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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 24, at 9:00 a.m.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: 202–523–5240.

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

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Presidential Documents

Title 3—

The President

Proclamation 6121 of April 25, 1990

National Crime Victims' Rights Week, 1990

By the President of the United States of America

A Proclamation

In 1982, the President's Task Force on Victims of Crime called national attention to the plight of millions of Americans who fall prey to violence and other forms of criminal activity each year. The Task Force found that these individuals were often victimized twice—first by the crime itself, and then by the criminal justice system.

Since the release of the Task Force's findings, significant changes have been made in the criminal justice system and in its treatment of crime victims. More assistance and compensation programs have been made accessible to crime victims and their families. The majority of the States have passed legislation to ensure fair treatment of crime victims, and 45 States now have a Crime Victim's Bill of Rights. On the Federal level, since passage of the Victims of Crime Act of 1984, nearly $420 million has been awarded to States to aid crime victims across the Nation. These funds are not exacted from law-abiding taxpayers; rather, they come from fines and penalties assessed on convicted Federal offenders.

The movement to aid crime victims and to promote greater respect for their rights and needs within the criminal justice system originated in grass-roots efforts—efforts that frequently began with one group of crime victims reaching out to help others. They have had a dramatic impact. Today, social workers, school administrators, church congregations, business and civic leaders, lawmakers, and individual volunteers are all cooperating with criminal justice officials as they strive to bring compassion, timely restitution, and healing to crime victims.

None of us should rest, however, until our laws and practices fully reflect the sympathy we have for the victims of crime and the intolerance we have for criminals. We must continue working together to help crime victims reclaim their dignity, health, and security. We must also strive to ensure that criminals receive punishment commensurate with the harm they have inflicted.

During National Crime Victims' Rights Week, as organizations across the country hold special events to increase awareness of the problems experienced by crime victims, we also recognize those generous Americans who work—often as volunteers—on behalf of crime victims and their families.

By Senate Joint Resolution 242, the Congress has designated the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of April 22 through April 28, 1990, as National Crime Victims' Rights Week. I call upon all Americans—government officials, law enforcement officers, health care professionals, religious and business leaders, and private citizens—to renew their determination to respond with speed and sensitivity to the needs of innocent crime victims and their families. I also urge every American to learn about ways to minimize the risk of victimization and to demonstrate his or her appreciation for those who work for justice.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of April, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 90-9964
Filed 4-25-90; 12:52 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of Apr. 25 on signing Proclamation 6121, see the *Weekly Compilation of Presidential Documents* (vol. 26, no. 17).

Rules and Regulations

Federal Register
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Friday, April 27, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 715]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 715 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 365,000 cartons during the period from April 29, 1990, through May 5, 1990. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 715 (7 CFR part 910) is effective for the period from April 29, 1990, through May 5, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989–90. The Committee met publicly on April 24, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Note: This section will not appear in the Code of Federal Regulations.

2. Section 910.715 is added to read as follows:

§ 910.715 Lemon Regulation 715.

The quantity of lemons grown in California and Arizona which may be handled during the period from April 29, 1990, through May 5, 1990, is established at 365,000 cartons.

Dated: April 25, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–9976 Filed 4–26–90; 8:45 am]
BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL–1]

Truth in Lending; Update to Official Staff Commentary; Corrections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation; corrections.

SUMMARY: The Board is making corrections to its final official staff interpretation of Regulation Z which appeared in the **Federal Register** on April 9, 1990 at 55 FR 13103.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, or Thomas J. Noto, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452–3667. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson, at (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Corrections

The following corrections are made in FR Doc. 90–7708, Truth in Lending; Update to Official Staff Commentary:

1. Page 13103, col. 1, line 9 from the bottom, "Card" should be inserted after "Charge."

2. Page 13103, col. 3, line 6, "card" should be inserted after "charge."

3. Page 13106, col. 1, line 1, "Comment 16(b)–8" should be "Comment 16(b)–9."

PART 226—[CORRECTED]

Supplement I, Subpart A [Corrected]

4. Page 13106, col. 3, in the second line of comment 2(a)(24)–6, "this definition" should read "the definition."

Supplement I, Subpart B [Corrected]

5. Page 13118, col. 1, the amendatory language to 9(f) comments, the phrase "Comments 9(f)–1 through 9(f)–4" should read "Comments 9(f)–1 through 9(f)–5."

Supplement I, Subpart B [Corrected]

6. Page 13119, col. 1, line 1, a quotation mark should be inserted between "Rate" and "or."

Supplement I, Subpart B [Corrected]

7. Page 13119, col. 1, line 5, "Comment 16(b)–8" should be "Comment 16(b)–9" and the designation "8" in line 1 of the text should be "9."

Board of Governors of the Federal Reserve System, April 23, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90–9791 Filed 4–26–90; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CCGD8–90–04]

Special Local Regulations; Neches River Festival Regattas, Neches River, Beaumont, TX

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Neches River Festival Regattas events being held on May 4, 5 and 6, 1990 from 8 a.m. until 6 p.m. on the Neches River at Beaumont, Texas. These regulations are needed to provide for the safety of life on the navigable waters during the events on May 4, 5 and 6, 1990.

EFFECTIVE DATES: These regulations become effective on May 4, 1990 at 7:30 a.m. and terminate on May 6, 1990 at 6:30 p.m.

