	Yes.	
63.1(a)(12)–63.1(a)(14)	Yes.	
63.1(b)(1)	No.	
63.1(b)(2)	Yes.	
63.1(b)(3)	No	§ 63.1400(e) provides documentation requirements for APPUs not considered affected sources.
63.1(c)(1)	Yes	Subpart OOO (this table) specifies the applicability of each paragraph in subpart A of this part.
63.1(c)(2)	No	Area sources are not subject to this subpart.
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	§ 63.1402 specifies the definitions from subpart A of this part that apply to this subpart.
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)(1)	Yes	Except the terms "source" and "stationary source" should be interpreted as having the same meaning as "affected source."
63.5(a)(2)	Yes.	
63.5(b)(1)	Yes	Except § 63.1400(d) specifies when construction or reconstruction is subject to new source standards.
63.5(b)(2)	No	[Reserved].
63.5(b)(3)	Yes.	
63.5(b)(4)	Yes	Except that the Initial Notification and § 63.9(b) requirements do not apply.
63.5(b)(5)	Yes.	
63.5(b)(6)	Yes	Except that § 63.1400(d) specifies when construction or reconstruction is subject to new source standards.
63.5(c)	No	[Reserved].
63.5(d)(1)(i)	Yes	Except that the references to the Initial Notification and § 63.9(b)(5) do not apply.
63.5(d)(1)(ii)	Yes	Except that § 63.5(d)(1)(ii)(H) does not apply.
63.5(d)(1)(iii)	No	§ 63.1417(e) specifies Notification of Compliance Status requirements.
63.5(d)(2)	No.	
63.5(d)(3)	Yes	Except § 63.5(d)(3)(ii) does not apply, and equipment leaks subject to § 63.1410 are exempt.
63.5(d)(4)	Yes.	
63.5(e)	Yes.	
63.5(f)(1)	Yes.	
63.5(f)(2)	Yes	Except that where § 63.9(b)(2) is referred to, the owner or operator need not comply.
63.6(a)	Yes.	
63.6(b)(1)	Yes.	
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)	No.	
63.6(c)(1)	Yes	Except that § 63.1401 specifies the compliance date.
63.6(c)(2)	No.	
63.6(c)(3)	No	[Reserved].
63.6(c)(4)	No	[Reserved].

TABLE 1 TO SUBPART OOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES—Continued

Reference	Applies to subpart OOO	Explanation
63.6(c)(5)	Yes.	
63.6(d)	No	[Reserved].
63.6(e)	Yes	Except as otherwise specified in this table, §63.6(e) does not apply to emission points that do not require control under this subpart.[a]
63.6(e)(1)(i)	No	This is addressed by §63.1400(k)(4).
63.6(e)(1)(ii)	Yes.	
63.6(e)(1)(iii)	Yes.	
63.6(e)(2)	Yes.	
63.6(e)(3)(i)	Yes	For equipment leaks (subject to §63.1410), the start-up, shutdown, and malfunction plan requirement of §63.6(e)(3)(i) is limited to control devices and is optional for other equipment. The start-up, shutdown, malfunction plan may include written procedures that identify conditions that justify a delay of repair.
63.6(e)(3)(i)(A)	No	This is addressed by §63.1400(k)(4).
63.6(e)(3)(i)(B)	Yes.	
63.6(e)(3)(i)(C)	Yes.	
63.6(e)(3)(ii)	Yes.	
63.6(e)(3)(iii)	No	Recordkeeping and reporting are specified in §§63.1416 and 63.1417.
63.6(e)(3)(iv)	No	Recordkeeping and reporting are specified in §§63.1416 and 63.1417.
63.6(e)(3)(v)	Yes.	
63.6(e)(3)(vi)	Yes.	
63.6(e)(3)(vii)	Yes.	
63.6(e)(3)(vii) (A)	Yes.	
63.6(e)(3)(vii) (B)	Yes	Except the plan shall provide for operation in compliance with §63.1400(k)(4).
63.6(e)(3)(vii) (C)	Yes.	
63.6(e)(3)(viii)	Yes.	
63.6(f)(1)	Yes.	
63.6(f)(2)	Yes	Except §63.7(c), as referred to in §63.6(f)(2)(iii)(D), does not apply, and except that §63.6(f)(2)(ii) does not apply to equipment leaks subject to §63.1410.
63.6(f)(3)	Yes.	
63.6(g)	Yes.	
63.6(h)	No	This subpart OOO does not require opacity and visible emission standards.
63.6(i)(1)	Yes.	
63.6(i)(2)	Yes.	
63.6(i)(3)	Yes.	
63.6(i)(4)(i)(A)	Yes.	
63.6(i)(4)(i)(B)	No	Dates are specified in §§63.1401(e) and 63.1417(d)(1).
63.6(i)(4)(ii)	No.	
63.6(i)(5)–(14)	Yes.	
63.6(i)(15)	No	[Reserved].
63.6(i)(16)	Yes.	
63.6(j)	Yes.	
63.7(a)(1)	Yes.	
63.7(a)(2)	No	§63.1417(e) specifies the submittal dates of performance test results for all emission points except equipment leaks; for equipment leaks, compliance demonstration results are reported in the Periodic Reports.
63.7(a)(3)	Yes.	
63.7(b)	No	§63.1417 specifies notification requirements.
63.7(c)	No.	
63.7(d)	Yes.	
63.7(e)(1)	Yes	Except that all performance tests shall be conducted at maximum representative operating conditions achievable at the time without disruption of operations or damage to equipment.
63.7(e)(2)	Yes.	
63.7(e)(3)	No	Subpart OOO specifies requirements.
63.7(e)(4)	Yes.	
63.7(f)	Yes	Except that if a site specific test plan is not required, the notification deadline in §63.7(f)(2)(i) shall be 60 days prior to the performance test, and in §63.7(f)(3), approval or disapproval of the alternative test method shall not be tied to the site specific test plan.
63.7(g)	Yes	Except that the requirements in §63.1417(e) shall apply instead of the references to the Notification of Compliance Status report in §63.9(h). In addition, equipment leaks subject to §63.1410 are not required to conduct performance tests.
63.7(h)	Yes	Except §63.7(h)(4)(ii) may not be applicable, if the site-specific test plan in §63.7(c)(2) is not required.
63.8(a)(1)	Yes.	
63.8(a)(2)	No.	

TABLE 1 TO SUBPART OOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES—Continued

Reference	Applies to subpart OOO	Explanation
63.8(a)(3)	No	[Reserved].
63.8(a)(4)	Yes.	
63.8(b)(1)	Yes.	
63.8(b)(2)	No	Subpart OOO specifies locations to conduct monitoring.
63.8(b)(3)	Yes.	
63.8(c)(1)	Yes.	
63.8(c)(1)(i)	Yes.	
63.8(c)(1)(ii)	No	For all emission points except equipment leaks, comply with §63.1416(b)(2); for equipment leaks, comply with requirements in 40 CFR part 63, subpart UU.
63.8(c)(1)(iii)	Yes.	
63.8(c)(2)	Yes.	
63.8(c)(3)	Yes.	
63.8(c)(4)	No	§63.1415 specifies monitoring frequency; not applicable to equipment leaks because §63.1410 does not require continuous monitoring systems.
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 §63.1417 (j) or (k); not applicable to equipment leaks because §63.1410 (through reference to 40 CFR part 63, subpart UU) specifies acceptable alternative methods.
63.8(f)(4)(ii)	No	Contents of request are specified in §63.1417(j) or (k).
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 OOO does not require continuous emission monitors.
63.8(g)	No	Data reduction procedures specified in §63.1416(a) and (h); not applicable to equipment leaks.
63.9(a)	Yes.	
63.9(b)	No	Subpart OOO does not require an initial notification.
63.9(c)	Yes.	
63.9(d)	Yes.	
63.9(e)	No	§63.1417 specifies notification deadlines.
63.9(f)	No	Subpart OOO does not require opacity and visible emission standards.
63.9(g)	No.	
63.9(h)	No	§63.1417(e) specifies Notification of Compliance Status requirements.
63.9(i)	Yes.	
63.9(j)	No.	
63.10(a)	Yes.	
63.10(b)(1)	No	§63.1416(a) specifies record retention requirements.
63.10(b)(2)	No	Subpart OOO specifies recordkeeping requirements.
63.10(b)(3)	No	§63.1400(e) requires documentation of sources that are not affected sources.
63.10(c)	No	§63.1416 specifies recordkeeping requirements.
63.10(d)(1)	Yes.	
63.10(d)(2)	No	§63.1417 specifies performance test reporting requirements; not applicable to equipment leaks.
63.10(d)(3)	No	Subpart OOO 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) may be submitted at the same time as Periodic Reports specified in §63.1417(f). The start-up, shutdown, and malfunction plan, and any records or reports of start-up, shutdown, and malfunction do not apply to emission points that do not require control under this subpart.
63.10(e)	No	§63.1417 specifies reporting requirements.
63.10(f)	Yes.	
63.11	Yes	Except that instead of §63.11(b), §63.1413(g) shall apply.
63.12	Yes.	
63.13–63.15	Yes.	

[a] The plan and any records or reports of start-up, shutdown, and malfunction do not apply to emission points that do not require control under this subpart.

TABLE 2 TO SUBPART OOO OF PART 63—KNOWN ORGANIC HAZARDOUS AIR POLLUTANTS (HAP) FROM THE MANUFACTURE OF AMINO/PHENOLIC RESINS

Organic HAP	CAS Number	Organic HAP subject to cooling tower monitoring requirements in § 63.1409 (Yes/No)	
		Column A	Column B
Acrylamide	79–06–1	No	No
Aniline	62–53–3	Yes	No
Biphenyl	92–52–4	Yes	Yes
Cresol and cresylic acid (mixed)	1319–77–3	Yes	No
Cresol and cresylic acid (m-)	108–39–4	Yes	No
Cresol and cresylic acid (o-)	95–48–7	Yes	No
Cresol and cresylic acid (p-)	106–44–5	Yes	No
Diethanolamine	111–42–2	No	No
Dimethylformamide	68–12–2	No	No
Ethylbenzene	100–41–4	Yes	Yes
Ethylene glycol	107–21–1	No	No
Formaldehyde	50–00–0	Yes	No
Glycol ethers	0	No	No
Methanol	67–56–1	Yes	Yes
Methyl ethyl ketone	78–93–3	Yes	Yes
Methyl isobutyl ketone	108–10–1	Yes	Yes
Naphthalene	91–20–3	Yes	Yes
Phenol	108–95–2	Yes	No
Styrene	100–42–5	Yes	Yes
Toluene	108–88–3	No	Yes
Xylenes (NOS)	1330–20–7	Yes	Yes
Xylene (m-)	108–38–3	Yes	Yes
Xylene (o-)	95–47–6	Yes	Yes
Xylene (p-)	106–42–3	Yes	Yes

CAS No. = Chemical Abstract Registry Number.

TABLE 3 TO SUBPART OOO OF PART 63—BATCH PROCESS VENT MONITORING REQUIREMENTS

Control device	Parameters to be monitored	Frequency/recordkeeping requirements
Scrubber[a]	pH of scrubber effluent, and	Continuous records as specified in § 63.1416(d).[b]
	Scrubber liquid and gas flow rates	Continuous records as specified in § 63.1416(d).[b]
Absorber[a]	Exit temperature of the absorbing liquid, and	Continuous records as specified in § 63.1416(d).[b]
	Exit specific gravity for the absorbing liquid	Continuous records as specified in § 63.1416(d).[b]
Condenser[a]	Exit (product side) temperature	Continuous records as specified in § 63.1416(d).[a]
Carbon adsorber[a]	Total regeneration steam flow or nitrogen flow, or pressure (gauge or absolute) during carbon bed regeneration cycle(s), and.	Record the total regeneration steam flow or nitrogen flow, or pressure for each carbon bed regeneration cycle.
	Temperature of the carbon bed after regeneration and within 15 minutes of completing any cooling cycle(s).	Record the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s).
Thermal incinerator	Firebox temperature[c]	Continuous records as specified in § 63.1416(d).[b]
Catalytic incinerator	Temperature upstream and downstream of the catalyst bed.	Continuous records as specified in § 63.1416(d).[b]
Boiler or process heater with a design heat input capacity less than 44 megawatts and where the batch process vents or aggregate batch vent streams are not introduced with or used as the primary fuel.	Firebox temperature[c]	Continuous records as specified in § 63.1416(d).[b]
Flare	Presence of a flame at the pilot light	Hourly records of whether the monitor was continuously operating during batch emission episodes, or portions thereof, selected for control and whether a flame was continuously present at the pilot light during said periods.

TABLE 3 TO SUBPART OOO OF PART 63—BATCH PROCESS VENT MONITORING REQUIREMENTS—Continued

Control device	Parameters to be monitored	Frequency/recordkeeping requirements
All control devices	Diversion to the atmosphere from the control device or.	Hourly records of whether the flow indicator was operating during batch emission episodes, or portions thereof, selected for control and whether a diversion was detected at any time during said periods as specified in §63.1416(d).
	Monthly inspections of sealed valves	Records that monthly inspections were performed as specified in §63.1416(d).
Scrubber, absorber, condenser, and carbon adsorber (as an alternative to the requirements previously presented in this table).	Concentration level or reading indicated by an organic monitoring device at the outlet of the control device.	Continuous records as specified in §63.1416(d).[b]

[a] Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table.
[b] "Continuous records" is defined in §63.111.
[c] Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.

TABLE 4 TO SUBPART OOO OF PART 63—OPERATING PARAMETER LEVELS

Device	Parameters to be monitored	Established operating parameter(s)
Scrubber	pH of scrubber effluent; and scrubber liquid and gas flow rates.	Minimum pH; and minimum liquid/gas ratio.
Absorber	Exit temperature of the absorbing liquid; and exit specific gravity of the absorbing liquid.	Maximum temperature; and maximum specific gravity.
Condenser	Exit temperature	Maximum temperature.
Carbon absorber	Total regeneration steam or nitrogen flow, or pressure (gauge or absolute)[a] during carbon bed regeneration cycle; and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)).	Maximum flow or pressure; and maximum temperature.
Thermal incinerator	Firebox temperature	Minimum temperature.
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.
Other devices (or as an alternate to the requirements previously presented in this table)[b].	Organic HAP concentration level or reading at outlet of device.	Maximum organic HAP concentration or reading.

[a] 25 to 50 mm (absolute) is a common pressure level obtained by pressure swing absorbers.
[b] Concentration is measured instead of an operating parameter.

TABLE 5 TO SUBPART OOO OF PART 63—REPORTS REQUIRED BY THIS SUBPART

Reference	Description of report	Due date
§63.1400(j) and Subpart A of this part.	Refer to Table 1 and Subpart A of this part.	Refer to Subpart A of this part.
63.1417(d)	Precompliance Report	Existing affected sources—12 months prior to the compliance date. New affected sources—with application for approval of construction or reconstruction.
63.1417(e)	Notification of Compliance Status	Within 150 days after the compliance date.
63.1417(f)	Periodic Reports	Semiannually, no later than 60 days after the end of each 6-month period. See §63.1417(f)(1) for the due date for the first report.
63.1417(f)(12)	Quarterly reports upon request of the administrator.	No later than 60 days after the end of each quarter.
63.1417(g)	Start-up, shutdown, and malfunction reports.	Semiannually (same schedule as Periodic reports).
63.1417(h)(1)	Notification of storage vessel inspection.	As specified in 40 CFR part 63, subpart WW.
63.1417(h)(2)	Site-specific test plan	90 days prior to planned date of test.
63.1417(h)(3)	Notification of planned performance test.	30 days prior to planned date of test.
63.1417(h)(4)	Notification of change in primary product.	As specified in §63.1400 (g)(7) or (g)(8).
63.1417(h)(5)	Notification of added emission points.	180 days prior to the appropriate compliance date.

TABLE 5 TO SUBPART OOO OF PART 63—REPORTS REQUIRED BY THIS SUBPART—Continued

Reference	Description of report	Due date
63.1417(h)(6)	Notification that a small control device has been redesignated as a large control device.	Within 60 days of the redesignation of control device size.
63.1417(h)(7)	Notification of process change	Within 60 days after performance test or applicability assessment, whichever is sooner.

[a] Note that the APPU remains subject to this subpart until the notification under § 63.1400(g)(7) is made.

TABLE 6 to Subpart OOO of Part 63—Coefficients for Total Resource Effectiveness [a]

Control device basis	Values of coefficients		
	A	B	C
Flare	5.276×10^{-1}	9.98×10^{-2}	2.096×10^{-3}
Thermal Incinerator 0 Percent Recovery	4.068×10^{-1}	1.71×10^{-2}	8.664×10^{-3}
Thermal Incinerator 70 Percent Recovery	6.868×10^{-1}	3.21×10^{-3}	3.546×10^{-3}

[a] Use according to procedures outlined in this section.
MJ/scm = MegaJoules per standard cubic meter.
scm/min = Standard cubic meters per minute.

[FR Doc. 00–1 Filed 1–19–00; 8:45 am]
BILLING CODE 6560–50–P

Federal Register

Thursday,
January 20, 2000

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 86
National Boating Infrastructure Grant Program; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 86

RIN 1018–AF38

National Boating Infrastructure Grant Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and information collection.

SUMMARY: This proposed regulation provides for the uniform administration of the National Boating Infrastructure Grant Program and survey authorized by section 7404 of the Sportfishing and Boating Safety Act of 1998. The Program will fund States to install or upgrade transient tie-up facilities for recreational boats 26 feet or more in length. This proposed regulation also contains the proposed information collection the U.S. Fish and Wildlife Service (referred to as "we" or "us" from now on) must submit to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act.

DATES: The public must submit comments on or before March 20, 2000 to comment on the grant program.

For the information collection requirements, all comments are due on or before February 22, 2000.

We will accept proposals between May 30, 2000, and November 3, 2000, for the first grant cycle; subsequent grant cycles are announced later in this document.

ADDRESSES: If you wish to comment, you may submit your comments by mail, via fax, or via Email.

1. Submitting comments on the grant program: Mail: Please mail comments on the proposed regulation to Ms. Iesha Fields, Division of Federal Aid, Fish and Wildlife Service, U.S. Department of the Interior, Room 140, 4401 North Fairfax Drive, Arlington, Virginia 22203, or you may hand-deliver comments to the address above. Fax: You may fax comments to: Iesha Fields, Division of Federal Aid, (703) 358–1837. Email: Please submit Email comments to (iesha_fields@fws.gov) as an ASCII file to avoid the use of special characters and any form of encryption. Please also include the following: "Attention: 1018–AF38" and your name and return address in your Email message. If you do not receive a confirmation from the system that we have received your Email message, contact us directly at (703) 358–2435.

2. Submitting comments on the information collection requirements: Mail: The public must make comments and suggestions directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW, Washington, DC 20503. Please also send a copy of your suggestions to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, Room 222, 4401 North Fairfax Drive, Arlington, Virginia 22203. You may hand-deliver your comments to these same addresses.

FOR FURTHER INFORMATION CONTACT: Iesha Fields, Division of Federal Aid, telephone (703) 358–2435; fax (703) 358–1837; email (iesha_fields@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

What is the economic status of boating in the United States?

Historically, coastal and inland waterways were the first "highways" along our shores and into the interior of the continent. In the past, Americans used boats almost exclusively for transportation of people and goods. Americans today use more than 12 million recreational boats to cruise and go fishing. Recreational boating is now a significant economic activity in many areas of the country and in many respects exceeds that of waterborne commerce. Given the present demographic forces, we expect a positive economic impact by adding facilities to accommodate larger cruising boats.

Why did Congress enact the Boating Infrastructure grant program?

Recreational boats 26 feet or more in length, called 'non-trailerable' boats, represent about 4 percent, or more than 600,000, of the recreational boats in the United States. Although we have approximately 12,000 marinas in the United States, Congress recognized that we have insufficient tie-up facilities for transient boats 26 feet or more in length for reasonable and convenient access from our navigable waters. These boaters are unable to enjoy many recreational, cultural, historic, scenic, and natural resources of the United States. We also have no marinas or commercial tie-up facilities along extended stretches of our coastlines and rivers. In many parts of the country, the number of places to tie-up, moor, or anchor a cruising boat, especially during a storm, is limited. Basic features, such as tie-ups, fuel, utilities, and restrooms, are nonexistent.

What does the Boating Infrastructure Grant Program entail?

The Program provides $32 million to States and Territories over four years to install transient tie-up facilities for recreational boats 26 feet or more in length. The Program also allows funding for completing surveys to determine where these facilities are needed.

What kinds of tie-up facilities can I, the State, construct?

The terms "I", "you", "my", and "your" refer to the State in this regulation. The Boating Infrastructure Grant Program provides funds for a wide range of development proposals for the needs of the States. Some projects will be minimal, such as mooring buoys in sensitive areas. Other projects, such as those at full-service marinas, will provide docking, utilities, and restrooms along waterfronts of major cities.

Can I Acquire Land or Easements?

Shoreline land can be expensive. We therefore discourage the purchase or lease of land or easements for tie-up facilities, unless absolutely necessary. Acquire or lease land only when you expect significant project benefits.

What Will This Program Do?

This program will:

(a) Include transient dockage for recreational boats 26 feet or more in length for recreational opportunities and safe harbors;

(b) Enhance access to recreational, historic, cultural, natural, and scenic resources;

(c) Strengthen community ties to the water's edge and economic benefits;

(d) Promote public/private partnerships and entrepreneurial opportunities;

(e) Provide continuity of public access to the shore; and

(f) Promote awareness of transient boating opportunities.

What Other Activities Does the Act Authorize?

The Act also directs us to:

(a) Develop a national framework or methodology to conduct a boat access needs assessment or survey;

(b) Fund States to complete the boat access needs survey (The survey is to determine the adequacy of facilities for recreational boats of all sizes); and

(c) Complete a comprehensive national assessment of boat access needs and facilities (The assessment is a compilation of information from the States' surveys into a national report of boat access needs and facilities).

Information Collection Requirements

With What Information Collection Requirements Must the Grant Recipients Comply?

The requirements in this regulation, except surveys, are only those needed to fulfill applicable requirements of 43 CFR part 12; see 43 CFR 12.4 for information concerning those requirements. We submitted the collection of survey information contained in this regulation to the Office of Management and Budget for approval, in compliance with 44 U.S.C. 3501 *et seq.* We may not conduct or sponsor, and OMB does not require a person to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has 60 days in which to respond, but may respond within 30 days; therefore, to ensure that OMB considers your comments, they should receive them within 30 days.

What Information Collection Action is the Service Taking?

We submitted the following information collection requirements to OMB for review and approval under the Paperwork Reduction Act of 1995, 44 USC 3501, *et seq.* This proposed regulation includes a notice of information collection to fund a survey to determine boater access needs. The public can find the information to be collected below in § 86.118. Doing the survey will include collections of information from the public that require approval by OMB.

On What Should the Public Comment?

We invite the public's remarks on:

(a) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(b) The accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information on those who are to respond; and

(d) Ways to minimize the burden of the collection of information on respondents, to include using appropriately automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

Why do the States and the Service Need This Survey?

States should obtain sufficient information to determine what boat access facilities are currently available to the public, and where they need additional facilities. States will use the information to determine the adequacy, number, location, and quality of facilities that provide public access for all sizes of recreational boats. States will also use this information to develop plans for the construction, renovation, and maintenance of facilities. We will use the information the States provide to develop a comprehensive national report of recreational boat access needs and facilities, which the Act requires. We are collecting this information to better evaluate grant proposals. We will use this information to award or deny grants, following criteria established in the Act and its regulations.

Is Information Already Available About Boat Access?

The States Organization for Boating Access (SOBA) is the primary organization that monitors boating access in the United States. This organization says that this information is not generally available. Scoping meetings and telephone and Email inquiries with SOBA and 12 States revealed that the information was not available without the survey. We also consulted with the following: BOAT/US, International Association of Fish and Wildlife Agencies, Marina Operators Association of America, Marine Environmental Education Foundation, Marine Retailers Association of America, National Association of State Boating Law Administrators, National Boating Federation, and National Marine Manufacturers Association of America. To the extent possible, States will use information already available.

However, some information is out of date since some marinas have gone out of business. Some sites are no longer open. New sites have been constructed. Finally, boating use and needs may have changed since any previous survey has been completed. A few States have completed a similar survey. Section 7404(b) of the Act exempts States that have already completed such a survey. We do not anticipate any duplication.

How Will the Service Minimize the Burden on Small Businesses and Small Entities?

Part C of the survey will include all non-State providers of transient facilities. This number will be small. Part D of the survey will include only a subset of small businesses and small entities to minimize the burden to them. These are the minimum number of questions necessary to obtain the information. Information already available will be used to the extent possible. We do not anticipate any significant impacts to small businesses or small entities.

What Happens if the States do not Complete the Survey?

States would not have an adequate basis to identify which boating access facilities are adequate, and where the States need additional facilities. States would not spend awarded funds most efficiently. If information is not available to boaters on facility locations, they will not use the facilities and will waste Federal funds. Section 7404(b) of the Act requires us to develop a comprehensive national report of recreational boat access needs and facilities. Without the survey, we could not complete this requirement.

What is the Hour Burden of the Collection of Information?

We expect the information requested to vary depending upon the type of information requested from a particular respondent. Different respondents may provide one or more types of information. Respondents will usually provide the data verbally. Responses may vary from 10 minutes to 1 hour for completion and submission to the States, depending upon the types of information collected from a particular respondent, with an average of 38 minutes per response. This response time estimate includes time to review instructions, gather and maintain data, and complete and review the forms.

We estimate that States will conduct 39,200 interviews of boat owners for Parts A and B, with averages of 200 per State for Part A and 500 per State for Part B, for 50 States and 6 territories. States will conduct 12,400 interviews of providers for Parts C and D, with averages of 150 per State for Part C and 71 per State for Part D.

We estimate that States will interview 150 providers for Part C (all 56 State/Territory providers plus most Federal/municipal agencies and marinas). We estimate that States will interview 71 providers for Part D (all 56 State/Territory providers plus the few Federal/municipal agencies and marinas). Some boaters will fill out Parts A and B, and most providers will fill out Parts C and D. We therefore estimate that 45,400 different individuals will respond.

We estimate that, for Part A, 8,400 boaters will respond; for Part B, 28,000 boaters will respond; for Part C, 8,000 providers will respond; and for Part D, 1,000 providers will respond. We estimate the response rate to be 70 percent, with States following up with the same number of respondents until

they reach 70 percent. We estimate a total of 15,000 burden hours for the potential 45,400 respondents.

We estimate the cost for information collection is 15,000 burden hours at $20.00 per hour, or $300,000. This amount is $196,000 at 9,800 burden hours for boaters, and $104,000 at 5,200 burden hours for providers. This amount is a one-time cost that States will incur over a 3 year period. Some States will complete the survey the first year, some later.

Type of information	Number of respondents [1]	Average time required per response (minutes)	Annual burden hours
Boat owners: Part A	12,200	15	2,800
Boat owners: Part B	28,000	15	7,000
Boat owners: Part C	8,400	25	3,500
Boat owners: Part D	4,000	25	1,700

[1] These numbers are not additive since some boaters will fill out both Parts A and B, and most of the providers will fill out both Parts C and D.

What is the Total Annual Cost Burden to Respondents or Record-keepers?

The Federal Government will pay 75 percent of the costs of the surveys. The Bureau of Census estimates that telephone surveys cost $25 per interview. At 921 interviews per State, we expect the total cost of each survey to be $23,000. We also obtained estimates from States that have recently completed such a survey, and we determined the cost to be $25,000. If the 56 States and Territories complete surveys, the total cost would be $1,400,000, or $1,050,000 for the Federal Government's portion. If States use mail surveys, the cost would be similar. However, their response rate is lower and, therefore, not as effective. This will be a one-time cost during the 3 year period, either in-house or contracting out costs to generate the information. We estimate that the Federal Government will incur no additional costs for this information collection. States will obtain all the information. We expect no program changes or adjustments.

What are the Environmental Effects of This Regulation and Information Collection?

This regulation and information collection requirement is not a major Federal action significantly affecting the quality of the human environment. In compliance with 516 DM 2, Appendix 1, we have determined that this regulation is categorically excluded from the National Environmental Policy Act process. It is limited to "policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature." The National Environmental Policy Act of 1969 does not require a detailed statement. However, once approved for funding, the States must provide environmental documentation consistent with Federal and State regulations before constructing/renovating tie-up facilities.

What Requirements Must I, the State, Comply With for Other Acts?

When you participate in this national grant program, you must comply with National Environmental Policy Act requirements, Appendix 1 of 516 Department Manual 6, Clean Water Act, Endangered Species Act, Coastal Barriers Resources Act as amended by the Coastal Barrier Improvement Act, Coastal Zone Management Act, and Executive Orders on Floodplains (E.O. 11988), Wetlands (E.O. 11990), historic/cultural resources, prime and unique farmlands, and EPA Marine Guidance 6217 (or replacement).

Our Policy on Comments That We Receive

We will take into consideration public comments and any additional information received during the comment period. Our practice is to make comments, including in most cases names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rule-making record, which we will honor to the extent allowable by law. In limited circumstances we would withhold a respondent's identity from the rule-making record, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses and from individuals who identify themselves as representatives or officials of organizations or businesses available for public inspection completely.

Required Determinations

What are the Effects of This Regulation on Other Acts and Executive Orders?

Regulatory Planning and Review (E.O. 12866)

This document is not a significant regulation subject to Office of Management and Budget review under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. We do not need a cost-benefit and economic analysis. Program funds total $8 million per year for four years, for a total of $32 million. Program funds for surveys total $1,050,000. States must match these amounts with 25 percent or $2 million per year. State match totals $8 million. This $10 million a year for grants would not have an economic effect of $100 million. The program will not negatively affect an economic sector, productivity, jobs, and other units of government. The program will have a positive effect on these factors. We will review all actions for NEPA compliance to protect the environment.

(b) This rule will not create inconsistencies with other agencies' actions. We will give all agencies an opportunity to review the proposed rule. We will require the necessary Federal, State, and local reviews and permits before allowing construction of all facilities. These reviews will ensure that this rule will not create inconsistencies with other agencies' actions.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This grant program does not stipulate any requirements that would affect entitlements, grants, or loan programs. User fees are not mandatory and allow only enough charges to maintain the facility. The

amount of facilities, user fees, or fee charges will not materially affect user fees. The program will not affect the rights of recipients. The program will only obligate the recipient to maintain the facility. All stipulations will be voluntarily accepted prior to awarding funds for facility construction.

(d) This rule will not raise novel legal or policy issues. This program will award funds to States to install facilities for transient non-trailerable boats. This grant program is similar to past Federal Aid grant programs for construction of facilities. No novel legal or policy issues have been or are expected to be raised by this program.

Regulatory Flexibility Act

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Eight million dollars will be available annually for a 4-year period. The effects of these regulations occur to agencies in the States, Puerto Rico, Guam, the Virgin Islands, American Samoa, the District of Columbia, and the Northern Mariana Islands. These are not small entities under the Regulatory Flexibility Act. Some small entities, mainly marina operators, may receive grant funds. The program will place facilities where there are none now, in remote areas where no competition exists, and in populated areas where marinas have not previously installed them. The program will, therefore, minimize competition with private industry. Employment, investment, productivity, and innovation should all increase because the program will construct facilities to attract transient boaters. The result will be to increase spending in the area. U.S.-based enterprises' ability to compete with foreign-based enterprises should not be affected by this rule. The rule does not stipulate any procedures regarding this issue.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This regulation is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, as discussed in the Regulatory Planning and Review and Regulatory Flexibility Act sections above.

Unfunded Mandates Reform Act

This regulation does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This regulation does not have a significant or unique effect on State, local, tribal governments, or the private sector. The rule would establish a grant program that States may participate in voluntarily. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In compliance with Executive Order 12630, this regulation does not have significant takings implications. The rule provides standardized procedures for administering a Federal discretionary grant program.

Federalism Assessment (E.O. 13132)

In compliance with Executive Order 13132, this regulation does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The regulation allows eligible States to make decisions regarding the development and submission of proposed grants for construction renovation, maintenance, or public information and education programs. Therefore, it is consistent with Executive Order 13132.

Civil Justice Reform (E. O. 12988)

In compliance with Executive Order 12988, the Office of the Solicitor has determined that this regulation does not unduly burden the judicial system and meets the requirements of §§ 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

The information collection requirements contained in this regulation, except surveys that are described above, are only those necessary to fulfill applicable requirements of 43 CFR Part 12; see 43 CFR 12.4 for information concerning Office of Management and Budget approval of those requirements. The information collection requirements related to the surveys will not be imposed until OMB approval under the provisions of 44 U.S.C. 3501 *et seq.* For detailed information concerning the surveys refer to the section above titled "INFORMATION COLLECTION REQUIREMENTS".

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this regulation easier to understand, including answers to questions such as the following:

(a) Are the requirements in the regulation clearly stated?

(b) Does the regulation contain technical language or jargon that interferes with its clarity?

(c) Does the format of the regulation (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(d) Would the regulation be easier to understand if we divided it into more (but shorter) sections?

(e) Is the description of the regulation in the "Summary" section of the preamble helpful to understand the regulation?

(f) What else could we do to make the regulation easier to understand?

What intergovernmental review procedures must I as a State follow?

Executive Order 12372 "Intergovernmental Review of Federal Programs" and 43 CFR Part 9 "Intergovernmental Review of Department of the Interior Programs and Activities" applies to the National Boating Infrastructure Grant Program. Under the Order, you may design your own processes to review and comment on proposed Federal assistance under covered programs.

What is my Responsibility as a State if I Participate in the Executive Order Process Having Single Points of Contact?

You should alert your Single Points of Contact (SPOCs) to the prospective applications and receive any necessary instructions to provide material the SPOC requires. You must submit all required materials, if any, to the SPOC and show the date of this submittal (or the date of contact if the SPOC does not require submittal) on the narrative. If you are from a State that chooses to exempt the grants, you need take no action regarding E.O. 12372.

Who is the author of this regulation? Robert D. Pacific, Division of Federal Aid, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 86

Administrative practice and procedure, Boats and boating, Grant programs—recreation, Natural resources, Recreation and recreation areas, and Reporting and recordkeeping requirements.

For the reasons set out in the preamble, we propose to amend Subchapter F of Chapter I, Title 50 of the Code of Federal Regulations, by adding a new part 86 to read as follows.

PART 86—NATIONAL BOATING INFRASTRUCTURE GRANT PROGRAM

Subpart A—General Information About the Grant Program

Sec.

Authority: Title 7, Subtitle D, Pub. L. 105–178, 112 Stat. 482.

Subpart A—General Information About the Grant Program

§ 86.10 What does this part do?

In this part, the terms "I", "you", "my", and "your" refer to the State in this regulation. "We" and "us" refers to the Fish and Wildlife Service. This part establishes your requirements under the Sportfishing and Boating Safety Act of 1998 (Public Law 105–178, Subtitle D, 112 Stat. 482) to:

(a) Participate in the National Boating Infrastructure Grant Program (the program),

(b) Complete your boat access survey, and

(c) Develop State plans to install transient tie-up facilities for boats 26 feet or more in length. In this part:

(1) *Tie-up facilities* mean facilities that transient recreational boats 26 feet or more in length occupy temporarily, not to exceed 10 consecutive days; for example, temporary shelter from a storm; a way station en route to a destination; a mooring feature for fishing; or a dock to visit a recreational, historic, cultural, natural, or scenic site.

(2) *Nontrailerable recreational vessels* mean motorized boats 26 feet or more in length manufactured for and operated primarily for pleasure, including vessels leased, rented, or chartered to another person for his or her pleasure.

§ 86.11 What does the National Boating Infrastructure Grant Program do?

This program provides funds for States to construct, renovate, and maintain tie-up facilities with features for transient boaters in vessels 26 feet or more in length, and to produce and distribute information and educational materials about the system/program.