FOR FURTHER INFORMATION CONTACT: LT Scott P. LaRochelle, Operations Officer, U.S. Coast Guard Group Galveston. Tel: (409) 766–5603.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 533, a notice of proposed rulemaking has not been published and good cause exists for making them effective in less than 30 days from publication. Following normal rulemaking procedures would have been impracticable. The details of this event were not finalized until April 11, 1990 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data or arguments. Commenters should include their name and address, identify this notice (CCGD8–90–04) and the specific section of this proposal to which the comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are LT Scott P. LaRochelle, Project Officer, Coast Guard Group, Galveston, Texas, and LT J. A. Wilson, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The marine event requiring this regulation is a powered boat race called the "Neches River Festival Regatta". This event is sponsored by the Neches Boat Club, Inc. It will consist of approximately 100 inboard hydroplanes, outboard hydroplanes, runabouts and jet powered boats operating at high speeds. The course to be followed by the race will be marked by patrol vessels positioned at various points along its route. Approximately 200 spectator boats are expected for this event. While viewing the event at any point outside the regulated area is not prohibited, spectators will be encouraged to congregate within areas designated by the sponsor. Non-participating vessels will be permitted to transit the area at "No Wake Speed" every hour on the hour for a period of 10 minutes.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–8–90–04 is added to read as follows:

§ 100.35–8–90–04 Neches River, Texas.

(a) *Regulated area:* The following area will be closed to all vessel traffic: The Neches River from Lawson's Crossing to Collier's Ferry at the foot of Pine Street except vessels participating in the Neches River Festival Regatta.

(b) *Special local regulation:* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. The "Official Patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol the event.

(1) No spectator shall anchor, block, loiter in or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(2) When hailed and or signaled, by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The patrol Commander is empowered to forbid and control the movement of all vessels in the regulated

area. He may terminate the event at any time it is deemed necessary for the protection of life and/or property. He may be reached on VHF–FM Channel 16, when required by the call sign "PATCOM".

(c) *Effective dates:* These regulations will be effective daily from 7:30 a.m. to 6:30 p.m. on May 4, 5 and 6, 1990.

Dated: April 19, 1990.

K.H. Williams,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 90–9777 Filed 4–26–90; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3759–5]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a revision to the Michigan State Implementation Plan (SIP) for particulate matter. The revision was necessitated by USEPA's promulgation of new National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}).

The effect of this action is to document that Michigan's committal SIP satisfies USEPA's revised requirements for PM_{10} in areas designated as Group II (52 FR 29385). The Group II areas in Michigan are the City of Monroe, and an area surrounding the City of Carrollton.

DATES: This action will be effective June 26, 1990, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the SIP revision, and other materials relating to this notice, are available at the following addresses. (It is recommended that you telephone Maggie Greene at, (312) 886–6088, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, 530 West Allegan, Lansing, Michigan 48909

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air and Radiation Branch, U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6088.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1987, USEPA promulgated revised National Ambient Air Quality Standards (NAAQS) for particulate matter.[1] In the section of the **Federal Register** notice (52 FR 24679–82), entitled "Requirements for State Implementation Plans," USEPA set forth its SIP development policy for PM_{10}.

For areas designated as Group II under this policy, the State is required to submit either of the following two types of SIP revisions:

(1) A complete SIP for particulate matter—10 microns and under (PM_{10}) with accompanying modeled attainment demonstration showing attainment and maintenance of the PM_{10} standard within 3 years of the SIP's adoption, or

(2) A "committal" SIP that supplements the existing SIP with enforceable commitments to perform the actions required at 52 FR 24681 for such "committal" SIPs.

On April 29, 1988, Michigan submitted a committal SIP for Group II areas to USEPA as a revision to its particulate matter SIP. Areas where attainment of the PM_{10} NAAQS in uncertain and the SIP may require only slight adjustments were placed in Group II. The Group II areas of concern in Michigan are the City of Monroe and an area surrounding the City of Carrollton.[2]

II. Evaluation of Committal SIP Required Provisions for Group II Areas

The are five provisions that are required by USEPA for inclusion in every State's committal SIP. These provisions commit the State to perform the following activities:

(1) Gather ambient PM_{10} data, at least to an extent consistent with minimum USEPA requirements and guidance.[3]

(2) Analyze and verify the ambient PM_{10} data and report 24-hour PM_{10} NAAQS exceedances to the appropriate Regional Office within 45 days of each exceedance.

(3) When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available (see Section 2.0 of the PM_{10} SIP Development Guideline) or when data indicating an annual arithmetic mean (AAM) above the level of the annual PM_{10} NAAQS become available, acknowledge that a nonattainment problem exists and immediately notify the appropriate Regional Office.

(4) Within 30 days of the notification referred to in (3) above, or within 37 months of promulgation, whichever comes first, determine whether the measures in the existing SIP will assure timely attainment and maintenance of the primary PM_{10} standards, and immediately notify the appropriate Regional Office.

(5) Within 6 months of the notification referred to in (4) above, adopt and submit to USEPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than 3 years from approval of the committal SIP.

Comparison of the State's provisions with the above requirements indicates that no discrepancies, omissions, or shortcomings exist in the Michigan committal SIP.

III. Evaluation of Schedule Milestones

USEPA requires that the committal SIP include enforceable milestones with timely commitment dates, consistent with the State's PM_{10} SIP Development Plan. Michigan has acceptably committed to all required milestones.

IV. USEPA's Conclusion and Final Action

To be approvable, PM_{10} committal SIPs must incorporate all five provisions enumerated at 52 FR 24681 and provide enforceable milestone commitments that ensure program implementation. Because Michigan's proposed committal SIP commits to all of the five requisite provisions and to all enforceable milestones, USEPA is approving the Committal SIP for PM_{10} for the State of Michigan's Group II areas which are the City of Monroe and an area surrounding the City of Carrollton.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on June 26, 1990. However, if we receive notice by May 29, 1990 that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and

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[1] The primary and secondary particulate matter NAAQS are now violated when either: (1) the expected annual arithmetic mean value of PM_{10} concentrations exceeds 50 micrograms per cubic meter of air (50 $\mu g/m^3$) (the annual standard), or (2) the expected number of days that the PM_{10} concentration exceeds 150 $\mu g/m^3$ is more than one per calendar year (the 24-hour standard).