(a) *Grant* means financial assistance the Federal Government awards to an eligible grantee.

(b) *States* means individual States within the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(c) *Construct* means activities that produce new capital improvements and increase the value or usefulness of existing property. These activities include adding new (presently do not exist), replacing, or expanding tie-up facilities.

(d) *Renovate* means to rehabilitate or repair a tie-up facility to restore it to its original intended purpose, or to expand its purpose to allow transient nontrailerable boats.

(e) *Maintain* means activities necessary to keep up the tie-up facility. These are activities that allow the facility to continue to function, such as repairing docks, etc. These activities exclude routine janitorial activities.

§ 86.12 What is boating infrastructure?

Boating infrastructure refers to features that provide stopover places for transient boats 26 feet or more in length to tie up. These features include, but are not limited to:

(a) Mooring buoys (permanently anchored floats designed to tie up

recreational vessels 26 feet or more in length),

(b) Day-docks (nontrailerable tie-up facilities that do not allow overnight use),

(c) Navigational aids (aids to navigation, such as channel markers, buoys, and directional information),

(d) Seasonal slips (slips for recreational boats 26 feet or more in length that boaters occupy for no more than 10 consecutive days),

(e) Safe harbors (facilities protected from waves, wind, tides, ice, currents, *etc.*, that provide temporary safe anchorage point or harbor of refuge during storms),

(f) Floating and fixed piers,

(g) Floating and fixed breakwaters,

(h) Dinghy docks (floating or fixed platforms that nontrailerable boaters use for a temporary tie-up of their small boats to access the shore),

(i) Restrooms,

(j) Retaining walls,

(k) Bulkheads,

(l) Dockside utilities,

(m) Pumpout stations,

(n) Recycling and trash receptacles,

(o) Electric service,

(p) Water supplies, and

(q) Pay telephones.

§ 86.13 Am I eligible to apply for these grants?

You may apply for these grants if you are an agency of a State, with authority from the State Government to submit application. States must identify one key contact only and must submit proposals through this person.

§ 86.14 How does the grant process work?

To ensure that grants address the highest national priorities identified in the Act, we make funds available on a competitive basis. We will fund the proposals that best meet the funding criteria. You must submit your proposals by a certain date within the annual cycles. You must address certain questions and criteria to be eligible and competitive. We will conduct a panel review of all proposals, and the Service director will make the final awards. You may begin work on your project only after you have signed a grant agreement.

§ 86.15 What are the information collection requirements?

This part contains both routine information collection and survey requirements, as follows:

(a) The routine information collection requirements for grants application and associated record keeping contained in this part are only those necessary to fulfill applicable requirements of 43 CFR Part 12. These requirements include recordkeeping and reporting requirements. See 43 CFR 12.4 for information concerning Office of Management and Budget approval of those requirements.

(b) The information collection requirements related to the surveys have been submitted to OMB for approval. They will not be imposed until OMB approval under the provisions of 44 U.S.C. 3501 *et seq.* The surveys are voluntary and are for States to determine the adequacy, number, location, and quality of facilities that provide public access for all sizes of recreational boats. The public's burden estimate for the surveys is as follows:

Type of information	Number of respondents [1]	Average time required per response (minutes)	Annual burden hours
Boat owners: Part A	12,200	15	2,800
Boat owners: Part B	28,000	15	7,000
Boat owners: Part C	8,400	25	3,500
Boat owners: Part D	4,000	25	1,700

[1] These numbers are not additive since some boaters will fill out both Parts A and B, and most of the providers will fill out both Parts C and D.

(c) Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, ms—224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018—__, Washington, DC 20503.

Subpart B—Funding State Grant Proposals

§ 86.20 What activities are eligible for funding?

Your project is eligible for funding if you propose to:

(a) Construct, renovate, and maintain public and private boating infrastructure tie-up facilities. To be eligible you must:

(1) Build these facilities on navigable waters, available to the public.

(i) *Navigable waters* means waters connected to or part of the jurisdictional waters of the United States that transient boats 26 feet or more in length currently use or can use for recreation;

(ii) *Available* means a transient tie-up facility where the public can reasonably access the facility, located where all boats typical to that facility can easily use it, where the facility provider charges equitable fees, and where open periods are reasonable;

(2) Design them for temporary use for recreational boats 26 feet or more in length. *Temporary use* means short-term use of a tie-up facility for transient vessels, not to exceed 10 consecutive days;

(3) Build them in water deep enough for boats 26 feet or more in length to navigate: A minimum of 6 feet of depth at the lowest tide or other measure of fluctuation;

(4) Provide security, safety, and service for these boats; and,

(5) Install a pumpout station if you construct facilities for overnight stays since keeping sewage out of our waterways is important.

(i) If there is already a pumpout within reasonable distance (generally within 2 miles) of the facility, you may not need one;

(ii) For facilities intended as day stops, we do not require, but encourage, you to install a pumpout; and,

(iii) You may use funds from this grant program, or the Clean Vessel Act pumpout grant program, also administered by this agency, to pay for a pumpout station;

(b) Do one-time dredging only, to give transient vessels safe channel depths between the tie-up facility and maintained channels or open water;

(c) Install navigational aids, limited to giving transient vessels safe passage between the tie-up facility and maintained channels or open water;

(d) Apply funds to grant administration; and,

(e) Fund preliminary costs.

(1) Preliminary costs may include any of the following activities completed prior to signing a grant agreement:

(i) Conducting appraisals;

(ii) Administering environmental reviews and permitting;

(iii) Conducting technical feasibility studies, for example, studies pertaining to environmental, economic, and construction engineering concerns;

(iv) Carrying out site surveys and engaging in site planning;

(v) Preparing cost estimates;

(vi) Preparing working drawings, construction plans, and specifications;

(vii) Inspecting construction; and,

(viii) Construction, including site preparation, materials, equipment rental, and demolition.

(2) We will fund these costs only if we approve the project.

(3) If the project is approved, the appropriate regional director must still approve these costs.

§ 86.21 What activities are ineligible for funding?

Your project is ineligible for funding if you propose to:

(a) Complete a project that does not provide public benefits, for instance, a project that is not open to the public for use.

(b) Involve enforcement activities.

(c) Significantly degrade or destroy valuable natural resources or alter the cultural or historic nature of the area.

(d) Provide structures not expected to last at least 20 years.

(e) Do maintenance dredging.

(f) Fund operations or routine, custodial and janitorial maintenance of the facility.

(g) Construct/renovate/maintain boating infrastructure tie-up facilities for nontransient vessels, for example the following:

(1) Tie-up slips available for occupancy for more than 10 consecutive days by a single party;

(2) Dryland storage;

(3) Haul-out features; and,

(4) Boating features for trailerable or 'car-top' boats (these two terms refer to boats less than 26 feet in length), such as launch ramps and carry-down walkways.

(h) Conduct surveys to determine boating access needs.

(1) You may conduct the survey with funds allocated to motorboat access to recreational waters under subsection (b)(1) of section 8 of the Federal Aid in Sport Fish Restoration Act of 1950, as amended (16 U.S.C. 777).

(2) Our regional offices should encourage States to combine surveys under one contractor where feasible if these States can realize a cost or other savings.

(i) Develop a State program plan to construct, renovate, and maintain boating infrastructure tie-up facilities. "State program plan" means a plan to identify existing tie-up facilities and features; needed construction, renovation, and maintenance; and access to facilities.

Subpart C—Public Use of the Facility

§ 86.30 Must I allow the public to use the grant-funded facilities?

(a) You must allow reasonable access to all recreational vessels for the useful life of the tie-up facilities. You must allow public access to the shore and basic features such as fuel and restrooms when they are available. You must specify precise details in the contract with the facility manager. We do not require public access to the remainder of a park or marina where the facility is found. Nor do we require any further restrictions in that park or marina.

(b) You must comply with American Disabilities Act requirements when you construct or renovate all transient recreational vessel tie-up facilities under this grant.

§ 86.31 How much money may I charge the public to use tie-up facilities?

You may charge the public only a reasonable fee, based on the prevailing rate in the area. You must determine a fee that does not pose an unreasonable competitive amount, based on other public and private tie-up facilities in the area. You must approve any proposed changes in fee structure by a sub-grantee.

Subpart D—Funding Availability

§ 86.40 How much money is available for grants?

This program is authorized $32 million for 4 years.

§ 86.41 How long will the money be available?

The program begins in Fiscal Year 2000 and ends in Fiscal Year 2003. Funds are available for obligation to the States for 3 years.

§ 86.42 What are the match requirements?

The Act authorizes the Director of the U.S. Fish and Wildlife Service (Service) to award grants to States to pay up to 75 percent of the cost to construct, renovate, or maintain tie-up facilities for transient boats more than 26 feet in length. You or a partner must pay the remaining 25 percent match. Title 43 CFR 12.64 applies to cost sharing or matching requirements. Property is eligible for a State match.

§ 86.43 May someone else supply the match?

Third party, in-kind contributions, including property, is allowable, but must be necessary and reasonable to accomplish grant objectives. In-kind contributions must also represent the current market value of noncash contributions that the third party furnishes as part of the grant.

§ 86.44 What are my allowable costs?

(a) You may spend only funds that are necessary and reasonable to accomplish the approved grant objectives. Grant costs must meet the applicable Federal cost principles in 43 CFR 12.60(b). You may purchase informational and program signs as allowable costs.

(b) If you include purposes other than those eligible under the Act, we will prorate the costs equitably among the various purposes. You may use grant funds only for the part of the activity related to the Sportfishing and Boating Safety Act.

§ 86.45 When will I receive the funds?

Once you sign the grant agreement, the funds will be made available.

Subpart E—How States Apply for Grants

§ 86.50 Who may apply?

(a) Only States may apply for grants under this program.

(b) You must identify one agency contact per State and submit proposals through this contact. Typically the contact is a division of the Department of Natural Resources or similar environmental department.

§ 86.51 When must I apply?

(a) We will accept proposals between May 30, 2000, and November 3, 2000, for the first grant cycle; between February 1, 2001, and May 1, 2001, for the second grant cycle; and, between February 1, 2002, and May 1, 2002, for the third grant cycle. This program starts Fiscal Year 2000 and ends Fiscal Year 2003. Fiscal Year 2000 begins on October 1, 1999. We will have $16 million to award the first year, and $8 million each year after that.

(b) The annual schedule follows:

Schedule	FY 2000–2001	FY 2002	FY 2003
We announce the grant cycle by	May 30, 2000	February 1, 2001	February 1, 2002.
You submit your grant proposal by	November 3, 2000	May 1, 2001	May 1, 2002.
Regions submit the proposals to Washington by.	December 3, 2000	July 1, 2001	July 1, 2002.
We rank the proposals by	January 3, 2001	August 1, 2001	August 1, 2002.
The Director approves proposals by	January 13, 2001	August 10, 2001	August 10, 2002.
Regions finalize their grant agreements by	February 13, 2001	October 1, 2001	October 1, 2002.

§ 86.52 To whom must I apply?

You must submit your proposals to the appropriate regional office of the U.S. Fish and Wildlife Service. See the chart below for the address you will need.

Region	States	Address	Telephone
1	American Samoa, California, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.	Division of Federal Aid, U.S. Fish & Wildlife Service, Eastside Federal Complex, 911 NE 11th Avenue, Portland, OR 97232–4181.	503–231–6128
2	Arizona, New Mexico, Oklahoma, and Texas	Division of Federal Aid, U.S. Fish & Wildlife Service, P.O. Box 1306, 500 Gold Avenue, SW, Albuquerque, NM 87103.	505–248–7465
3	Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.	Division of Federal Aid, U.S. Fish & Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111–4056.	612–713–5138
4	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands.	Division of Federal Aid, U.S. Fish & Wildlife Service, 1875 Century Boulevard, Suite 240, Atlanta, Georgia 30345.	404–679–7113
5	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.	Division of Federal Aid, U.S. Fish & Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589.	413–253–8406
6	Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.	Division of Federal Aid, U.S. Fish & Wildlife Service, P.O. Box 25486, Denver, Colorado 80225.	303–236–8155
7	Alaska	Division of Federal Aid, U.S. Fish & Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.	907–786–3322

§ 86.53 What information must I include in my grant proposals?

You must submit a narrative that identifies and describes the following:

(a) Needs within the purposes of the Act (if you have an approved program plan, you must show how the activities in your proposal support the State program plan).

(b) Discrete objective(s) you will accomplish during a specified time.

(c) Expected results or benefits from accomplishing the objectives, including the numbers of recreational vessels and people the proposed facility will serve.

(d) The approach you will use to meet the objectives.

(e) Amount and source of matching funds.

(f) Estimated schedule of fees for use of the facility.

(g) A summary of how the proposal meets each criterion. And,

(h) The approach you will use to meet the objectives include the following:

(1) Specific procedures.

(2) Schedules.

(3) Key personnel and cooperators.

(4) Grant location.

(5) Innovative approaches.

(i) "Innovative" means unique approaches, combinations of unique and proven or traditional approaches, or creative combinations of proven or traditional approaches that synergistically increase the availability of tie-up facilities beyond what we would expect;

(ii) Innovative approaches include education/information programs, brochures, cruising guides, and charts.

(6) Public/private partnerships (partnerships between State agencies, between States and municipalities, or between States and private groups, individuals, or businesses).

(7) Education. "Education" means providing information to transient boaters about:

(i) The boating infrastructure grant program;

(ii) The location of transient nontrailerable tie-up facilities;

(iii) Costs to use these facilities;

(iv) Safety and environmental awareness; and

(v) Services available at these facilities.

(8) Public access.

(9) Estimated costs.

§ 86.54 What are funding tiers?

(a) This grant program will consist of two tiers of funding.

(b) You may apply for one or both.

(c) Two tiers will allow all States some certainty of base level.

(d) Tier One funding will ensure broad geographical distribution to meet the needs of boats 26 feet or more in length.

(e) Tier Two funding will allow States with large projects to compete with other States with large projects based on individual project merits.

(f) We describe the two tiers as follows:

(1) *Tier One Projects.*

(i) You may submit a grant with an unlimited number of projects within this tier. However, your request cannot exceed $100,000 of Federal funds;

(ii) We will use one score for all Tier One projects, using the criteria in § 86.60;

(iii) Tier One projects that receive a minimum score of 60 points will automatically receive funds if they comply with the Federal Aid in Sport Fish Restoration (SFR) Program and other Federal requirements; and

(iv) If Tier One projects do not receive the required points, we will include the projects in Tier Two.

(2) *Tier Two Projects.*

(i) There is no dollar limit for Tier Two, and you may submit any number of projects, which we will score and rank separately; and

(ii) Each project will compete nationally against every other project in Tier Two.

§ 86.55 How must I submit proposals?

(a) You may apply for either Tier One or Tier Two or both.

(b) You may submit more than one project within Tier One and Tier Two.

(c) You may submit one grant proposal that includes Tier One and Tier Two projects.

(d) If you submit Tier One and Tier Two projects you must describe Tier One projects separately from Tier Two projects.

(e) You must describe each project in Tier Two separately, so that we can rank and score each project in Tier Two separately.

(f) For the first grant cycle, which includes $16,000,000, you may submit two sets of Tier One projects, each for the $100,000 limit. If both projects meet the threshold criteria, we will fund them both, one with FY 2000 funds, and the second one with FY 2001 funds.

(g) For the remaining grant cycles, you must submit only one set of Tier One projects.

(h) When we approve projects, our regional office will determine how many grant agreements are necessary.

§ 86.56 What are my compliance requirements with Federal laws, regulations, and policies?

(a) To receive Federal funds, you must agree to and certify compliance with all applicable Federal laws, regulations, and policies. You must submit an assurances statement that describes how you comply with Federal grant requirements. And,

(b) You may have to provide additional documentation to comply with environmental and other laws, as defined in Fish and Wildlife Service Manual 523 FW 1. The regional office grant administrator may request preliminary evidence at the grant proposal stage that the proposed project will meet these compliance requirements. Consult with regional offices for specific applicability.

Subpart F—How the Service Selects Grants

§ 86.60 What are the criteria used to select grants?

(a) We will rank all proposals according to the criteria in paragraph (b) of this section.

(b) We will consider proposals that:

(1) Are to construct and renovate tie-up facilities for transient recreational boats 26 feet or more in length following your State's program plan that we have approved under section 7404(c) of the Sportfishing and Boating Safety Act—15 points.

(2) Provide for public/private and public/public partnership efforts to develop, renovate, and maintain tie-up facilities. These partners must be other than the Service and lead State agency.

(i) One partner—5 points.

(ii) Two partners—10 points.

(iii) Three or more partners—15 points.

(3) Use innovative techniques to increase the availability of tie-up facilities for transient vessels 26 feet or more in length (includes education/information)—0–15 points.

(4) Include private, local, or other State funds besides the 25 percent State match, described in § 86.40.

(i) Thirty-five percent above—5 points.

(ii) Between thirty-six and forty-nine percent above—10 points.

(iii) Fifty percent above—15 points.

(5) Are cost efficient. Proposals are cost efficient when the tie-up facility or access site's features add a high value compared with the funds from the proposal. For example, where you construct a small feature such as a transient mooring dock within an existing harbor that adds high value and opportunity to existing features (restrooms, utilities, *etc.*). A proposal that requires installing all of the above features would add less value for the cost—0–10 points.

(6) Provide a significant link to prominent destination way points such as those near metropolitan population centers, cultural or natural areas, or that provide safe harbors from storms—10 points.

(7) Provide access to recreational, historic, cultural, natural, or scenic opportunities of local, regional, or national significance.

(i) Local significance—5 points.

(ii) Regional significance—10 points.

(iii) National significance—15 points.

(8) Provide significant positive economic impacts to a community. For example, a project that costs $100,000 attracts a significant number of boaters who spend $1 million a year in the community—1–5 points. And,

(9) Include multi-State efforts that result in coordinating location of tie-up facilities—5 points.

(10) Total possible points—100 points.

§ 86.61 What process does the Service use to select grants?

Our Division convenes a panel of Federal Aid staff to review, rank, and recommend funding to the Director. This panel will include representatives from Washington, DC, and regional offices. The Director may convene an advisory panel of nongovernmental organizations to advise and make recommendations to the Federal panel. The Director will make the selection of eligible grants by January 13, 2001, August 10, 2001, and August 10, 2002, for the three grant cycles.

§ 86.62 What must I do after my grant has been selected?

After your award is approved, you will be notified to work with the appropriate regional office to fulfill the grant documentation requirements and finalize the grant agreement.

§ 86.63 Are there any appeals if my project has not been selected?

If you have a difference of opinion over the eligibility of proposed activities or differences arising over the conduct of work, you may appeal to the Director. Final determination rests with the Secretary of the Interior.

Subpart G—How States Manage Grants

§ 86.70 What are my requirements to acquire, install, operate, and maintain real and personal property?

(a) You will find applicable regulations for this subject in 43 CFR 12.71 and 12.72. If questions arise about applicability, you should contact the appropriate regional office.

(b) You must ensure that the design and installation of tie-up facilities provide for substantial structures that will have a significant longevity, at least 20 years.

(c) You must ensure that you operate, maintain, and use the tie-up facilities and features for the stated grant purpose. You must obtain prior written approval from the appropriate regional director before you can convert these tie-up facilities to other uses.

§ 86.71 How will I be reimbursed?

For details on how you will be paid, refer to 43 CFR part 12, 31 CFR part 205, and any other regulations referenced in these parts.

§ 86.72 Are there any other requirements?

For administrative requirements not covered under these specific guidelines, you should check 43 CFR part 12, which generally applies to all Federal grant programs.

§ 86.73 What if I don't spend all the money?

You must return any unused funds that remain after the grant has been completed.

§ 86.74 What if I need more money?

Funds for grants are available only on a competitive basis. Therefore, if you need more money, you must compete in the next grant cycle.

Subpart H—Report Requirements for the States

§ 86.80 What are my reporting requirements for this grant program?

You must submit a quarterly performance report, an annual report, and a final performance report. For additional information on reporting, see 43 CFR part 12 and OMB Circular A–102.

§ 86.81 When are the reports due?

Reports are due as follows:

(a) Quarterly reports are due 30 days after the reporting period;

(b) Annual reports are due 90 days after the grant year; and

(c) The final performance report is due 90 days after the expiration or termination of grant support.

§ 86.82 What must be in the reports?

Reports must include the following:

(a) You must identify the actual accomplishments compared to the objectives established for the period;

(b) You must identify the reasons for any slippage if established objectives were not met; and

(c) You must identify any additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Subpart I—State Use of Signs and Sport Fish Restoration Symbols

§ 86.90 What are my responsibilities for information signs?

You should install appropriate information signs at boating infrastructure tie-up facilities. You should ensure that this information is clearly visible, directing boaters to the facility. Information should show fees, restrictions, hours of operation, a contact name, and telephone number to report an inoperable facility.

§ 86.91 What are my program crediting responsibilities?

You should give public credit to the Sport Fish Restoration program as the source of funding for the Boating Infrastructure Grant Program. You should recognize this program by using the Sport Fish Restoration logo. You may use the crediting logo identified in § 80.26 of this chapter to identify National Boating Infrastructure Grant Program projects.

§ 86.92 Who can use the SFR logo?

You the State may use the SFR logo. Encourage others to display the logo. Other people or organizations may use the logo for purposes related to the National Boating Infrastructure Grant Program as authorized in § 80.26 of this chapter.

§ 86.93 Where should I use the SFR logo?

You should display the logo on tie-up facilities you construct, acquire, develop, or maintain under these grants. You should also use the logo on printed material or other visual representations that relate to project accomplishments or education/information. Refer to § 85.47 of this chapter for logo colors.

§ 86.94 What crediting language should I use?

Suggested examples of language to use when crediting the National Boating Infrastructure Grant Program follow:

(a) Example 1: The Sport Fish Restoration Program funded this facility thanks to your purchase of fishing equipment and motorboat fuels.

(b) Example 2: The Sport Fish Restoration Program is funding this construction thanks to your purchase of fishing equipment and motorboat fuels. And,

(c) Example 3: The Sport Fish Restoration Program funded this (pamphlet) thanks to your purchase of fishing equipment and motorboat fuels.

Subpart J—Service Completion of the National Framework

§ 86.100 What is the National Framework?

The National Framework is the method you must use to conduct a State survey to determine boating access needs in your State. "State survey" means boating access needs assessment or data collection to determine the adequacy, number, location, and quality of tie-up facilities and boat access sites providing access to recreational waters for all sizes of recreational boats. "Boat access site" means a place where boats less than 26 feet long enter the water. "Recreational waters" means navigable waters that recreational vessels 26 feet or more in length use for recreational purposes.

§ 86.101 What is the Service schedule to adopt the National Framework?

We plan to adopt the National Framework by April 30, 2000. We will consult with the States to develop this framework.

§ 86.102 How did the Service design the National Framework?

The Framework divides the survey into two components, boater survey and boat access provider survey.

(a) The boater survey component.

(1) We designed these questions to obtain information identifying boat user preferences and concerns for existing and needed access available to the public.

(2) The nontrailerable boat data set will fulfill informational needs for you to develop your State program plans as called for in the Act.

(3) The boater survey will survey registered boat owners in your State for two types of boats:

(i) Part A—for boats 26 feet or more in length.

(ii) Part B—for trailerable and 'car-top' boats (less than 26 feet long).

(b) The boat access provider component.

(1) We designed these questions to obtain information identifying boat access providers' ideas about current and needed facility and site locations, and providers' perceptions of boat user preferences and concerns regarding access.

(2) We developed these questions to guide interviews of boat access facility and site managers.

(3) The nontrailerable boat data set will fulfill the informational needs for you to develop your State plans as called for in the Act.

(4) The boat access provider survey will survey facility providers in your State for two types of boats:

(i) Part C—a survey to all providers in your State, including State agency and non State entities (Federal and local government entities, corporate and private/commercial providers) that operate tie-up facilities for boats 26 feet or more in length.

(ii) Part D—a survey to all providers in your State that operate boat access sites for boats less than 26 feet long.

Subpart K—How States Will Complete Access Needs Surveys

§ 86.110 What does the State survey do?

The State survey determines the current status of boating access facilities for all recreational boats in your State and your future boater access needs.

§ 86.111 Must I do a survey?

Surveys are not required. They are voluntary. However, if you do a survey, you must complete it following the National Framework to receive funds.

§ 86.112 What are the advantages of doing a survey?

Surveys provide the information necessary to fully understand the needs of boaters in your State. Surveys allow you to develop a meaningful plan to provide better access to boaters. Surveys are required to complete the plan. The plan will make you more competitive when you submit grants under this program. We will give you 15 points for having an approved plan.

§ 86.113 What if I have recently completed a boat access survey?

If the recent survey substantially answers the questions in § 86.118, the appropriate regional office will determine if it is sufficient to meet the needs of the program. If the regional office determines that the survey is not sufficient, you must complete that part(s) or an entire new survey to receive credit for completing a recent survey.

§ 86.114 Do I need to conduct a survey if I already have a plan installing tie-up facilities for boats 26 feet or more in length?

You need not conduct the survey if we certify that you have developed and are carrying out a State program plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on your waters.

§ 86.115 How should I administer the survey?

Use a consultant or university specializing in administration of such surveys. Design the sample sizes needed to achieve statistical accuracy so the estimate is within 10 percent of the true number. You must not alter the survey questions, since we need information that is comparable nationwide. You may use a telephone, mail, or other type of survey for a sample population of boaters within the State. Costs for telephone and mail surveys are similar. However, response rate for mail surveys is lower, and not as effective. For boat access providers, we prefer you survey all State agency and non State providers, but you may survey a sample population. You may develop your own methodology to collect data. which may include telephone, mail, fax or other inventory means. We do not expect you to use automated, electronic, mechanic, or other means of information collection. Data collected are unique to each respondent. You should follow up on the same respondents until you reach 70 percent of the respondents.

§ 86.116 May I change the questions in the survey?

You must not change the questions. We have developed a survey instrument for completing the surveys. We are obtaining approval from OMB on the questions identified below. Such approval does not extend to additional questions.

§ 86.117 What is the Service schedule to approve the survey?

The Service schedule is as follows:

(a) Request for survey to OMB—by December 17, 1999.

(b) OMB approves Survey—by March 17, 2000.

(c) We notify you to begin surveys—by March 22, 2000.

(d) You submit your survey results to regional offices, or we certify you have an adequate State program plan—by August 19, 2000. And,

(e) Regions approve surveys—by September 19, 2000.

§ 86.118 What are the questions in this survey instrument?

(a) We divided this survey into four parts. Part A is for transient nontrailerable boat owners. Part B is for trailerable or "car-top" (less than 26 feet) boat owners. Part C is for State agency and non State providers of facilities for boats 26 feet or more in length in the State. Part D is for State and non State providers of access sites for trailerable or "car-top" boats.

(b) Follow these instructions to complete Part A—BOAT OWNER SURVEY FOR TIE-UP FACILITIES FOR BOATS 26 FEET OR MORE IN LENGTH:

(1) If the boater owns a boat 26 feet or more in length, ask the boater to fill out Part A.

(2) If the boater owns more than one boat 26 feet or more in length, ask the boater to provide information for the boat he or she uses MOST OFTEN.

(3) If the boater owns at least one boat more than and at least one boat less than 26 feet in length, ask the boater to fill out both Parts A and B. And,

(4) You should collect enough information to obtain the sample size needed to achieve statistical accuracy so the estimate is within 10 percent of the true number.

(c) Follow these instructions to complete Part B—BOAT OWNER SURVEY FOR TRAILERABLE OR 'CAR-TOP' BOAT ACCESS SITES:

(1) If the boater owns a boat less than 26 feet long, ask the boater to fill out Part B.

(2) If the boater owns more than one boat less than 26 feet long, ask the boater to provide information for the boat he or she uses most.

(3) If the boater owns at least one boat more than and at least one boat less than 26 feet in length, ask the boater to complete both Parts A and B. And,

(4) You should collect enough information to obtain the sample size needed to achieve statistical accuracy so the estimate is within 10 percent of the true number.

(d) Parts C and D are the transient tie-up facility and boat access site provider surveys. Part C is for State agency and non State providers of facilities for boats 26 feet or more in length in the State. Part D is for State and non State providers of boat access sites for boats under 26 feet in length.

(e) Follow these instructions to complete Part C—STATE AGENCY AND NON STATE PROVIDER SURVEY FOR TRANSIENT TIE-UP FACILITIES:

(1) Ask State agency and non State providers of transient facilities for boats 26 feet or more in length to fill out Part C.

(2) If more than one State agency manages these facilities, send this survey to all of those agencies.

(3) If the State agency or non State provider awards grants to others who provide facilities, ask these grantees to respond for these facilities instead of the State agency or non State provider.

(4) If a State agency or non State provider operates transient facilities/sites for both nontrailerable and trailerable boats, ask the provider to fill out both Parts C and D.

(5) Ask State agency and non State providers to identify all transient tie-up facilities.

(6) For all questions, if you need additional space, make copies of the appropriate page.

(f) Follow these instructions to complete Part D—STATE AGENCY AND NON STATE PROVIDER SURVEY FOR TRAILERABLE OR 'CAR-TOP' BOAT ACCESS SITES:

(1) Ask State agency and non State providers of boat access sites for boats less than 26 feet long to fill out Part D.

(2) Non State providers include the Federal Government, local government, corporate, private/commercial, *etc.*, providers.

(3) If more than one State agency manages these sites, send this survey to all of them.

(4) If the State agency or non State provider awards grants to others who provide sites, ask these grantees to respond for these sites instead of the State agency or non State provider.

(5) If a State agency or non State provider operates transient facilities/

sites for both nontrailerable and trailerable boats, ask the provider to fill out both Parts C and D.

(6) We prefer that the State agency or non State provider identify all boat access sites and water-bodies, but if he or she has many sites and water-bodies, the provider may group the information together rather than identify each site individually. "Water-body" means the lake, section of river, or specific area of the coast, such as a harbor or cove, where tie-up facilities or boat access sites are located.

(7) For all questions, if you need additional space, make copies of the appropriate page.

(g) Following is the survey instrument for Parts A through D:

PART A: BOATING NEEDS ASSESSMENT QUESTIONNAIRE FOR BOATERS WITH BOATS 26 FEET Or more in length IN LENGTH

Please answer the following questions about your boating activities in your State. All of your responses will be confidential and used for statistical purposes only.

1. Do you own a boat 26 feet or more in length?
   ☐ Yes. Please go to question #2. ☐ No. You need not complete this questionnaire.
2. Have you ever boated in (*name of State*)?
   ☐ Yes. Please go to question #3. ☐ No. You need not complete this questionnaire.
3. Have you boated in (*name of State*) within the past 2 years?
   ☐ Yes. ☐ No.
4. What type of boat or boats do you own? (Please check all that apply)

☐ Cabin cruiser (gasoline) ☐ Cabin cruiser (diesel) ☐ Sailboat
☐ Houseboat/pontoon boat ☐ Other (please specify)_____

5. For the boat that you use the most, where do you usually keep this boat during the boating season? (Please check the one that MOST applies. If you keep your boat in a location other than your home please name the specific site.)

☐ At waterfront property, which is your permanent residence
☐ At waterfront property, which is your seasonal residence
☐ On the water at a public or private marina Site name:_____
☐ At a 'dry-stack' marina or other commercial/private facility Site name:_____
☐ Other (specify) _____ Site name:_____

6. For the boat that you use the most, how many days a year do you use this boat to go boating? (Please check the one that MOST applies.)
   ☐ Never, or rarely—once or twice a year
   ☐ Occasionally—three to five times a year
   ☐ Frequently—6 to 20 times a year
   ☐ Very often—more than 20 times a year
7. For the boat that you use the most, how long do you usually take this boat out of where you keep it? (Please check the one that MOST applies.)
   ☐ Never, or rarely—it is primarily a floating home
   ☐ Day trips or weekends
   ☐ Extended trips longer than one weekend
8. For the boat that you use the most, where do you go in this boat? (Please check the one that MOST applies.)
   ☐ On the water body in which it is kept
   ☐ Connected waters up to 50 miles of 'home port'
   ☐ Connected waters more than 50 miles and less than 100 miles from 'home port'
   ☐ To destination ports over 100 miles
9. For the boat that you use the most, please name the three destination areas where you take your boat THE MOST. (Please be specific and name the lake, slough, section of river, or other area. For destination areas MORE THAN 100 miles from your home port, also identify your route of travel.)

	Site Name	Route of Travel for Destinations over 100 Miles
Site #1		
Site #2		
Site #3		

10. What is the average distance in miles you travel in a day of boating? _____miles.

11. Please list the three transient tie-up facilities you use THE MOST. (Please be specific and name the lake, slough, section of river, or other area.)

	Site Name	Location
Site #1		
Site #2		
Site #3		

12. Thinking about the boating site(s) you just mentioned in question #11, what repairs, replacements, expansions or additions are needed at each? (Please name each site.)

Site #1 (specify)_____	Repair	Replace	Expand	Add
Transient slips or tie-up facilities	☐	☐	☐	☐
Transient moorings	☐	☐	☐	☐
Fuel (gasoline)	☐	☐	☐	☐
Fuel (diesel)	☐	☐	☐	☐
Utilities (electric, water, phone)	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Sewage pumpout stations	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐

Site #2 (specify)_____	Repair	Replace	Expand	Add
Transient slips or tie-up facilities	☐	☐	☐	☐
Transient moorings	☐	☐	☐	☐
Fuel (gasoline)	☐	☐	☐	☐
Fuel (diesel)	☐	☐	☐	☐
Utilities (electric, water, phone)	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Sewage pumpout stations	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐

Site #3 (specify)_____	Repair	Replace	Expand	Add
Transient slips or tie-up facilities	☐	☐	☐	☐
Transient moorings	☐	☐	☐	☐
Fuel (gasoline)	☐	☐	☐	☐
Fuel (diesel)	☐	☐	☐	☐
Utilities (electric, water, phone)	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Sewage pumpout stations	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐

13. Thinking about State areas with which you are familiar, and where no facilities exist, what should be built? (Please name the specific site or area.)

	Site #1 (specify): _____ _____	Site #2 (specify): _____ _____	Site #3 (specify): _____ _____
Transient slips or tie-up facilities	☐	☐	☐
Transient moorings	☐	☐	☐
Fuel (gasoline)	☐	☐	☐
Fuel (diesel)	☐	☐	☐
Utilities (electric, water, phone)	☐	☐	☐
Restrooms	☐	☐	☐
Sewage pumpout stations	☐	☐	☐
Other (specify)	☐	☐	☐
Other (specify)	☐	☐	☐
Other (specify)	☐	☐	☐

14. Please rate how the following factors may impact your decision NOT to boat in the State more frequently.

	High Impact	Medium Impact	Low Impact
No transient slips, moorings, or tie-up facilities	☐	☐	☐
Inaccessible due to shallow water/channel depths	☐	☐	☐
Lack of information about transient tie-up facility locations, features, attractions, and fishing opportunities	☐	☐	☐
Lack of adequate facilities (fuel, utilities, restrooms)	☐	☐	☐
Congested waterways (boat traffic)	☐	☐	☐
Poor water quality for fishing	☐	☐	☐
Poor water quality for swimming	☐	☐	☐
Other (specify)_____	☐	☐	☐
Other (specify)_____	☐	☐	☐
Other (specify)_____	☐	☐	☐

YOUR BOATING NEEDS

15. Thinking about your overall boating needs, please rate the following on a scale from 1 to 5, where "1" means not at all important and "5" means extremely important. (Please circle)

	Not at all important				Extremely important
Quality of the boating experience:					
Access to cultural events and attractions	1	2	3	4	5
Access to natural and scenic resources	1	2	3	4	5
Water quality for swimming	1	2	3	4	5
Access to services and supplies	1	2	3	4	5
Good fishing	1	2	3	4	5
Other (specify)	1	2	3	4	5
Other (specify)	1	2	3	4	5
Other (specify)	1	2	3	4	5

16. How do you reach the shoreline from your boat? (Please check ALL that apply.)

☐ Via shore-side slip or other transient tie-up facility
☐ Via a dinghy from a moored or anchored position
☐ Pulling onto shore or close to shore, using a gangplank

17. If you checked MORE THAN ONE option in Question #16 above, which do you prefer? (Please check the one that you MOST prefer.)