[2] The Group II areas of concern were listed at 52 FR 29385 (August 7, 1987).

[3] Section 58.13 of 40 CFR part 58 requires States within 1 year after the PM_{10} NAAQS are promulgated to begin sampling PM_{10} every day (at least at one site) in areas with a PM_{10} nonattainment probability of 95 percent or greater, and every other day (at least at one site) in areas with a nonattainment probability between 20 and 95 percent.

(2) a notice that begins a new rulemaking by proposing the action and establishing a comment period. See 47 FR 27073 (June 23, 1982).

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

This action has been classified as a table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225).

On January 6, 1989, the Office of Management and Budget waived table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 26, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Particulate matter.

Dated: April 19, 1990.

Frank M. Covington,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Michigan—Subpart X

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1173 is amended by adding new paragraph (d) to read as follows:

§ 52.1173 Control strategy: Particulates.

* * * * *

(d) Approval—On April 29, 1988, the State of Michigan submitted a committal SIP for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}) for Michigan's Group II areas. The Group II areas of concern are in the City of Monroe and an area surrounding the City of Carrollton. The committal SIP contains all the requirements identified in the July 1, 1987, promulgation of the SIP requirements for PM_{10} at 52 FR 24681.

* * * * *

[FR Doc. 90–9824 Filed 4–26–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3759–4]

Approval and Promulgation of Implementation Plans; Correction

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking; correction notice.

SUMMARY: This notice corrects a codification error which appeared in a final rulemaking at 54 FR 612 (January 9, 1989) and clarifies which rulemaking was rescinded at 54 FR 12620 (March 28, 1989).

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air and Radiation Branch (5AR–26), United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6088.

SUPPLEMENTARY INFORMATION: On January 9, 1989, USEPA disapproved the 1982 carbon monoxide (CO) plan for Cuyahoga County, Ohio. The codified paragraph in the January 9, 1989, final rulemaking was incorrectly numbered 40 CFR 52.1887(d) instead of (e), thereby resulting in two paragraphs being identified at (d). (The first 40 CFR 52.1887(d) was added at 51 FR 10387 (March 26, 1986) and disapproved Ohio's request to delete the requirement for a 1982 CO plan.) On March 28, 1989, USEPA rescinded its January 9, 1989, disapproval of the Cuyahoga County CO plan. Specifically, on page 12621, of the March 28, 1989, **Federal Register**, at the end of the notice, it stated that § 52.1887 is amended by removing paragraph (d). The following paragraph (d), which appeared in the January 9, 1989, notice, is the one which USEPA intended to be removed.

(d) Disapproval. The carbon monoxide (CO) State Implementation Plan (SIP) for Cuyahoga County is disapproved because it lacks a vehicle inspection and maintenance program (I/M), which will achieve the minimum emission reduction requirement for CO. Therefore, funding and construction restrictions for CO under Sections 110(a)(2)(I), 176(a), 176(b) and 173(4) of the Clean Air Act have been imposed for Cuyahoga County, Ohio.

Today USEPA is correcting this error by resubmitting for publication in the 1990 Code of Federal Regulations, the codification of 40 CFR 52.1887(d) as it now should appear. USEPA regrets any inconvenience this error has caused.

Dated: April 19, 1990.

Frank M. Covington,

Acting Regional Administrator.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Sulfur oxide.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1887(d) is revised to read as follows:

§ 52.1887 Control strategy: Carbon monoxide.

* * * * *

(d) Disapproval—On June 9, 1982 (draft), and November 9, 1982 (final), the State of Ohio submitted a revised demonstration that attempts to show attainment by December 31, 1982, of the carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) for the Cleveland urban area. Supplemental information was submitted on March 8, 1983, March 16, 1983, December 5, 1983, and May 9, 1985. The June 9, 1982, and March 8, 1983, submittals also requested that the 5-year extension for meeting the NAAQS requested on July 29, 1979, and granted by USEPA on October 31, 1980, and June 18, 1981, be rescinded for this area. The attainment demonstration and rescission request are disapproved by USEPA because they do not meet the requirements of § 51.10(b).

* * * * *

[FR Doc. 90–9825 Filed 4–26–90; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 280

[FRL 3752-6]

Underground Storage Tanks; Technical Requirements

AGENCY: Environmental Protection Agency.

ACTION: Technical amendment.

SUMMARY: This is a document by the Environmental Protection Agency announcing a technical change to the underground storage tank regulations. The technical change is being made to the schedule for phasing in release detection for piping at UST systems storing hazardous substances. The regulatory reference in 40 CFR 280.40(c) appears to impose a substantial technical requirement upon owners and operators not intended by the Agency. Today's document also relieves the restrictions implicated by the reference.

EFFECTIVE DATE: The technical amendment is effective today, April 27, 1990.

ADDRESSES: The Docket for this rulemaking (Docket No. UST 2-1) is located at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The Docket is open from 9:30 a.m. to 3:30 p.m., Monday through Friday, except for federal holidays. You may make an appointment to review materials in the Docket by calling (202) 475-9720.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or 382-3000 (in Washington, DC).

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 1988, (53 FR 37082) EPA promulgated technical requirements under Subtitle I of RCRA for underground storage tanks containing petroleum or substances defined as hazardous under the Comprehensive Response, Compensation, and Liability Act of 1980 (CERCLA), except for substances regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act (RCRA). These rules went into effect 90 days later on December 22, 1988. Today's document corrects a technical problem in those final regulations.

EPA is today promulgating a technical amendment to the September 23, 1988 final rule to clarify the schedule for required installation of secondary containment for hazardous substance tanks. Since promulgating the final rule, it has come to the Agency's attention that a note at the bottom of the scheduling table for the installation of release detection in § 280.40(c) incorrectly refers to a provision in the body of the regulations. This error appears to require the installation of secondary containment for hazardous substance tank piping according to a schedule that EPA only intended apply to the use of automatic line leak detectors in conjunction with either annual line tightness testing or monthly monitoring. The table at § 280.40(c) sets forth a schedule according to which owners and operators of tanks installed at different times must install leak detection for their tanks. The schedule uses a "P" to indicate when owners and operators must begin release detection for pressurized piping at petroleum and hazardous substance tanks. The Agency intended that such release detection include only those elements found in § 280.41(b)(1), which consist of an automatic line leak detects and either annual line tightness testing or monthly monitoring.

However, in defining "P" in a note to the table in § 280.40, the regulations read, "P = Must begin release detection for all pressurized piping in accordance with § 280.41 (b)(1) *and § 280.42(b)(4).*" (emphasis added). Under § 280.42(b)(4), release detection for hazardous substance tank piping is required to include secondary containment. Thus, the appearance of the note to § 280.40(c) is to require the installation of secondary containment for pressurized piping for hazardous substance tanks according to the required schedule for the installation of release detection measures as defined under § 280.41(b)(1).

Such an appearance was not the Agency's intent, and indeed, directly contradicts the regulatory language contained in § 280.42(a). In that provision, the Agency quite clearly states that existing hazardous substance tanks are not required to install secondary containment (the "release detection requirements for new systems in paragraph (b)") until December 22, 1998. Here the Agency made no reference to the phased-in schedule contained in § 280.40(c) because it did not intend to require the installation of secondary containment for existing hazardous substance tanks and piping according to the phased-in schedule.

The Agency is not soliciting comments on today's rule because it believes notice and comment procedures are unnecessary under 5 U.S.C. 553(b) due to the nonsubstantive nature of the technical change being promulgated. Therefore, the Agency has good cause to dispense with the delayed effective date requirement of 5 U.S.C. 553(d) in order to clarify that the implications of the reference were not intended.

Thus, in order to clarify the intent of the regulations, EPA is today promulgating a technical amendment to § 280.40(c) to delete the reference to § 280.42(b)(4) in the note such that it will now read: "P = Must begin release detection for all pressurized piping as defined in § 280.41(b)(1)."

II. Compliance with Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. As today's rule merely clarifies a misleading note to a regulatory provision, the rule is not "major" as contained in the Office of Management and Budget's Interim Regulatory Impact Analysis Guidance.

This document was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: March 29, 1990.

Don R. Clay,

Assistant Administrator.

For the reasons set out in this document, 40 CFR part 280 is amended as set forth below:

PART 280—TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS (UST)

1. The authority citation for part 280 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991, 6991(a), 6991(b), 6991(c), 6991(d), 6991(e), 6991(f), 6991(h).

2. In 280.40, paragraph (c) is amended by revising the first note immediately after the table entitled "Schedule for Phase-in of Release Detection" to read as follows:

§ 280.40 General requirements for all UST systems.

* * * * *

P = Must begin release detection for all pressurized piping as defined in 280.40(b)(1).

* * * * *

[FR Doc. 90-9588 Filed 04-26-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3830

[AA-680-00-4310; Circular No. 2625]

Location of Mining Claims

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This administrative final rule amends various cross-references in the regulations contained in 43 CFR part 3830 in order to correct outdated and erroneous citations.

EFFECTIVE DATE: April 27, 1990.

ADDRESSES: Inquiries or suggestions should be addressed to: Director (680), Bureau of Land Management, Room 3538, Main Interior Building, 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Reed Smith (202) 343-8537

SUPPLEMENTARY INFORMATION: This final rule amends 43 CFR part 3830 by updating several cross-references that were made obsolete by the regulations published in the **Federal Register** on December 2, 1988 (53 FR 48876), and to correct printing or typographical errors made in the same rulemaking. The present rule makes no changes in the substantive or procedural provisions of part 3830. Therefore, in accordance with the provisions of 5 U.S.C. 533, this amendment is published as a final rule with the effective date shown above.

The principal author of this final rule is Stephanie Hargrove of the Division of Mining Law and Salable Minerals, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management, Washington Office.

It has been determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and 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* .). Additionally, as required by Executive Order 12630, the Department has determined that the rule would not cause a taking of private property.

This final rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq*.

List of Subjects in 43 CFR Part 3830

Mineral royalties, Mines, Public-mineral resources, Reporting and recordkeeping requirements.

Under the authorities cited below, part 3830, group 3800, subchapter C, chapter II of title 43 of the Code of Federal Regulations is amended as set forth below:

PART 3830—LOCATION OF MINING CLAIMS

1. The authority citation for part 3830 continues to read as follows:

Authority: 30 U.S.C. 22, sections 2319 and 2478 of the Revised Statutes, as amended (43 U.S.C. 1201), 31 U.S.C. 9701, 16 U.S.C. 1901, 1907, and 43 U.S.C. 1743, 1740 1744, and 1782.

Subpart 3833—Recordation of Mining Claims and Filing Proof of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill or Tunnel Sites

§ 3833.0-5 [Amended]

2. Section 3833.0-5(k) is amended by removing the citation "§ 3833.2-3"and replacing it with "§ 3833.2-5".

§ 3833.0-5 [Amended]

3. Section 3833.0-5(l) is amended by removing the citation "§ 3833.2-3"and replacing it with "§ 3833.2-5".

§ 3833.0-5 [Amended]

4. Section 3833.0-5(m) is amended by removing the citation "§ 3833.2-1"and replacing it with "§ 3833.2".

§ 3833.1-2 [Amended]

5. Section 3833.1-2(b) introductory text is amended by revising the phrase paragraphs (a) and (b)" to read "paragraph (a)".