☐ Via shore-side slip or other transient tie-up facility
☐ Via a dinghy from a moored or anchored position
☐ Pulling onto shore or close to shore, using a gangplank

18. What is the minimum water depth in feet required for safe operation of the boat you use the most? _____feet.

19. Please use the space below to make any other comments or suggestions about recreational boating in your State.

_____
_____
_____

PART B: BOATING NEEDS ASSESSMENT QUESTIONNAIRE FOR BOATERS WITH BOATS UNDER 26 FEET IN LENGTH

. Please answer the following questions about your boating activities in your State. All of your responses will be confidential and used for statistical purposes only.

1. Do you own a boat under 26 feet in length?

☐ Yes. Please go to question #2. ☐ No. You need not complete this questionnaire.

2. Have you ever boated in (*name of State*)?

☐ Yes. ☐ No. You need not complete this questionnaire.

3. Have you boated in (*name of State*) within the past 2 years?

☐ Yes. ☐ No.

What type of boat or boats do you own? (Please check all that apply.)

☐ Cabin cruiser (gasoline)
☐ Cabin cruiser (diesel)
☐ Sailboat
☐ Bass boat/jon boat
☐ Runabout
☐ Jet drive boat
☐ Inflatable boat/raft
☐ Houseboat/pontoon boat
☐ Personal water craft
☐ Unpowered rowboat
☐ Canoe/kayak
☐ Sailboard
☐ Other (please specify) _____

4. For the boat that you use the most, where do you usually keep this boat during the boating season? (If you keep your boat in a location other than your home, please name the specific site.)

☐ At home on a trailer or in a rented dry-storage area
☐ Waterfront property that you own, rent, or lease (site name:_____)
☐ Public or private marina (site name:_____)
☐ Other_____ (site name:_____)

5. For the boat that you use the most, how many miles (one way) do you typically transport the boat to go boating? _____miles

6. Please name the three access sites in the State where you launch your boat the most. (Please be specific and name the lake, slough, section of river, or other area.)

☐ Site #1 _____
☐ Site #2 _____
☐ Site #3 _____

7. Thinking about the boating site(s) you just mentioned in question #6, what repairs, replacements, expansions, or additions are needed at each? (Please name each site)

Site #1 (specify)_____	Repair	Replace	Expand	Add
Carry-down walkway to the water's edge	☐	☐	☐	☐
Boarding floats	☐	☐	☐	☐
Launch ramp	☐	☐	☐	☐
Parking	☐	☐	☐	☐
Waste pumpouts	☐	☐	☐	☐
Restrooms/showers	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐

Site # 2 (specify)_____	Repair	Replace	Expand	Add
Carry-down walkway to the water's edge	☐	☐	☐	☐
Boarding floats	☐	☐	☐	☐
Launch ramp	☐	☐	☐	☐
Parking	☐	☐	☐	☐
Waste pumpouts	☐	☐	☐	☐
Restrooms/showers	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐

Site # 3 (specify)_____	Repair	Replace	Expand	Add
Carry-down walkway to the water's edge	☐	☐	☐	☐
Boarding floats	☐	☐	☐	☐
Launch ramp	☐	☐	☐	☐
Parking	☐	☐	☐	☐
Waste pumpouts	☐	☐	☐	☐
Restrooms/showers	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐
Other (specify)_____	☐	☐	☐	☐

8. Thinking about State areas with which you are familiar, and where no facilities exist, what should be built? (Please name the specific site or area.)

	Site #1 (specify): _____	Site #2 (specify): _____	Site #3 (specify): _____
Carry-down walkway to the water's edge	☐	☐	☐
Boarding floats	☐	☐	☐
Launch ramp	☐	☐	☐
Parking	☐	☐	☐
Waste pumpouts	☐	☐	☐
Restrooms/showers	☐	☐	☐
Other (specify)_____	☐	☐	☐
Other (specify)_____	☐	☐	☐
Other (specify)_____	☐	☐	☐

9. Please rate how the following factors may impact your decision NOT to boat in the State more frequently.

	High impact	Medium impact	Low impact
Lack of information about access site location, features, attractions, and fishing opportunities	☐	☐	☐
Not enough boat access sites	☐	☐	☐
Lack of adequate facilities (fuel, utilities, restrooms)	☐	☐	☐
Congested waterways (boat traffic)	☐	☐	☐
Poor water quality for fishing	☐	☐	☐
Poor water quality for swimming	☐	☐	☐
Other (specify)_____	☐	☐	☐
Other (specify)_____	☐	☐	☐
Other (specify)_____	☐	☐	☐

YOUR BOATING NEEDS

10. Thinking about your overall boating needs, please rate the following on a scale from 1 to 5, where "1" means not at all important and "5" means extremely important. (Please circle.)

	Not at all important				Extremely important
Quality of the boating experience:					
Access to cultural events and attractions	1	2	3	4	5
Access to natural and scenic resources	1	2	3	4	5
Water quality for swimming	1	2	3	4	5
Access to services and supplies	1	2	3	4	5
Good fishing	1	2	3	4	5
Other (specify)	1	2	3	4	5
Other (specify)	1	2	3	4	5
Other (specify)	1	2	3	4	5

11. Please use the space below to make any other comments or suggestions about recreational boating in your State.

_____

_____

_____

BOATING NEEDS ASSESSMENT QUESTIONNAIRE FOR PROVIDERS

Please answer the following questions about your boating facility or access site in the State. All of your responses will be confidential and used for statistical purposes only.

Are you a public or private boating facilities provider?

☐ Private provider ☐ Public provider ☐ Neither (You need not complete this questionnaire.)

PART C: If you operate a marina or other tie-up facility that serves boats 26 feet or more in length, please answer the following questions. (If you do not operate facilities for boats 26 feet or more in length but do operate an access site that services trailerable or car top boats under 26 feet in length, please go to Question 15 below.)

Boats 26 feet in length or longer

1. Please list the boating facility or facilities that you operate or manage in the State for boats 26 feet or more in length in length. (Please name each specific facility—marina, courtesy dock, etc., and the area of the State where it is located—cove, slough, or section of a river.)

	Name	Area	GPS or Lat/Long
Facility #1:			
Facility #2:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			
Facility #____:			

2. For each facility listed above, please estimate the percentage of use for each boat type, where the percentage of use for all boats equals 100%.

	Cruiser (gas)	Cruiser (diesel)	Sailboat	House/pontoon boat	Other ____	
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%
Facility #____	____%	____%	____%	____%	____%	100%

3. Up to what size boats typically use the listed facilities (length in feet—L, draft in feet—D)?

	Cruiser (gas)	Cruiser (diesel)	Sailboat	House/pontoon boat	Other ____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____
Facility # ____	L____ D____	L____ D____	L____ D____	L____ D____	L____ D____

4. For each listed facility, please indicate the requirements for boater use. (Please check all that apply.)

	None (first come first served)	Club membership required	Reservations required	Use fee charged	Use permit required	Has "off limits" areas	Seasonal use restrictions	Hourly use restrictions
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐

5. Please identify the types of features at the listed facilities.

	Transient slips/tie-ups	Transient moorings	Gas fuel	Diesel fuel	Utilities (power, water)	Rest-rooms	Sewage pump outs	Other____ ________ ________	Other____ ________ ________
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐	☐	☐	☐	☐	☐

6. Please list the number of slips or tie-ups at each identified facility.

	Transient slips/tie-ups	Transient moorings
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		
Facility #____		

7. For each identified facility, what repairs, replacements, expansions, or additions are needed?

Facility #____ (specify):______________________	Repair	Replace	Expand	Add
Transient slips or tie-ups	☐	☐	☐	☐
Transient moorings	☐	☐	☐	☐
Gasoline facilities	☐	☐	☐	☐
Diesel fuel facilities	☐	☐	☐	☐
Utilities (water electric, phone, cable)	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Oil disposal	☐	☐	☐	☐
Sewage pumpouts	☐	☐	☐	☐
Other (specify)______________________	☐	☐	☐	☐
Other (specify)______________________	☐	☐	☐	☐

Facility #____ (specify):______________________	Repair	Replace	Expand	Add
Transient slips or tie-ups	☐	☐	☐	☐
Transient moorings	☐	☐	☐	☐
Gasoline facilities	☐	☐	☐	☐
Diesel fuel facilities	☐	☐	☐	☐
Utilities (water, electric, phone, cable)	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Oil disposal	☐	☐	☐	☐
Sewage pumpouts	☐	☐	☐	☐
Other (specify)______________________	☐	☐	☐	☐
Other (specify)______________________	☐	☐	☐	☐

Facility #____ (specify):______________________	Repair	Replace	Expand	Add
Transient slips or tie-ups	☐	☐	☐	☐
Transient moorings	☐	☐	☐	☐
Gasoline facilities	☐	☐	☐	☐
Diesel fuel facilities	☐	☐	☐	☐
Utilities (water, electric, phone, cable)	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Oil disposal	☐	☐	☐	☐
Sewage pumpouts	☐	☐	☐	☐
Other (specify)______________________	☐	☐	☐	☐
Other (specify)______________________	☐	☐	☐	☐

8. Thinking about other areas in the State with which you are familiar, and where no facilities currently exist, what should be built? (Please name the specific site, lake, slough or area of a river.)

	Transient slips/tie-ups	Transient moorings	Gas fuel	Diesel fuel	Utilities (power, water)	Rest-rooms	Sewage pump outs	Other____ ________ ________	Other____ ________ ________
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐
Site__________	☐	☐	☐	☐	☐	☐	☐	☐	☐

9. For all of your facilities combined, please rate the availability of information for each listed element.

	High availability	Medium availability	Low availability
Location(s)	☐	☐	☐
Features/amenities	☐	☐	☐
Attractions	☐	☐	☐
Fishing opportunities	☐	☐	☐
Other____________________	☐	☐	☐

10. Please identify the primary reasons that boaters use each identified facility. (Check all that apply.)

	Access to near-by cultural, historical attractions	Access to natural, scenic attractions	Access to services (shopping, dining)	Good water quality for fishing	Good water quality for swimming	Other (Specify)____ ________ ________
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐
Facility # ____	☐	☐	☐	☐	☐	☐

11. Please estimate the replacement costs (gross annual not including land values) and annual maintenance costs for the listed boating facilities. (Please include the estimated value of needed improvements or additions.)

	Replacement costs	Maintenance costs
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________
Facility #____	$________	$________

12. Please rate the overall condition of the listed facility(s). (Excellent—no improvements needed, Good—will require upgrades within 10 years, Fair will—require upgrade within the next 5 years, Poor—requires upgrade now.)

	Excellent	Good	Fair	Poor
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐
Facility #____	☐	☐	☐	☐

13. If public funding sources were available for facility repair, improvement, expansion, or additions, would you be interested?

☐ Yes ☐ No ☐ Maybe—I'd like more information.

14. Please provide any comments about transient tie-up facilities not covered in this section.

____

____

____

PART D: If you operate an access site for trailerable or car top boats under 26 feet in length, please answer the following questions.

Boats under 26 feet in length

15. Please list the access site or sites that you operate or manage in the State for boats under 26 feet in length. (Please name each specific site—launch ramp, etc., and the area of the State where it is located—lake, slough, or section of a river.)

	Name	Area	GPS or Lat/Long
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			
Access #____:			

16. For each access site listed above, please estimate the percentage of use for each boat type, where the percentage of use for all boats equals 100%. (Carryable includes, canoes/kayaks, rowboats, sailboards etc.).

	Trailerable	Carryable	
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%
Access #____:	__________%	__________%	100%

17. Please identify the types of features at the identified access sites.

	Carry-down paths, etc.	Launch ramp	Boarding floats	Parking	Sewage pumpouts	Rest-rooms	Other ____ ________ ________	Other ____ ________ ________
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐	☐

18. For all of your access sites combined, please rate the availability of information for each listed element.

	High availability	Medium availability	Low availability
Access site Locations	☐	☐	☐
Features/amenities	☐	☐	☐
Attractions	☐	☐	☐
Fishing opportunities	☐	☐	☐

19. Please identify the primary reasons that boaters use the identified access site(s). (Check all that apply)

	Access to cultural, historical attractions	Access to natural, scenic attractions	Access to services (shopping, dining)	Good water quality for fishing	Good water quality for swimming	Other ______ ______ ______ ______
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐

20. For each identified access site, what repairs, replacements, expansions, or additions are needed?

Access #____(specify)______________________________	Repair	Replace	Expand	Add
____				
Carry-down walkway to the water's edge	☐	☐	☐	☐
Launch ramp	☐	☐	☐	☐
Boarding floats	☐	☐	☐	☐
Parking	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Waste dump stations	☐	☐	☐	☐
Other (specify)______________________________	☐	☐	☐	☐
Other (specify)______________________________	☐	☐	☐	☐

Access #____(specify)______________________________	Repair	Replace	Expand	Add
____				
Carry-down walkway to the water's edge	☐	☐	☐	☐
Launch ramp	☐	☐	☐	☐
Boarding floats	☐	☐	☐	☐
Parking	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Waste dump stations	☐	☐	☐	☐
Other (specify)______________________________	☐	☐	☐	☐
Other (specify)______________________________	☐	☐	☐	☐

Access #____(specify)______________________________	Repair	Replace	Expand	Add
____				
Carry-down walkway to the water's edge	☐	☐	☐	☐
Launch ramp	☐	☐	☐	☐
Boarding floats	☐	☐	☐	☐
Parking	☐	☐	☐	☐
Restrooms	☐	☐	☐	☐
Waste dump stations	☐	☐	☐	☐
Other (specify)______________________________	☐	☐	☐	☐
Other (specify)______________________________	☐	☐	☐	☐

21. Please estimate the replacement costs (gross annual not including land values) and annual maintenance costs for each listed boating access site. (Please include the estimated value of needed improvements or additions.)

	Replacement costs	Maintenance costs
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		
Access #____:		

If you have a significant number of access sites please answer Question 22, if you have one or a limited number of access sites please go to Question 23.

22. If you have a significant number of access sites open to the public, please rate the overall condition for the entire network of sites. (Excellent—less than 25% require modernization, Good—25%–50% require modernization, Fair—50%–75% require modernization, Poor—more than 75% require modernization.)

☐ excellent ☐ good ☐ fair ☐ poor

23. If you have one or a limited number of access sites, please rate conditions as follows. (Excellent—no improvements needed, Good—will require upgrade within 10 years, Fair—will require upgrade within the next 5 years, Poor—requires upgrade now.)

Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor
Access #____:	☐ excellent	☐ good	☐ fair	☐ poor

24. For each listed access site, please indicate any restrictions for boater use. (Check all that apply.)

	None (first come first served)	No-motor restriction	Day-use fee charged	Use permit required	Seasonal use restrictions	Hourly use restrictions	Other____
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐
Access #____	☐	☐	☐	☐	☐	☐	☐

25. If public funding sources were available for access site repair, improvement, expansion, or additions, would you be interested?

☐ Yes ☐ No ☐ Maybe—I'd like more information.

26. Please provide any comments about access sites not covered in this section.

____

____

____

27. Thank you for your help! If you would like a representative of this State to contact you about any questions and concerns or if you would like additional information about facility and site development funding sources, please list your name, facility, telephone number, and best time to contact you.

Name ____

Facility ____

Telephone ____

Time ____

Subpart L—Completing the Comprehensive National Assessment

§ 86.120 What is the Comprehensive National Assessment?

The Comprehensive National Assessment is a national report integrating the results of State boat access needs and facility surveys.

§ 86.121 What does the Comprehensive National Assessment do?

The Comprehensive National Assessment determines nationwide the adequacy, number, location, and quality of public tie-up facilities and boat access sites for all sizes of recreational boats.

§ 86.122 Who completes the Comprehensive National Assessment?

The Service completes the Assessment. We will develop standards in consultation with the States.

§ 86.123 When is the Comprehensive National Assessment due?

The Comprehensive National Assessment is due as follows:

(a) We develop the assessment by February 20, 2001;

(b) The public reviews the assessment by April 5, 2001; and,

(c) We complete the assessment by June 4, 2001.

§ 86.124 What are the Comprehensive Assessment products?

The Comprehensive Assessment products are:

(a) A single report, including the following information:

(1) A national summary of all the information gathered by you in your survey.

(2) A table of States showing the results of the information gathered.

(3) One-page individual State summaries of the information.

(4) Appendices that include the survey questions, and names, addresses, and telephone numbers of State contacts.

(5) An introduction, background, methodology, results, and findings.

(6) Information on the following:

(i) Boater trends, such as what types of boats they own, where they boat, and how often they boat.

(ii) Boater needs, such as where facilities and sites are now found, where boaters need new facilities and boat access sites, and what changes of features boaters need at these facilities and sites. And,

(iii) Condition of facilities, such as replacement and maintenance costs.

(b) Summary report abstracting important information from the final national report. And,

(c) A key findings fact sheet suitable for widespread distribution.

Subpart M—How States Will Complete the State Program Plans

§ 86.130 What does the State program plan do?

The State program plan identifies the construction, renovation, and maintenance of tie-up facilities needed to meet nontrailerable recreational vessel user needs in the State.

§ 86.131 Must I do a plan?

Plans are not required. They are voluntary. However, if you do a plan, you must complete it following these regulations.

§ 86.132 What are the advantages to doing a plan?

Plans provide the information necessary to fully understand the needs of boaters in your State. The plan will make you more competitive when you submit grants under this program. We will give you 15 points for having an approved plan.

§ 86.133 What are the plan standards?

You must base State program plans on a recent, completed survey following the National Framework.

§ 86.134 What if I am already carrying out a plan?

You need not develop a program plan if we certify that you have developed and are carrying out a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on your waters.

§ 86.135 What is the Service schedule to approve the plans?

The Service schedule is as follows:

(a) You begin developing program plans by September 19, 2000.

(b) You submit plans to our regional office by November 3, 2000. And,

(c) Our regional office approves State program plans by December 3, 2000.

§ 86.136 What must be in the plan?

The plan must:

(a) Identify current boat use and patterns of use.

(b) Identify current tie-up facilities and features open to the public, and their condition.

(c) Identify boat access user needs and preferences and their desired locations. Include repair, replacement, and expansion needs, and new tie-up facilities and features needed.

(d) Identify factors that inhibit boating in specific areas, such as lack of facilities, or conditions attached that inhibit full use of facilities. Identify strategies to overcome these problems.

(e) Identify current value of tie-up facilities, and maintenance and replacement costs. And,

(f) Include information about the longevity of current tie-up facilities.

§ 86.137 What variables should I consider?

You should consider the following variables:

(a) Location of population centers,

(b) Boat-based recreation demand,

(c) Cost of development,

(d) Local support and commitment to maintenance,

(e) Water-body size,

(f) Nature of the fishery and other resources,

(g) Geographic distribution of existing tie-up facilities,

(h) How to balance the need for new tie-up facilities with the cost to maintain and improve existing facilities, and

(i) Other variables as needed.

Dated: December 16, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–177 Filed 1–19–00; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Thursday,
January 20, 2000

Part IV

Department of Health and Human Services

Office of the Secretary

Determination on Newborn HIV Testing; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of the Secretary's Determination on Newborn HIV Testing

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice.

AUTHORITY: Section 2626(d) of the Public Health Service Act (42 U.S.C. 300 ff–34).

SUMMARY: The Secretary is required under Public Law 104–146 to make a determination as to whether it has become routine practice in the United States to carry out a number of counseling, testing and disclosure activities pertaining to a newborn infant's HIV serostatus. In making this determination, the Secretary has consulted with the States and with other public and private entities that have knowledge and expertise relevant to this determination. This notice is issued in fulfillment of the requirement of Section 2626(d) of PL 104–146. The Secretary determines, that with regard to the statutory provisions and legislative intent as defined by the Committee on Conference in Conference Report 104–545, it has not become routine practice to require testing of newborn infants for HIV infection in the United States.

DATES: The Secretary's Determination on Newborn HIV Testing is effective upon January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Office of HIV/AIDS Policy, Office of Public Health and Science in the Office of the Secretary, 200 Independence Avenue SW, Room 736–E, Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION:

I. Overview of the Secretary's Determination

Section 2626(d) of the Public Health Service Act, as added by the Ryan White CARE Act Amendments of 1996 (Public Law 104–146), requires the Secretary of the Department of Health and Human Services to make a determination as to whether it has become routine practice in the United States to carry out a number of counseling, testing and disclosure activities pertaining to a newborn infant's HIV serostatus. This document will review the relevant statutory provisions and legislative history; summarize the findings of consultations conducted as required by the statute; review the data regarding reductions in perinatal transmission and current HIV counseling, testing and disclosure practices; and provide the determination required of the Secretary in Section 2626(d). Attachment A highlights some of the Department's activities to reduce perinatal HIV transmission and ensure that HIV-exposed and HIV-infected infants and children have access to quality care.

II. Legislative Background

The Ryan White CARE Act Amendments of 1996 placed a new legislative emphasis on Federal and state efforts to reduce the perinatal transmission of the human immunodeficiency virus (HIV). The Congress required all States to certify that regulations or measures were in effect to adopt the guidelines issued by the Centers for Disease Control and Prevention for HIV counseling and voluntary testing for pregnant women, and it authorized a new grant program to assist States in their efforts to reduce perinatal HIV transmission. Additional provisions in Sections 2626, 2627, and 2628 directed the Secretary to make a determination about whether certain practices have become routine regarding HIV counseling and testing of newborns and disclosure of their HIV serostatus, and to request a study by the Institute of Medicine on State efforts to reduce perinantal transmission. The following section reviews both the statutory language and legislative background provided in the Joint Explanatory Statement of the Committee on Conference, as each of these sections are central to the Secretary's determination required under Section 2626(d).

Statutory Provisions

Section 2626(d) requires the Secretary to publish in the **Federal Register** a determination "whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (4) of section 2627. In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or expertise relevant to the determination." Section 2627 lists the activities or requirements for which the Secretary is required to make the determination of whether each has become a routine practice in the United States. Section 2627(5) was subsequently removed, through a technical amendment, as an element of the determination required under Section 2626, and thus is not further discussed here. The four activities or requirements to be included in the Secretary's determination are: "(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease. (2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved: (A) To the biological mother of the infant (without regard to whether she is the legal guardian of the infant). (B) If the State is the legal guardian of the infant: (i) To the appropriate official of the State agency with responsibility for the care of the infant. (ii) To the appropriate official of each authorized agency providing assistance in the placement of the infant. (iii) If the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective foster parent. (iv) If the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant, to the prospective adoptive parent. (C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant. (D) To the child's health care provider. (3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved. (4) That, is disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency). "Section 2628 directs the Secretary to undertake the following activities: "(a) The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct an evaluation of the extent to which State efforts have been effective in reducing the perinatal transmission of the human immunodeficiency virus, and an analysis of the existing barriers to the further reduction in such transmission. (b) The Secretary shall ensure that, not later than 2 years after the date of enactment of this section, the evaluation and analysis described in subsection (a) is completed and a report summarizing the results of such evaluation and analysis is prepared by the Institute of Medicine and submitted to the appropriate committees of Congress together with the recommendations of the Institute." Joint Explanatory Statement of the Committee on Conference: In Conference Report 104–545, the House receded with an amendment described in the conference report as follows: "(1) Within four months of enactment of this Act, the CDC, in consultation with states, will

develop and implement a reporting system for states to use in determining the rate of new cases of AIDS resulting from perinatal transmission and the possible causes for that transmission. The Secretary of HHS is directed to contract with the Institute of Medicine to conduct an evaluation of the extent to which state efforts have been effective in reducing perinatal transmission of HIV and an analysis of the existing barriers to further reduction in such transmission. The Secretary shall report these findings to Congress along with any recommendations made by the Institute. (2) Within two years following the implementation of such a system, the Secretary will make a determination whether mandatory HIV testing of all infants born in the U.S. whose mothers have not undergone prenatal HIV testing has become a routine practice. This determination will be made in consultation with states and experts. If the Secretary determines that such mandatory testing has become a routine practice, after an additional 18 month period, a state will not receive Title II Ryan White funding unless it can demonstrate one of the following: (A) A 50% reduction (or a comparable measure for low-incidence states) in the rate of new AIDS cases resulting from perinatal transmission, comparing the most recent data to 1993 data; (B) At least 95% of women who have received at least two prenatal visits with a health care provider or provider group have been tested for HIV; or (C) A program of mandatory testing for all newborns whose mothers have not undergone prenatal HIV testing." p. 45–46, Conference Report 104–545.

III. Review of Consultation Processes

The Department undertook several activities to respond to the statutory requirements for external consultations found in Sections 2626 and 2628, the most extensive of which was a study conducted by the Institute of Medicine (IOM) of the National Academy of Sciences. The other activities included a formal consultation with state and local government organizations, and an invitation for public comment through a **Federal Register** notice to supplement those comments provided in the course of the IOM study. Each of these activities is described more fully below.

Report of the Institute of Medicine—Reducing the Odds: Preventing Perinatal Transmission of HIV in the United States

In 1997, the Department contracted with the IOM for an evaluation of the extent to which State efforts have been effective in reducing the perinatal transmission of HIV and an analysis of the existing barriers to the further reduction in such transmission. The IOM assembled a 14-member expert committee with combined expertise in obstetrics and gynecology, pediatrics, preventive medicine, and other relevant specialities, social and behavioral sciences, public health practice, epidemiology, program evaluation, health services research, bioethics, and public health law. This committee, formally known as the Committee on Perinatal Transmission of HIV, reviewed a wide variety of quantitative and qualitative information pertaining to the prevention of perinatal HIV transmission, including current clinical practices to reduce such transmission. The committee held two public workshops which afforded the opportunity to consult with a wide array of state and local public health officials and other policy makers, health care providers, consumers, ethicists, advocacy groups for women and children with HIV, and others affected and concerned with these policy issues. The committee also conducted field visits to identify and discuss issues with women who are HIV-infected or at risk of HIV infection, health care providers, and state and local policy makers. On October 14, 1998, the IOM issued a report, *Reducing the Odds: Preventing Perinatal Transmission of HIV in the United States,* which reviewed the implementation and impact of the Public Health Service (PHS) counseling and testing guidelines and made recommendations on strategies to further reduce perinatal HIV transmission. In brief, the IOM study identified that 22 States have policies on HIV testing, monitoring or treatment of newborns; 9 states permit disclosure of HIV test results to foster agencies or families; and 15 states permit disclosure to the newborn's pediatrician. Only one state, New York, required mandatory newborn HIV testing at the time of the report. Since that time, Connecticut has passed a legislative mandate to test all newborns whose HIV serostatus is unknown, but full implementation of this is pending litigation. A discussion of the major IOM study findings follows under the upcoming section on reducing perinatal transmission.

Consultation With State and Local Government Organization

The IOM committee convened a broad spectrum of state and local government and public health organizations as part of its efforts to identify the range of scientific data and public health expertise regarding perinatal HIV transmission. The Department also held a second, separate consultation with representatives of state and local governmental organizations on December 4, 1998. Eight organizations were represented at the meeting, including the National Governors Association (NGA), U.S. Conference of Mayors (USCM), National Association of Counties (NACo), National Association of County and City Health Officials (NACCHO), National Organization of Black County Officials (NOBCO), National Alliance of Latino Elected Officials (NALEO), the National Association of State and Territorial AIDS Directors (NASTAD) and National Association of State Alcohol and Drug Abuse Directors (NASADAD). NASTAD provided written comments at the meeting, as did NGA subsequently, which stated that HIV testing of each newborn whose biological mother has not undergone prenatal testing for HIV disease is not a routine practice in the United States. All organizations attending the consultation supported this statement. Subsequently, the National Governor's Association provided the Department with a Resolution on HIV/AIDS that the Governors adopted at the NGA's 1999 Winter Meeting. Sections 38.2.2 and 38.5 of the Resoulation state that HIV testing of newbords is not a routine practice in the United States.

Federal Register Notice Soliciting Public Comment

The Institute of Medicine study and subsequent Departmental activities represented an extensive effort to gather and review the breadth of scientific data and professional, public health and consumer experience relevant to the issue of preventing perinatal HIV transmission. While recognizing the substantial outreach of the IOM committee in identifying and engaging knowledgeable voices on these issues, the Department pursued a supplemental strategy of inviting further public comment through publication of a notice in the **Federal Register** on November 9, 1998 following release of the IOM report. A total of 287 written comments were received in response to this notice, including 21 letters from state health departments stating that HIV testing of newborns was not routine practice in their jurisdictions. Three additional state health departments did not support mandatory HIV testing of newborns and described public health strategies, other than mandatory testing, to accomplish the goals of identifying HIV-exposed newborns. Two elected officials from one state provided comment that their state has implemented mandatory HIV testing of

newborns. A form letter submitted by 234 organizations and individuals who oppose mandatory testing of pregnant women and newborns accounted for the majority of comments received.

IV. Reducing Perinatal Transmission

Overview

It has been estimated that between 6,000 and 7,000 HIV-infected U.S. women delivered infants each year from 1989 to 1995. Without intervention, a 25% mother-to-infant HIV transmission rate would result in the birth of an estimated 1,750 HIV-infected infants annually in the United States. To reduce rates of perinatal HIV transmission, CDC published, in 1994, the U.S. Public Health Service (PHS) recommendations for using zidovudine (ZDV, also known as AZT) to reduce perinatal HIV transmission and, in 1995, PHS recommendations for routine counseling and voluntary HIV testing for pregnant women. In 1998, the earlier 1994 chemoprophylaxis guidelines were revised to include discussion of the use of newer antiretroviral drugs during pregnancy to treat maternal infection. Since the publication of these guidelines, nearly all relevant health professional organizations (including the American College of Obstetricians and Gynecologists and American Academy of Pediatrics) developed practice recommendations that generally conformed with the PHS recommendations for routine counseling and voluntary testing of pregnant women (the American Medical Association was alone in recommending a more stringent approach—that of mandatory testing of pregnant women and infants), and providing zidovudine chemoprophylaxis. Additionally, most states moved quickly to implement them through law, regulation, or policy; they also supported broad implementation of the guidelines through active dissemination, public and provider education, and health professional training. States and health care providers have placed their emphasis on reaching pregnant women with HIV counseling and testing so that the full benefits of HIV prevention through use of antiretroviral medications can be achieved among women with HIV infection. States have not made a specific investment in additional surveillance systems to track the HIV status of each newborn infant, with the exception of a very few States. Currently, only two states (New York and Connecticut) require mandatory HIV testing of newborns whose mothers did not undergo prenatal HIV testing and only New York has fully implemented this requirement. This section describes the impact of efforts by the Center for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) to reduce perinatal HIV transmission. It also summarizes the major findings and central recommendation of the Institute of Medicine's report Reducing the Odds: Preventing Perinatal Transmission of HIV in the United States.

Impact of Implementing PHS Recommendations for Routine Counseling and Voluntary Testing of Pregnant Women

The CDC has established a number of surveillance and research studies to evaluate the impact of these guidelines as an intervention, and the effect of this intervention has been substantial.

- HIV/AIDS surveillance data indicate that the number of perinatally acquired AIDS cases in the United States declined by 74% between 1993 and 1998 due in part to increased HIV testing among pregnant women and receipt of ZDV by HIV-infected women.
- A CDC-funded study in eleven states indicated that 60–84% of pregnant women are counseled about HIV, and that acceptance of testing is high—over 70%—in most settings.
- More than 90% of women known to be HIV-infected who are in prenatal care receive zidovudine (AZT) prophylaxis.
- Studies indicate that HIV transmission rates among HIV-positive women in the U.S. are dropping to as low as 5%.

Similarly, HRSA has instituted several activities to increase HIV counseling and testing, particularly during the perinatal period, and to monitor the progress of Ryan White grantees in further reducing perinatal HIV transmission. The results in many geographic sites have been remarkable. Some examples of these achievements appear below.

- In a St. Louis care center, 100% of pregnant women living with HIV who were counseled about ZDV also accepted prenatal ZDV. Perinatal HIV transmission decreased from 44.4% in 1994 to 0% in both 1996 and 1997.
- In Massachusetts, ZDV acceptance has risen dramatically among pregnant women living with HIV. In 1993, acceptance of ZDV chemoprophylaxis was 9%; acceptance rose to 74% in 1994 and 93% in 1995. In the latter half of 1995, acceptance actually rose to 95%.
- At a Seattle program, approximately 20–30 pregnant women with HIV receive care each year. No child has been diagnosed with perinatal HIV infection from 1994 through 1997.
- Ninety-one percent of women accepted testing among all of those who received pre-test counseling through the HRSA Special Projects of National Significance Adolescent Care projects. This percentage increased to 94% for pregnant women.
- At the University of Miami, 158 pregnant women living with HIV were served in 1996, 95% of whom accepted ZDV prophylaxis. Of the perinatally exposed children born, two out of 110 (2%) were determined to be HIV-infected after one year. In the first half of 1997, 60 perinatally exposed children were born, none of whom were determined to be HIV-infected.
- In 1995, 28 perinatally exposed children were born to mothers living with HIV in one HRSA-supported agency in Chicago. Only 10 of these women (36%) participated fully in the ZDV regimen, and thus 32% of the children born were HIV-infected. In 1996, 50% of the HIV-infected pregnant women elected to participate in the ZDV regimen. The rate of perinatal transmission decreased 15% in this population. In the first three months of 1997, six additional infants were born, none of whom were determined to be HIV-infected. Despite these promising findings, some children in the U.S. continue to become infected with HIV through maternal transmission. Some of the possible reasons for continuing perinatal HIV transmission include:
- Nationally, less than 2 percent of all pregnant women receive no prenatal care. However, in a four State study, 14 percent of pregnant women with HIV infection receive no care. Moreover, 35% of HIV-infected pregnant women who use drugs receive no prenatal care, compared with only 8% of HIV-infected pregnant women who do not use drugs.
- Some providers still do not offer HIV testing to pregnant women. Reasons cited by these providers include a lack of time and resources, the perception that the woman is not at risk, and legal requirements for pretest counseling.
- While test acceptance rates are high and improving, not all women who are offered HIV testing accept it. Some of the major reasons for refusal of testing include the belief that one is not at risk for HIV, and the lack of a provider's strong recommendation for testing. Additionally, some women continue to express mistrust of provider information and concerns about being forced to accept testing and/or ZDV chemoprophylaxis.

Summary of Institute of Medicine Study Findings and Recommendations

The Institute of Medicine study found that: (1) There have been substantial

public and private efforts to implement the PHS recommendations; (2) prenatal care providers are more likely now than in the past to counsel their patients about HIV and the benefits of ZDV, and to offer and recommend HIV tests; (3) women are more likely to accept HIV testing, and accept ZDV when indicated; and (4) there has been a large reduction in perinatally transmitted cases of AIDS. The IOM also found that: (1) for a variety of reasons, prenatal testing of pregnant women has not yet become universal; (2) even when testing is conducted, it does not always lead to care; and (3) not all women necessarily receive the quality treatment and services they need. The IOM concluded that the reduction in the number of children born with HIV infection, while substantial to date, could be greater. The primary IOM recommendation for further decreasing rates of perinatal HIV transmission in the United States is summarized below:

- The IOM committee recommends the adoption of a national policy of universal HIV testing, with patient notification, as a routine component of prenatal care.

* HIV tests would be integrated into the standard battery of prenatal tests for all pregnant women, regardless of their risk factors or local prevalence rates.