§ 3833.2-6 [Amended]

6. Section 3833.2-6 is amended by removing the citation "§ 3833.2-1"and replacing it with "§ 3833.2".

§ 3833.3 [Amended]

7. Section 3833.3(a) is amended by removing the citation "§ 3833.1-2" and replacing it with "§ 3833.1".

§ 3833.4 [Amended]

8. Section 3833.4(a) is amended by removing the citations "§§ 3833.1-2(a), and 3833.2-1" and replacing them with "§§ 3833.1-2(a), 3833.2-1, and 3833.2-2".

§ 3833.4 [Amended]

9. Section 3833.4(b) is amended by removing the citations "§ 3833.2-4(a) and (b), and 3833.2-5(a) and (b)" and replacing them with "§§ 3833.1-2(b) and 3833.2-5(c)".

§ 3833.4 [Amended]

10. Section 3833.4(d) is amended by removing the citation "§ 3833.2-1"and replacing it with "§§ 3833.1, 3833.2-1, and 3833.2-2".

§ 3833.5 [Amended]

11. Section 3833.5(c) is amended by removing the citation "§ 3833.2-1(b)"and replacing it with" § 3833.2".

Dated: April 20, 1990.

James M. Hughes,

Acting Assistant Secretary of the Interior.

[FR Doc. 90-9843 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Part 5440

RIN 1004-AB39

[AA-230-00-6310-02; Circ. No. 2624]

Conduct of Sales

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule will amend provisions of the existing regulations in 43 CFR part 5440, Conduct of Sales. The Department of the Interior has determined that it is necessary to amend the existing regulations concerning the resale of timber from uncompleted contracts to allow the original purchaser to participate in the resale only under certain circumstances and conditions.

EFFECTIVE DATE: May 29, 1990.

FOR FURTHER INFORMATION CONTACT: Richard Bird, (202) 653-8864.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that the existing regulations on the resale of timber from uncompleted contracts are inadequate. Under existing regulations, purchasers of sales that subsequently are not completely performed may bid on the resale of any timber remaining on the contract area provided that all of the timber has been felled and paid for. When the remaining timber is resold, the original purchaser receives a refund in an amount equal to the resale bid rates or the original contract rates per species, whichever is less, in accordance with the provisions of the timber sale contract. The administrative costs of resale are deducted from any amount

due to the purchaser. If the new purchaser happens also to have been the original purchaser, the purchaser effectively receives an extension of time to complete the contract with minimal financial penalty.

A proposed rule was published in the **Federal Register** on July 28, 1989 (54 FR 31347). One comment letter was received on the proposed rule from an industry association. The letter agreed with the concept of encouraging timely completion of timber sale contracts and considered this rule a positive step in that direction. The letter also contained two specific comments and a suggested addition to the rule.

The first comment was that § 5442.2(a)(2) was unclear as proposed, because it did not specify what a purchaser must have paid for, or that the payment is required to be in full. This comment has merit and wording similar to that suggested in the comment is adopted in the final rule to make it clear that the purchaser is required to make full payment of the contract amount and all related charges.

The second comment expressed concern that a purchaser's capital could be held for inordinate amounts of time when sales were not re-advertised in a timely fashion. It suggested adding a provision for payment of interest to the purchaser if the timber remaining on the uncompleted contract was not re-advertised within sixty days. The BLM agrees that remaining timber from uncompleted contracts should be sold in a timely manner and it is BLM policy to sell this timber as soon as practical, but at times the remaining timber is included with other timber that was not in the original sale in order to make a more logical timber sale. This can cause delays in advertising the sale. The suggestion that the Government pay interest on moneys held under this provision is not adopted because such a change would defeat the goal of encouraging timely performance of both the original sale contract and the resale contract. Under the existing regulation a purchaser's capital is held until the timber is resold in order to determine the amount of damages due to the government. The only effect of this rule change is that when a purchaser is the successful bidder for timber remaining from an uncompleted contract that was originally held by that purchaser, the amount of the refund due to the purchaser is held as credit toward the purchase price of the new timber sale contract. This credit will be used to satisfy the required cash deposit and any excess will be used as credit toward subsequent payments. This payment will encourage timely performance and reduce the risk to the government.

The objective of this rule is to encourage timely performance of original contracts and prompt performance of resale contracts in order to promote a more orderly forest management process and revenue flow.

The principal author of this final rule is Richard Bird, Division of Forestry, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Additionally, as required by Executive Order 12630, the Department has determined that the rule will not cause a taking of private property.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 43 CFR Part 5440

Forest and forest products, Conduct of sales, Government contracts, Public lands.

Under the authority of section 5 of the Act of August 28, 1937 (43 U.S.C. 1181e), and the Act of July 31, 1947, as amended (30 U.S.C. 601 et seq.), chapter II of title 43 of the Code of Federal Regulations is amended as set forth below:

Dated: February 28, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

PART 5440—[AMENDED]

1. The authority citation for part 5440 continues to read as follows:

Authority: Sec. 5, 50 Stat. 875; 61 Stat. 681, as amended; 69 Stat. 367; 43 U.S.C. 1181e; 30 U.S.C. 601 *et seq.*

2. Section 5442.2 is revised to read as follows:

§ 5442.2 Resale of timber from uncompleted contract.

(a) This section applies to the sale of timber only when 50 percent or more of the timber included in the sale is timber remaining from an uncompleted contract. A bid from a purchaser who held the uncompleted contract, or an affiliate of such purchaser, will be considered only if:

(1) The contract was not canceled because of breach by the purchaser, and

(2) The purchaser has made full payment of the total purchase price and any related charges by the expiration date.

(b) The purchaser who held the uncompleted contract, or affiliate of such purchaser, shall, upon execution of the resale contract, agree that the Bureau of Land Management shall retain the original payment for timber not removed under the uncompleted contract, less the cost of resale, as a credit toward the purchase price of the resale contract.