* Women would be informed that the HIV test will be conducted and that they have a right to refuse it.

* Requirement for extensive pre-test HIV counseling should be eliminated.

* Initial refusal of the HIV test by women should not necessarily be considered final; clinical circumstances may suggest that counseling should be provided on the benefits of testing at later prenatal care visits. Patients who continue to refuse testing should never be coerced or denied services.

For a complete discussion of the IOM findings and recommendations, the full report Reducing the Odds: Preventing Perinatal Transmission of HIV in the United States can be found at the National Academy Press website (http://www.nap.edu.).

Ongoing Challenges

Many challenges remain in further reducing the number of children with perinatally-acquired HIV infection. Of great importance is increasing the use of prenatal care by women at risk for HIV infection, with a particular emphasis on bring women with substance abuse addictions into prenatal care, and the continued development of more effective antiretroviral regimens and other methods to prevent or reduce perinatal transmission. Other challenges include the monitoring for emergence of antiretroviral resistance to current therapies, addressing the potential toxicities of antiretroviral therapies, assisting HIV-positive pregnant women to remain adherent to antiretroviral therapy, and increasing provider practices to routinely offer and encourage HIV testing of all pregnant women regardless of perception of risk. Diligence and commitment will be required by individual care providers, program planners, and prevention organizations at every level—public and private local, state and national—to make substantial further reductions in perinatal HIV transmission a reality. The Department of Health and Human Services continues to address these challenges through a variety of HIV prevention and service delivery programs, provider training, research efforts, substance abuse prevention and treatment, and the Medicaid program. Highlights of these efforts appear in Attachment A.

V. Findings and The Secretary's Determination

Pursuant to Section 2626 (d), the Secretary must determine "whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (4) of section 2627." The term routine practice is not defined in statute, and the legislative intent must be derived from the Joint Explanatory Statement of the Committee on Conference. On page 46 of Conference Report 104–545, the following explanatory text is provided: "Within two years following the implementation of such a system, the Secretary will make a determination whether mandatory HIV testing of all infants born in the U.S. whose mothers have not undergone prenatal HIV testing has become a routine practice." The Conference Report did not provide guidance for Sec. 2627 paragraphs (2), (3), or (4). To address the issue of routine practice for these elements, information is provided on what has been recommended and the available data on compliance with those recommendations. It should be noted that health care providers usually do not record information regarding to whom test results are disclosed.

Findings

Newborn HIV Testing

States have widely implemented the PHS guidelines for universal HIV counseling and voluntary testing of pregnant women and their infants. Only two States (New York and Connecticut) have a requirement for the mandatory HIV testing of all newborn infants and only New York is currently collecting data on all registered births in that State. Mandatory newborn HIV testing is not routine practice, as this term is defined in Conference Report 104–545, in other States. Provisions in two States for newborn HIV testing are conditional upon a provider's assessment that the test is medically necessary (FL, IN), and a third State requires newborn testing unless a parent objects (TX). The IOM study made no recommendation regarding mandatory newborn testing, but noted that it has limited utility in preventing HIV transmission from mother to child.

Disclosure of Newborn HIV Test Results

Timely disclosure of the results of a newborn's HIV test to the biological mother or guardian and to the health care provider is consistent with national and local recommendations for HIV counseling and testing. Surveillance and other data indicate that the majority of HIV-infected pregnant women are aware of their serostatus during pregnancy and their newborns are receiving therapy. However, no standardized data are regularly documented in medical records or collected on the disclosure of new HIV test results to the biological mother, legal guardian, or agents of the State (where the State is the legal guardian) upon which to certify that this is routine practice. Other studies indicate that failure to disclose results in a timely manner is often due to logistical issues such as a lengthy interval before specimens are tested and results noted, or failure of the baby's guardian to return to the testing site for receipt of test results. Improving strategies to increase the number of tested persons who learn of their test results, including guardians of newborns, is an ongoing activity of CDC in partnership with the States. Specific research and programmatic efforts are being directed at pregnant women who have not received prenatal care to assure that they are offered rapid HIV testing in a timely manner to begin preventive therapy for the newborn.

Disclosure of HIV Test Results to Pregnant Women

Timely disclosure of test results to all tested persons, including pregnant women, is consistent with national and local guidelines for HIV counseling and testing. However, as with disclosure of newborn test results, standardized data are not consistently recorded in medical records or collected to document that the results of prenatal HIV tests are promptly disclosed to the pregnant women involved. Such prompt

disclosure remains the goal of appropriate medical care. Available HIV/AIDS surveillance data indicate that over 80% of HIV-infected pregnant women in 1996 were aware of their status before or during their pregnancy. This percentage has likely increased in 1997 and 1998, although data are not yet available to confirm this increase.

Post-test Counseling

Both national and local guidelines recommended post-test counseling at the time of disclosure of HIV test results. There is no standardized data system that directly measures performance and quality of post-test counseling among all pregnant women in the U.S. Likewise, data are not routinely collected or documented in the medical record to assess whether, in disclosing an infant's HIV test results to the biological mother or legal guardian, appropriate HIV counseling is made available to that individual. Nonetheless, other data indicate that in 1996 about 85% of HIV-infected pregnant women who were aware of their HIV status during pregnancy were offered zidovudine during pregnancy, thereby suggesting that at least this percentage of women likely received counseling about the benefit of zidovudine prophylazis.

Secretary's Determination

With regard to the statutory provisions and legislative intent as defined by the Committee on Conference, the Secretary has determined that required testing of newborns of HIV has not become routine practice in the United States. The Secretary further notes that even though disclosure of the results of HIV testing, accompanied by post-test counseling, are recommended for all persons who undergo HIV testing, specific standardized data systems to measure these elements are not in place and such data are not routinely recorded in medical records nor collected in all states. All States have placed a focus on reaching women early in pregnancy to reduce perinatal HIV transmission, certifying their implementation of the PHS guidelines for universal HIV counseling and voluntary testing of pregnant women.

The Secretary further finds that remarkable success has already been achieved in lowering the incidence of perinatal transmission of HIV. Further reduction in transmission can best be achieved by increasing the number of HIV-infected women who utilize prenatal care, including the targeting of substance abuse treatment services for women who use drugs; increasing the number of providers who recommend HIV testing to all their pregnant patients; continuing the development of more effective antiretroviral regimens; improving access, utilization and adherence to recommended treatment and other interventions; enhancing linkages among HIV prevention, substance abuse and mental health providers; and assuring quality health care, including substance abuse treatment and mental health services, for all HIV-infected women and their children. These activities are the focus of a new grant program in Section 2625 of the Public Health Service Act, which received its first appropriation in FY99.

Attachment A Highlights of Federal Public Health Efforts to Reduce Perinatal HIV Transmission.

Centers of Disease Control and Prevention

The CDC has taken a number of steps towards reduction of perinatal HIV transmission, including:

- Dissemination of the USPHS Guidelines for prevention of perinatal HIV transmission. Following publication of the U.S. Health Service Recommendations for HIV Counseling and Voluntary Testing for Pregnant Women in July 1995, as part of the CDC's Morbidity and Mortality Weekly Report (MMWR) series, CDC widely distributed and publicized these guidelines through numerous avenues. Additional copies of the MMWR were mailed to all state and local health departments, and to both public and private health organizations and professional associations. The guidelines were posted on CDC's Internet home page and were widely promoted in newsletters and additional mailings. They were also distributed on request through the CDC National Prevention Information Network (NPIN, formerly known as the National AIDS Clearinghouse) by calling toll free numbers at NPIN or the CDC National AIDS Hotline.
- Establishment of a comprehensive surveillance system to both monitor and evaluate the impact of the USPHS guidelines. At the core of this effort is a surveillance system for HIV and AIDS case reporting. In addition, ancillary studies that provide additional data on reported cases have also been conducted and results reported. A population-based survey on prenatal care of recently-delivered women in 11 states has also provided data on HIV testing among pregnant women. Finally, surveillance of all children under medical care in seven areas of the United States who have been exposed to or are infected with HIV provides additional information.
- Conduct of research to further evaluate the effectiveness of perinatal HIV prevention efforts. The CDC-sponsored Perinatal Evaluation Project was established to examine specific factors associated with acceptance of interventions aimed at preventing perinatal HIV transmission, adherence to recommended therapies by HIV-infected pregnant women, and access to follow-up care.
- Training to support implementation of the USPHS guidelines. CDC developed a training curriculum, "HIV Prevention Counseling for Women of Reproductive Age," designed to provide a detailed explanation of each recommendation and to sensitize counselors to issues many women of reproductive age have related to HIV counseling and testing. In addition to the normal distribution channels for CDC training materials for counseling and testing, this curriculum was mailed directly to nearly 100 individual HIV counselors across the country. CDC has also developed and is in the process of finalizing a second course specifically focusing on HIV prevention counseling in prenatal clinics. This training curriculum will be released in the near future.
- Establishment of a new grant program. Ten million dollars was appropriated in Fiscal Year 1999 by Congress to establish a new grant program to States for prevention of perinatal HIV transmission. CDC awarded these funds to the 16 most heavily affected States to reduce perinatal HIV transmission.
- Revision of USPHS Guidelines. CDC has begun the process of examining the current USPHS guidelines in view of the recommendations by the Institute of Medicine. CDC is intending to revise the current guidelines to incorporate new scientific information and perspectives following the standard process of inviting public comment. These new guidelines are expected to be released within the coming year.

National Institutes of Health

- The NIH continues to support research focused on development, implementation and direction of a wide range of domestic and international research activities. These include study of the pathogenesis, epidemiology, natural history, and risk factors and co-factors of HIV and related retroviruses in pregnant women, mothers, infants, children, adolescents and the family unit as a whole. Studies focused on prevention of perinatal and sexual transmission and the treatment of HIV

disease and its complications among HIV-infected pregnant women, infants, children and adolescents are also important NIH activities. Examples of these activities include: (a) Clinical trials on the prevention of HIV transmission, including development and evaluation of prophylactic and therapeutic vaccines and development of new, non-AZT-based methods of preventing perinatal transmission; (b) Research focused on the etiology and pathogenesis of HIV infection in infants and children, including the study of children exposed in utero to AZT and other antiretroviral agents and the etiology of any potential adverse effects from this exposure; (c) studies of the natural history of HIV infection and disease in pregnant and nonpregnant women, infants, children and adolescents.

- The current goal of the Pediatric AIDS Clinical Trials Group (PACTG) is to lower the rate of perinatal transmission in the United States to under 2%. This will entail evaluation of combination therapies in pregnant women and newborns, and the proactive development of alternatives to AZT, because as AZT resistant strains of HIV become more common, the efficacy of the PACTG 076 AZT regimen may decrease.
- A major prospective study of perinatal transmission funded by the NIH is the Women and Infants Transmission Study (WITS). The WITS is the only large perinatal observational cohort study in the U.S. that is continuing to enroll patients; the study maintains extensive longitudinal clinical, virologic and immunological evaluations of pregnant and postpartum women and their infants. A critical part of the study has been the development of an extensive repository of maternal and infant specimens which has enabled both WITS and interested non-WITS investigators to examine the role of virologic, immunologic, and genetic factors in perinatal transmission, particularly in an era of antiretroviral therapy for pregnant infected women.
- The rational design to additional interventions to reduce perinatal and sexual transmission requires a more complete understanding of factors contributing to transmission. Since the majority of perinatal transmission occurs during birth, viral exposure during labor and delivery is thought to be an important mechanism of transmission. The NIH is funding the Women's Interagency Health Study, the largest multicenter, longitudinal study of HIV disease in women in the United States, to define the immunologic environment of the female genital tract in uninfected as well as HIV infected women, the properties of HIV found in the genital tract, and the factors that influence these parameters. These studies will provide insight into how to develop better interventions to further the goal of prevention.

Health Resources and Services Administration

Since the results of the ACTG 076 trial became available in 1994, HRSA has engaged in numerous activities to reduce perinatal HIV transmission and facilitate the development of health care systems for pregnant women with HIV and their families. Selected activities are highlighted below.

- In 1994, HRSA convened two public meetings which brought together women living with HIV, providers, advocates, ethicists, and policy makers as well as representatives of State and local governments, and HRSA grantees. The purpose was to identify issues in implementing expanded HIV counseling and voluntary testing and providing access to zidovudine chemoprophylaxis for pregnant women with HIV who are served by HRSA's programs and to recommend practical strategies for implementation. The findings from these two meetings formed the basis for subsequent HIV/AIDS program initiatives.
- HRSA published and disseminated the Program Advisory "Use of Zidovudine to Reduce Perinatal HIV Transmission in HRSA-Funded Programs" to its grantees in December 1995.
- A collaboration was formed with the Agency for Health Care Policy and Research, the Health Care Financing Administration, and Columbia University, NY, to produce consumer educational materials (including written documents, audio and video tapes) in English, Spanish, and Haitian Creole, entitled "Is AZT the Right choice for You and Your Baby?" Over 20,000 copies of these materials have been circulated to HRSA and Medicaid constituents since 1995. HRSA subsequently commissioned and widely circulated an updated consumer document, "What Women Need to Know: The HIV Treatment Guidelines for Pregnant Women", based on the January 1998 USPHS Task Force Recommendations for the Use of Antiretroviral Drugs in Pregnant Women Infected with HIV-1 for Maternal Health and for Reducing Perinatal HIV-1 Transmission in the United States.
- HRSA produced and implemented several provider training programs on the topic of perinatal zidovudine chemoprophylaxis and reduction of perinatal HIV transmission. These include: (1) two international State-of-the-Art Clinical Conference calls (1994, 1998) and one international satellite broadcast in 1998; (2) an extensive training program through the AIDS Education and Training Centers utilizing the HRSA manual "Reduction of Perinatal HIV Transmission: A Guide for Providers"; (3) a National Telephone Consultation Service that tracks and analyzes all provider consultations related to the reduction of perinatal HIV transmission; (4) a manual entitled "Creating a Circle of Care: Comprehensive Service Delivery to HIV-Positive Pregnant Women and Their Newborns"; and (5) a monograph entitled "Comprehensive Services for HIV-Infected Pregnant Women and Their Newborns: Seven Case Studies." All documents have been widely circulated to HRSA providers.
- Since 1995, all HRSA Ryan White grantees are expected to annually revise and implement program plans to increase routine perinatal HIV counseling and voluntary testing to further reduce perinatal HIV transmission.
- In 1995, the HRSA Ryan White Title IV program developed and implemented the Women's Initiative for HIV Care and Reduction of Perinatal HIV Transmission (WIN). WIN is a ten site, four year demonstration project focusing on perinatal HIV counseling, voluntary testing, and improving the care system for women with HIV disease. In the first two and a half years of WIN, 33,000 women have been contacted through outreach and informed of the benefits of knowing their HIV status and where they could obtain care. Additionally, more than 1,300 pregnant women with HIV and 2,000 infants were enrolled in care through WIN programs. Within WIN, both clients and providers have been interviewed in order to explore the health services needs of women with HIV and the training and technical assistance needs of their providers.
- HRSA has also supported the Association of Maternal and Child Health Programs (AMCHP) to survey state health departments and develop a guidance document for expanded HIV counseling and testing and provision of care for pregnant women with HIV infection.

Health Care Financing Administration

Maternal HIV Project

HCFA began a consumer information project in 1995 to inform women of childbearing age about the findings from the AIDS Clinical Trials Group 076 which showed that, when a regimen of

zidovudine is given to HIV-infected women during pregnancy and delivery, and to the infant after birth, the rate of transmission of HIV from mother to child is greatly reduced. This project, which was initially begun in only four states, has been greatly expanded. Currently, 41 States, the District of Columbia, and Puerto Rico have campaigns to inform women about the AZT regimen. HCFA has a National Performance Review goal to expand this information campaign to all States by the year 2000. Materials are now available in English, Spanish, Haitan Creole, Russian, Chinese, Japanese, Vietnamese, Korean, French, and Bosnian. HCFA intends to publish materials in four additional languages—Portuguese, Khmer, Hmong, and Yupik. A ten minute video targeting all women of childbearing age will be available in 2000.

• The Maternal HIV Project also maintains a website to provide information for both providers and women of childbearing age regarding HIV counseling and testing, and Medicaid coverage of these services. The website can be accessed from a banner on the HCFA homepage, http://www.hcfa.gov.

Substance Abuse and Mental Health Services Administration

• The Treatment and Systems Improvement Branch within the Center for Substance Abuse Treatment currently funds 9 Residential Women and Their Children (RWC) and 3 Pregnant and Postpartum women (PPW) grant programs. Both of these programs offer comprehensive, high quality residential treatment services for women suffering from alcohol and other drug problems, and their children. The RWC program serves women and their children ages birth through age 10. The PPW program serves pregnant women and their children up to age one. Both grant programs include a broad range of services, including medical and mental health assessments, screenings and services which can address the HIV counseling, testing and health care needs of pregnant women and their infants. In each program, education, counseling and medical services or referrals are offered around HIV/AIDS. One of the many goals of these programs is to reduce the incidence of HIV, TB, and STDs.

• SAMSHA also supports HIV counseling and testing activities among individuals in substance abuse treatment programs through the HIV Set Aside in the Substance Abuse Prevention and Treatment Block Grant. The Community Outreach Grants program also targets information, resources, counseling and testing to women and men at risk for HIV because of their injection drug use. While not specifically targeted at pregnant women, these efforts reach many women of childbearing age to increase their knowledge of serostatus and to provide referrals for needed services.

Indian Health Service

• The IHS has disseminated the USPHS Guidelines for HIV Counseling and Voluntary Testing for Pregnant Women to IHS health providers. IHS also sponsors a Postgraduate OB/GYN course with a comprehensive syllabus, which has been an excellent vehicle for disseminating the guidelines to IHS providers.

• Ongoing assessments of HIV counseling and testing for pregnant women are conducted in IHS sites. For example, in the Phoenix, AZ area, all IHS Service Units offer HIV testing at the first prenatal visit. At Phoenix Indian Medical Center, one to two women are treated during the prenatal period for positive HIV tests each year, but as yet no infant has been born with HIV infection. A recent audit from the Navajo Area Office reviewing HIV counseling rates by primary prenatal provider specialty showed that rates of HIV counseling were highest in clinics where nurses were trained to do all of the counseling (97% of patients were provided counseling).