[FR Doc. 90-9799 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6778

[AK-932-00-4214-10; F-012027]

Partial Revocation of Public Land Order No. 1396 and Public Land Order No. 5187; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two public land orders insofar as they affect 0.66 acre of public land withdrawn for the Department of the Air Force for a military reserve. The lands are no longer needed for the purpose for which they were withdrawn. The lands are part of the Yukon Flats National Wildlife Refuge as established by the Alaska National Interest Lands Conservation Act, 94 Stat. 2371. The lands will remain withdrawn from all forms of appropriation and disposition under the public land laws, including the mining laws. The lands are unavailable for mineral leasing as they are located within an incorporated city (30 U.S.C. 181 (1982)).

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 2751; 43 U.S.C. 1714 (1982), and by

section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 708 and 709; 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. Public Land Order No. 1396 and Public Land Order No. 5187 are hereby revoked insofar as they affect the following described lands:

Fairbanks Meridian

Lots 7 and 8, Block 17 and Lot 1, Block 25, U.S. Survey No. 2760, Alaska, Townsite of Fort Yukon.

The areas described aggregate a total of 0.66 acre.

2. The lands remain withdrawn under sections 302(9) and 304(c) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371, 2388 and 2393, as part of the Yukon Flats National Wildlife Refuge. The lands are withdrawn from all forms of appropriation and disposition under the public land laws, including the mining laws. The lands are unavailable for mineral leasing as they are located within an incorporated city (30 U.S.C. 181 (1982)).

April 19, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-9829 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-JA-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-388]

Television Broadcasting Services; Kenansville, FL

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document allots Channel 31 to Kenansville, Florida, as that community's first local television transmission service. Reference coordinates for Channel 31 are 27-44-18 and 80-58-14, with a site restriction of 15.4 kilometers (9.6 miles) south to avoid a short-spacing to Station WMFE-TV, Channel *24-, Orlando, Florida.

EFFECTIVE DATE: June 7, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Ruger, Mass Media Bureau (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order in MM Docket No. 86-388, adopted March 27, 1990, and released April 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 657-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television 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:

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments, is amended under Kenansville, Florida by adding Channel 31.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-9767 Filed 4-26-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-48; RM-5772, RM-5941, RM-6533, RM-6534, RM-6535, RM-6536]

Radio Broadcasting Services; Arlington, McKinney, Celina, Terrell, Daingerfield, College Station, Caldwell, Howe, Texas, and Durant, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 235C for Channel 235C1 at Arlington, Texas, and modifies the license of Station KHYI, Arlington, Texas, to specify operation on Channel 235C. In order to accommodate this upgrade, this document also substitutes Channel 295A for Channel 237A at McKinney, Texas, and modifies the license of Station KSSA, McKinney, Texas, to specify operation on Channel 295A. In addition, the document substitutes Channel 297C3 for Channel 221A at College Station, Texas, and modifies the license of Station KTSR, College Station, Texas, to specify operation on Channel 297C3. Finally this document allots Channel 237A to Howe, Texas. The document dismisses counterproposals filed by Metro Broadcasters, Inc., McKinney Broadcasting Company, Durant Broadcasting Corporation, Ronald Strother and Radio Plans, Inc. The reference coordinates for Channel 235C at Arlington, Texas, are 32-35-22 and 96-58-10; for Channel 295A at McKinney, Texas, are 33-15-49 and 96-35-54; for Channel 297C3 at College Station, Texas, are 30-39-00 and 96-10-08; and for Channel 237A at Howe, Texas, 33-30-24 and 96-36-54. With this action, this proceeding is terminated.

DATES: Effective June 7, 1990; The window period for filing applications for Channel 237A at Howe, Texas, will open on June 8, 1990, and close on July 9, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-48, adopted March 23, 1990, and released April 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Texas, by removing Channel 235C1 and adding Channel 235C at Arlington.

§ 73.202 [Amended]

3. Section 73.202(b), the Table of FM Allotments is amended under Texas, by removing Channel 237A and adding Channel 295A at McKinney.

§ 73.202 [Amended]

4. Section 73.202(b), the Table of FM Allotments is amended under Texas, by removing Channel 221A and adding Channel 297C3 at College Station.

§ 73.202 [Amended]

5. Section 73.202(b), the Table of FM Allotments is amended under Texas, by adding Channel 237A at Howe.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-9768 Filed 4-26-90; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 55, No. 82
Friday, April 27, 1990

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 THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 602

[EE-8-89]

RIN 1545-A006

Employee Business Expenses—Reporting and Withholding on Employee Business Expense Reimbursements and Allowances; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the taxation of and reporting and withholding on employee business expense reimbursements and other expense allowance arrangements.

DATES: The public hearing will be held on Monday, June 11, 1990, beginning at 10 a.m. Outlines of oral comments must be received by Friday, May 25, 1990.

ADDRESSES: The public hearing will be held in the Internal Revenue Building Auditorium, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (EE-8-89), Room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Angela Wilburn of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 62, 162, 274, and 6041 of the Internal Revenue Code and the Employment Tax Regulations (26 CFR part 31) under sections 3121, 3231, 3306, and 3401 of the Internal Revenue Code. The proposed regulations appeared in the **Federal Register** for Tuesday, December 12, 1989, at page 51038 (54 FR 51038).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, May 25, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90-9746 Filed 4-26-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Colorado Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of additional explanatory information and revisions pertaining to a previously proposed amendment to the Colorado permanent regulatory program (hereinafter, the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information and revisions pertain to previously mined areas, siltation structures and impoundments, hydrology, excess spoil, and review criteria for permit applications. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards and clarify ambiguities within the State program.

This notice sets forth the times and locations that the Colorado program and proposed amendment to that program are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., m.d.t. May 14, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to Robert H. Hagen at the address listed below.

Copies of the Colorado program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, NM 87102, telephone: (505) 766-1486.

Colorado Mined Land Reclamation Division, 423 Centennial Building, 1313 Sherman Street, Denver, CO 80203, telephone: (303) 866-3567.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, telephone number (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments,

and the conditions of approval of the Colorado program, can be found in the December 15, 1980, **Federal Register** (45 FR 82211). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.15, 906.16, and 906.30.

II. Proposed Amendment

By letter dated July 18, 1989 (Administrative Record No. CO–457), Colorado submitted a proposed amendment to its permanent regulatory program pursuant to SMCRA. Colorado submitted the proposed amendment in response to OSM's letters dated May 7, 1986, June 9, 1987, November 14, 1988, and May 11, 1989 (Administrative Record Nos. CO–282, CO–342, CO–418, and CO–441, respectively). These letters were issued in accordance with 30 CFR 732.17(c).

OSM published a notice in the August 10, 1989, **Federal Register** (54 FR 32828) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. CO–459). The public comment period ended on September 11, 1989. After its review of the amendment, OSM notified Colorado of its concerns by letter dated November 3, 1989 (Administrative Record No. CO–475).

By letter dated January 17, 1990, Colorado responded and submitted additional explanatory information and revisions to the amendment (Administrative Record No. CO–477). OSM reopened and extended the public comment period for this additional information on February 9, 1990 (55 FR 4625). That comment period closed on February 26, 1990.

During its review of the January 17, 1990, revisions to the amendment, OSM identified concerns relating to previously mined areas, siltation structures and impoundments, hydrology, excess spoil, and review criteria for permit applications. OSM notified Colorado of the concerns by a second issue letter dated March 15, 1990 (Administrative Record No. CO–494). By letter dated April 5, 1990, Colorado responded and submitted additional explanatory information and revisions to the amendment (Administrative Record No. CO–498). In this response, Colorado has withdrawn all revisions to the definition of previously mined area (Rule 1.04). The regulations that Colorado proposes to further amend, or for which additional explanatory information has been submitted, are:

Siltation Structures—Rules 1.04, 2.05.3, and 4.05.6
Impoundments—Rule 4.05.9
Hydrology—Rule 4.05.8
Excess Spoil—Rules 4.09.1 and 4.09.2
Review Criteria for Permit Applications—Rule 2.07.6

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Colorado program amendment to provide the public an opportunity to reconsider the adequacy of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Colorado program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

List of Subjects in 30 CFR Part 906

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 19, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 90–9739 Filed 4–26–90; 8:45 am]
BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–3759–3]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Continuous Emission Monitoring Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions require the installation, operation, maintenance, and quality assurance testing of continuous emission monitoring equipment for various new and existing pollution emitting facilities in the State of New Hampshire. They also require certain recordkeeping requirements for those facilities operating CEM equipment. The intended effect of this action is to propose approval of New Hampshire's continuous emission monitoring (CEM) and CEM recordkeeping requirements as required under 40 CFR 51.214. This action is being taken under Section 110 of the Clean Air Act.

DATES: Comments must be received on or before May 29, 1990. Public comments on this document are requested and will be considered before taking final action on these SIP revisions.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, Room 2313, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, Room 2313, JFK Federal Bldg., Boston, MA 02203 and Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565–3252; FTS 835–3252.

SUPPLEMENTARY INFORMATION: On December 11, 1989, the New Hampshire Air Resources Division (ARD) submitted revisions to its SIP for its continuous emission monitoring and recordkeeping regulations. These revisions consist of additions to Chapter Env–A 800, Testing and Monitoring Procedures, of the New Hampshire Administrative Rules Governing the Control of Air Pollution entitled Env–A 802.09 "Continuous Emission Monitoring" and Env–A 802.10 "CEM Recordkeeping Requirements." These regulations require the installation, operation, maintenance, and quality assurance testing of continuous emission monitoring equipment for various new and existing pollution emitting facilities in the State of New Hampshire. They also require certain recordkeeping requirements for those facilities operating CEM equipment.

Background

EPA requirements in 40 CFR 51.214 and 40 CFR part 51, Appendix P require States to incorporate minimum provisions in their SIPs for the continuous monitoring of emissions from certain types of facilities. Those facility types are specified in 40 CFR part 51, appendix P, paragraph 1.1. The State of New Hampshire has adopted

comprehensive regulations which require the installation, operation, maintenance, and quality assurance testing of continuous emission monitoring equipment for many different types of facilities including those specified in 40 CFR part 51, appendix P, paragraph 1.1. The regulations set forth minimum design specifications, performance specifications, and audit requirements for CEM systems. The regulations also require recordkeeping for facilities using CEM systems, and excess emission reporting.

EPA's review of this material indicates that it fully satisfies EPA's minimum requirements in 40 CFR part 214 and 40 CFR part 51, appendix P. A more detailed description of the regulations and how they meet the applicable EPA requirements can be found in the technical support document that has been prepared by EPA for these revisions. This document is available from the EPA Regional Office listed in the **ADDRESSES** section of this notice. EPA is proposing to approve the New Hampshire continuous emission monitoring and CEM recordkeeping regulations, which were submitted on December 11, 1989. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action:

EPA is proposing to approve Env–A 802.09 "Continuous Emission Monitoring" and Env–A 802.10 "CEM Recordkeeping Requirements" of the New Hampshire Administrative Rules Governing the Control of Air Pollution as submitted by the State of New Hampshire.

Under 5 U.S.C. 605(b), I certify that these SIP revisions will not have a significant economic impact on a substantial number of small entities since the facilities affected by the regulations are not, in general, small. (See 46 FR 8709.)

This action has been classified as a table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

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

The Administrator's decision to approve or disapprove these SIP revisions will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401–7642.

Dated: April 12, 1990.

Julie D. Belaga,

Regional Administrator, Region I.