Dated: January 14, 2000.

Donna E. Shalala,

Secretary.

[FR Doc. 00–1358 Filed 1–19–00; 8:45 am]

BILLING CODE 4150–28–M

Reader Aids

Federal Register

Vol. 65, No. 13

Thursday, January 20, 2000

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JANUARY

1–200	3
201–344	4
345–688	5
689–1050	6
1051–1296	7
1297–1528	10
1529–1754	11
1755–2016	12
2017–2280	13
2281–2520	14
2521–2834	18
2835–3118	19
3119–3374	20

CFR PARTS AFFECTED DURING JANUARY

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.

3 CFR

Proclamations:
1660 (See Proc. 7266) 2831
1704 (See Proc. 7266) 2831
1948 (See Proc. 7266) 2831
2050 (See Proc. 7266) 2831
2528 (See Proc. 7266) 2831
7263 2817
7264 2821
7265 2825
7266 2831
7267 2835
7268 2837

Executive Orders:
12543 (See Notice of December 29, 1999) 199
12544 (See Notice of December 29, 1999) 199

Administrative Orders:
Presidential Determinations:
No. 2000–9 of December 23, 1999 689
Notices:
December 29, 1999 199
Memorandums:
January 5, 2000 ..... 2279, 3119

5 CFR

831 ..... 2281, 2521
842 ..... 2281, 2521

7 CFR

6 1297
201 1704
371 1298
932 2839
959 2526
966 2281
982 2841
984 1755
997 1302
998 1302
999 1302
1220 ..... 1, 2844

Proposed Rules:
54 3155
253 2358
800 75
868 78
930 672
979 1347
993 2908
1280 1825
1301 1825
1304 1825
1305 1825
1306 1825
1307 1825
1308 1825

9 CFR

93 345
94 ..... 1304, 1529
96 1304
303 201
304 2283
312 2283
327 2283
350 2283
381 ..... 201, 2283, 2284
424 ..... 2284, 3121

Proposed Rules:
54 1074
79 1074
130 391

10 CFR

431 2227

Proposed Rules:
50 1829
430 2077
490 1831
960 2361
963 2361

11 CFR

Proposed Rules:
100 1074
102 1074
103 1074
104 1074
106 1074
107 1074
109 1074
110 1074
114 1074
116 1074

12 CFR

269a 2529
935 202
960 203

Proposed Rules:
5 3157
650 1676
900 324
910 324
917 81
941 324

13 CFR

305 2017
308 2530
314 2530
400 1757
500 1758

Proposed Rules:
120.....1349

14 CFR

23.....1758
39...1, 204, 205, 207, 209, 211, 213, 346, 691, 692, 695, 697, 1051, 1537, 1538, 1540, 1761, 1762, 1763, 1765, 1767, 1769, 1771, 2017, 2019, 2285, 2287, 2289, 2844, 2861, 2862, 2864
61.....2022
67.....2022
71.....348, 349, 699, 700, 1308, 1309, 1774, 2537, 2538, 2539
95.....2291
97.....350, 2023, 2025
121.....2295
125.....2295
141.....2022
142.....2022
382.....352
1204.....2865

Proposed Rules:
39.....250, 251, 254, 395, 397, 399, 401, 1075, 1350, 1353, 1831, 1833, 1836, 1838, 1840, 2362, 2555, 3165
71.....402
91.....2077
108.....560
109.....560
111.....560
121.....2079
129.....560, 2079
191.....560

15 CFR

734.....2492
740.....2493
742.....2492
770.....2492
772.....2492
774.....2492
902.....30

Proposed Rules:
280.....1572
303.....731

16 CFR

256.....2867
1615.....1435
1700.....93

Proposed Rules:
250.....2912
310.....2912

17 CFR

232.....3123

18 CFR

35.....810

Proposed Rules:
125.....1484
225.....1484
356.....1484

19 CFR

4.....2868

20 CFR

Proposed Rules:
604.....2080

21 CFR

101.....1000
173.....1776
201.....7
314.....1776
341.....7
369.....7
862.....2296
864.....2296
866.....2296
868.....2296
870.....2296
872.....2296
874.....2296
876.....2296
878.....2296
880.....2296
882.....2296
884.....2296
886.....2296
888.....2296
890.....2296
892.....2296
1308.....3124

Proposed Rules:
216.....256
870.....2364
890.....2364

22 CFR

514.....352

23 CFR

655.....9

24 CFR

902.....1712

25 CFR

1.....2026
301.....2030
602.....2030

Proposed Rules:
1.....2081, 2084

26 CFR

1.....701, 1236, 1310, 2026, 2323
49.....1056
301.....215, 263, 1059, 2030
602.....1056, 1236, 1310, 2030, 2323

Proposed Rules:
1.....258, 1572, 2081, 2084
40.....1076

27 CFR

270.....1676

29 CFR

2550.....614
4044.....2329

30 CFR

202.....1542
203.....2874
206.....1542
250.....217, 2874, 3126
251.....2874
253.....2874
254.....2874
256.....2874
904.....2331
914.....1059
946.....1063

Proposed Rules:
206.....1580, 2557, 3167
944.....2364

31 CFR

1.....2333
317.....2034
375.....3113

32 CFR

Proposed Rules:
199.....2085
323.....3167
326.....2912
813.....419

33 CFR

110.....2876
117.....353, 710, 1543, 1543, 2035, 2036, 2038, 2539, 2541
154.....710
155.....710
165.....1065

Proposed Rules:
100.....2095
110.....1581, 2095
117.....1077
157.....2812
165.....1079, 2095

34 CFR

611.....1780

Proposed Rules:
Ch. VI.....1582

36 CFR

Proposed Rules:
5.....2920
13.....2920

37 CFR

4.....3127

38 CFR

Ch. 1.....1544
17.....762
51.....762
58.....762

39 CFR

111.....1318

Proposed Rules:
111.....264
206.....403

40 CFR

9.....1950
49.....1322
52.....14, 16, 1068, 1545, 1787, 2039, 2042, 2046, 2048, 2052, 2334, 2674, 2877, 2880, 2883, 3130
60.....1323, 2336
63.....3276
70.....1787, 3130
81.....2883
82.....716
97.....2674
136.....3007
141.....1950
142.....1950
147.....2899
180.....1790, 1796, 1802, 1809
247.....2889
257.....1842
258.....1842
261.....2337
271.....2897
300.....19, 1070, 2903, 2905
445.....3007
712.....1548
716.....1554
721.....354

Proposed Rules:
52...104, 421, 732, 1080, 1583, 1841, 2367, 2557, 2560, 2920, 2921, 2924, 3168
63.....3169
70.....1841, 3168
81.....2924
180.....425
257.....1814
258.....1814
260.....3188
271.....2925
300.....1081, 2925, 2926
503.....1676

41 CFR

301-10.....1268
301-11.....1326
301-51.....2541, 3054
301-52.....3054
301-54.....3054
301-70.....3054
301-71.....3054
301-74.....1326
301-76.....3054

Proposed Rules:
101-6.....2504
102-3.....2504

42 CFR

121.....1435
412.....1817, 3136
413.....1817
483.....1817
485.....1817

Proposed Rules:
405.....1081

44 CFR

64.....1554, 1555

Proposed Rules:
67.....1435

45 CFR

Proposed Rules:
160.....427
164.....427

46 CFR

Proposed Rules:
356.....646

47 CFR

0.....374
27.....3139
51.....1331, 2542
73.....219, 220, 1823, 1824, 3150, 3151, 3152
76.....375

Proposed Rules:
1.....2097
22.....2097
51.....2367
73.....270, 1843, 3188
74.....3188
101.....2097

48 CFR

205 2056
209 2056
235 2057
241 2058
243 2056
252 2056
253 2055
1806 3153
1813 3153
1815 3153
1835 3153
1852 3153
1872 3153

Proposed Rules:

1 1438
2 1438
4 1438
7 1438
8 1438
11 2272
15 1438
16 1438
17 1438
22 ..... 1438, 2272
27 1438
28 1438
31 1438
32 1438
35 1438
36 2272
37 1438
42 1438
43 1438
44 1438
45 1438
49 ..... 1438, 2272
51 1438
52 ..... 1438, 2272
53 1438
212 2104
242 ..... 2104, 2109
247 2104
252 2104
253 2109
1804 429
1852 429

49 CFR

1 220
268 2342
572 2059

Proposed Rules:

40 2573
209 1844
222 2230
229 2230
1244 732

50 CFR

17 ..... 20, 2348, 3096
216 30
226 1584
300 59
600 221
635 2075
648 ..... 377, 1557, 1568
660 221
679 ..... 60, 65, 74, 380

Proposed Rules:

17 ..... 1082, 1583, 1845, 3096
18 109
86 3332
216 ..... 270, 1083
222 270
223 105
224 1082
226 ..... 105, 1584
300 272
635 3199
648 ..... 275, 431
660 2926

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 20, 2000

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Hazelnuts grown in—
Oregon and Washington; published 1-19-00
Olives grown in—
California; published 1-19-00

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Exportation and importation of animals and animal products:
African horse sickness; disease change status—
Qatar; published 1-5-00

AGRICULTURE DEPARTMENT
Federal Crop Insurance Corporation
Crop insurance regulations:
Potato crop; certified seed endorsement; published 12-21-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Amino/phenolic resins production; published 1-20-00
Air quality implementation plans; approval and promulgation; various States:
Arizona; published 12-21-99

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Wireless telecommunications services—
746-764 and 776-794 MHz bands; service rules; published 1-20-00

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Inpatient Disproportionate Share (DSH) Hospital adjustment calculation—
States with section 1115 expansion waivers; change in treatment of certain Medicaid patient days; published 1-20-00

JUSTICE DEPARTMENT
Drug Enforcement Administration
Schedules of controlled substances:
Exempt anabolic steroid products; published 1-20-00

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Acquisition regulations:
Foreign proposals to NASA research announcements; implementation on no-exchange-of-funds basis; published 1-20-00

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Right-of-way and environment:
Right-of-way program administration; published 12-21-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Onions (Vidalia) grown in—
Georgia; comments due by 1-26-00; published 12-27-99
Prunes (dried) produced in California; comments due by 1-28-00; published 12-29-99

AGRICULTURE DEPARTMENT
Forest Service
Land uses:
Special use authorizations; costs recovery for processing applications and monitoring compliance; comments due by 1-24-00; published 11-24-99

AGRICULTURE DEPARTMENT
Food Safety and Inspection Service
Meat and poultry inspection:
Nutrient content claims; "healthy" definition; comments due by 1-27-00; published 12-28-99

AGRICULTURE DEPARTMENT
Rural Utilities Service
Electric loans:
Insured and guaranteed loans; post-loan policies and procedures; comments due by 1-27-00; published 12-28-99

COMMERCE DEPARTMENT
National Institute of Standards and Technology
Fastener Quality Act; implementation; comments due by 1-28-00; published 1-11-00

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Halibut and sablefish; Individual Fishing Quota Program; comments due by 1-26-00; published 12-27-99
Meetings:
Western Pacific Fishery Management Council; comments due by 1-24-00; published 12-17-99

COMMODITY FUTURES TRADING COMMISSION
Contract markets:
Contract market rule review procedures; comments due by 1-25-00; published 11-26-99

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Construction Industry Payment Protection Act; implementation; comments due by 1-27-00; published 12-28-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Compression-ignition marine engines at or above 37 kilowatts; comments due by 1-28-00; published 12-29-99
Air pollutants, hazardous; national emmission standards:
Perchloroethylene emissions from dry cleaning facilities—
Florida; comments due by 1-27-00; published 12-28-99
Air quality implementation plans; approval and promulgation; various States:
Alaska; comments due by 1-28-00; published 12-29-99
Delaware et al.; comments due by 1-27-00; published 12-28-99
Indiana; comments due by 1-27-00; published 12-28-99
Louisiana; comments due by 1-28-00; published 12-29-99
Michigan; comments due by 1-24-00; published 12-16-99
Missouri; comments due by 1-24-00; published 12-23-99
Confidential business information; elimination of special treatment for certain category; comments due by 1-26-00; published 12-21-99
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Glyphosate; comments due by 1-24-00; published 11-24-99

FEDERAL COMMUNICATIONS COMMISSION
Radio broadcasting:
Digital audio systems; impact on terrestial radio service; comments due by 1-24-00; published 11-9-99
Radio stations; table of assignments:
Georgia; comments due by 1-24-00; published 12-17-99
New York; comments due by 1-24-00; published 12-17-99
Texas; comments due by 1-24-00; published 12-20-99
Television broadcasting:
Video description of video programming for individuals with visual disabilities; implementation; comments due by 1-24-00; published 12-1-99

FEDERAL ELECTION COMMISSION
Contirbution and expenditure limitations and prohibitions:
Independent expenditures and party committee expenditure limitations; comments due by 1-24-00; published 12-9-99

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Constuction Industry Payment Protection Act; implementation; comments due by 1-27-00; published 12-28-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Beverages—
Fruit and vegetable juices and juice products; HACCP procedures for safe and sanitary processing and importing; comments due by 1-24-00; published 11-23-99
Medical devices:
Surgeon's and patient examination gloves; reclassification; comments due by 1-27-00; published 10-28-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Group health plans; access, portability, and renewability requirements; comment request; comments due by 1-25-00; pubiished 10-25-99
Medicare and Medicaid:
Elderly; all-inclusive care programs; comments due by 1-24-00; published 11-24-99
Medicare:
Methods to improve Medicare efficiency; suggestion program establishment; comments due by 1-25-00; published 11-26-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Housing programs:
Uniform physical condition standards and physical inspection requirements; insured and assisted properties; administrative process assessment; comments due by 1-25-00; published 11-26-99

INTERIOR DEPARTMENT
Land Management Bureau
Minerals management:
Mining claims or sites; location, recording, and maintenance; reporting and recordkeeping requirements; comments due by 1-24-00; published 10-26-99

INTERIOR DEPARTMENT
Assistance programs; administrative and audit requirements and cost principles:
On-the-job seat belt use; comments due by 1-26-00; published 12-27-99

INTERIOR DEPARTMENT
National Park Service
Special regulations:
Denali National Park and Preserve, AK; traditional activities definition; comments due by 1-25-00; published 1-19-00

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
New Mexico; comments due by 1-24-00; published 12-22-99
Pennsylvania; comments due by 1-26-00; published 12-27-99

JUSTICE DEPARTMENT
Prisons Bureau
Inmate control, custody, care, etc.;
Inmate financial responsibility program; spending limitations; comments due by 1-27-00; published 12-28-99

LABOR DEPARTMENT
Occupational Safety and Health Administration
Construction safety and health standards:
Fall protection; comments due by 1-24-00; published 9-24-99

LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Group health plans; access, portability, and renewability requirements; comment request; comments due by 1-25-00; published 10-25-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Construction Industry Payment Protection Act; implementation; comments due by 1-27-00; published 12-28-99

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Truth in Savings Act—
Statement disclosures; delivery in electronic form; comments due by 1-25-00; published 11-26-99

NUCLEAR REGULATORY COMMISSION
Rulemaking petitions:
Nevada; comments due by 1-28-00; published 11-3-99

PERSONNEL MANAGEMENT OFFICE
Health and counseling programs, Federal employees:
Child care costs for lower income employees; appropriated funds use; comments due by 1-24-00; published 12-23-99
Prevailing rate systems; comments due by 1-26-00; published 12-27-99

POSTAL SERVICE
Domestic Mail Manual:
Plant Verified Drop Shipment (PVDS) mailings; loading requirements; comments due by 1-24-00; published 12-23-99

RAILROAD RETIREMENT BOARD
Railroad Retirement Act:
Evidence required for payment; comments due by 1-25-00; published 11-26-99

SECURITIES AND EXCHANGE COMMISSION
Investment companies:
Investment company boards of directors: independent directors role; comments due by 1-28-00; published 11-3-99

TRANSPORTATION DEPARTMENT
Coast Guard
Outer Continental Shelf activities:
Platforms in Gulf of Mexico; safety zone; comments due by 1-25-00; published 11-26-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Dowty Aerospace Propellers; comments due by 1-27-00; published 12-28-99
EMBRAER; comments due by 1-28-00; published 12-29-99
Fokker; comments due by 1-28-00; published 12-29-99
General Electric Co.; comments due by 1-25-00; published 11-26-99
Industrie Aeronautiche e Meccaniche; comments due by 1-27-00; published 12-22-99
Lockheed; comments due by 1-24-00; published 12-9-99
Pratt & Whitney; comments due by 1-24-00; published 11-24-99
Airworthiness standards:
Special conditions—
Boeing Model 777 series airplanes; comments due by 1-27-00; published 12-13-99
Class E airspace; comments due by 1-27-00; published 12-13-99
General rulemaking procedures:
Plain language and removal of redundant and outdated material; comments due by 1-28-00; published 12-14-99

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcohol; viticultural area designations:
Diamond Mountain, CA; comments due by 1-25-00; published 11-26-99

TREASURY DEPARTMENT
Internal Revenue Service
Excise taxes:
Group health plans; access, portability, and renewability requirements; comment request; comments due by 1-25-00; published 10-25-99

LIST OF PUBLIC LAWS

Note: The List of Public Laws for the first session of the 106th Congress has been completed and will resume when bills are enacted into law during the second session of the 106th Congress, which convenes on January 24, 2000.

A Cumulative List of Public Laws for the first session of the 106th Congress will be published in the **Federal Register** on December 30, 1999.

Last List December 21, 1999.

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

AFR SMITH212J DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

A renewal notice will be sent approximately 90 days **before the shown date.**

AFRDO SMITH212J DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5468**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register,** *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Public Laws

106th Congress, 2nd Session, 1999

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 106th Congress, 2nd Session, 1999.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara/index.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code
* 6216

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 106th Congress, 2nd Session, 1999 for $136 per subscription.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 12/99

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Printed on recycled paper