[FR Doc. 90–9827 Filed 04–26–90; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3758–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking to disapprove a revision to the Illinois State Implementation Plan (SIP) for Ozone. The revision pertains to an alternative control strategy (ACS) or bubble for All-Steel, Incorporated (All-Steel) which is located in Aurora, Illinois. USEPA's action is based upon a revision request which was submitted by the State on December 1, 1987.

DATES: Comments on this revision and on the proposed USEPA action must be received by May 29, 1990.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Randolph O. Cano, at (312) 886–6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Comments on this proposed rule should be addressed to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: On December 1, 1987, the State of Illinois requested a revision to the Illinois Ozone SIP. The requested SIP revision took the form of an operating permit issued by the Illinois Environmental Protection Agency (IEPA) to All-Steel which is located in Aurora, Kane County, Illinois. Kane County is designated as not attaining the ozone National Ambient Air Quality Standard (NAAQS). What follows is a discussion of the requested SIP revision and USEPA's evaluation of it, an announcement of USEPA's proposed disapproval, and a solicitation of public comment on the requested SIP revision and USEPA's proposed disapproval of it. More detailed information about USEPA's evaluation is contained in a February 1, 1988, Technical Support Document which is available for inspection at the Region V office listed above.

Summary of the Proposed Revision

All-Steel owns and operates a metal office furniture manufacturing facility in Aurora, Illinois. The facility includes six paint spray booths and three dip tanks which apply surface coatings to All Steel's products. These coatings are subject to 35 Illinois Administrative Code (IAC) Section 215.204(g) which limits VOC emissions to 3.0 lb/gallon of coating by December 31, 1982.[1] In lieu of requiring all coatings used by All-Steel to meet the 3.0 lb VOC/gallon of coating limit, IEPA issued a permit to operate which allows All-Steel to use the

[1] The State submitted this revision using a recodified numbering system which the State has not submitted to USEPA as a SIP revision. The rules cited by the State were originally codified and approved as part of the SIP on and 205(n)(4)(45 FR 11472). February 21, 1980, as Illinois Pollution Control Board Rules 205(n)(1)(G) and 205(n)(4). (45 FR 11472).

internal offset provision contained in 35 IAC Section 215.207. The permit contains the following conditions:

1a.This permit is issued for furniture coating operations based on an ongoing demonstration of aggregate compliance with 35 IAC 215, Subpart F, pursuant to Section 215.207, when noncomplying coatings are used. Pursuant to this rule, on each day when noncomplying coatings are used the aggregate actual emissions of volatile organic material (VOM) from furniture coating operations shall be less than the aggregate allowable emissions. Alternatively expressed the amount by which actual emissions exceed allowable emissions from non-complying coatings on any day shall be balanced by credits from over-complying coatings on that day.

b. For purposes of demonstrating compliance pursuant to Section 215.207—

i. The Permittee shall calculate allowable emissions using the calculation method described in "Compliance with V0C Emission Limitations for Can Coating Operations", 45 FR 80824, commonly known as "solids-basis calculations."

ii. The VOM content of coatings may be carried to the nearest tenth of a pound per gallon, when determining whether an individual coating complies with applicable limits, but shall be carried to the nearest hundredth of a pound per gallon for all other purposes.

2. No coating shall exceed a V0M content of 4.0 pound VOM/gallon coating.

3a. The Permittee shall maintain daily operating records of the coating lines which include type and amount of product processed and coatings applied.

b. The Permittee shall record the following information for the coating operations each calendar month or more frequently:

i. For each coating, the name and volume used (gallon), the VOM content (pound/gallon and volume percent), the solids content (volume percent), the water content (volume percent), the actual VOM emissions (pound) and the allowable VOM emissions (pound).

ii. The aggregate actual and allowable emissions of VOM (pound).

c. The Permittee shall also record the information specified by Condition 3(b) (i) and (ii) on any day in which either the usage of noncomplying coatings exceeds 70 gallons or the excess VOM emissions from noncomplying coating exceed 100 pounds.

Kane County is part of the Chicago demonstration area, which is a nonattainment area lacking an approved 1982 Ozone SIP. Illinois has submitted a SIP with an attainment demonstration, but USEPA proposed to disapprove it on July 14, 1987 (52 FR 26404). In addition, Kane County is included (as part of the Chicago Metropolitan Statistical Area) in Appendix A of the November 24, 1987, Proposed Post-1987 Ozone Policy (52 FR 54044). Table A–1 in Appendix A lists "Potential 1988 SIP Call Areas—Ozone" and lists Chicago as an area which will exceed the ozone standard in the period from 1985–1987. Based upon this information, USEPA notified the Governor of Illinois on May 26, 1988, that the Illinois Ozone SIP is substantially inadequate to assure attainment of the Ozone NAAQS by the statutory deadline of December 31, 1987.

USEPA Evaluation of the Proposed Revision

An internal offset is considered an emission trade (or bubble) and, therefore, must meet the requirements of USEPA's December 4, 1986, emissions trading policy statement (ETPS, 51 FR 43814).

The ETPS requires that all emission reductions be surplus, enforceable, quantifiable and permanent to be creditable. In order to determine the quantity of surplus emissions, a baseline must be established. Baseline emissions for any source are the product of three factors: emission rate, capacity utilization, and hours of operation.

For a source located in a nonattainment area lacking an approved demonstration of attainment, such as Kane County, the baseline is determined using the lowest of actual, SIP-allowable or RACT-allowable values for each of the baseline factors, as of the time of the source's application to the State to bank or trade. Actual values for capacity utilization and hours of operation must be determined using the source's average historical values for the 2-year period preceding the source's application to bank or trade, unless another 2-year period is shown to be more representative of typical operations.

Bubbles for sources located in these areas must also produce a substantial net reduction in actual emissions (i.e., a reduction of at least 20 percent in the emissions remaining after application of the baseline) and must be accompanied by assurances of consistency with ambient progress and air quality planning goals. The specific assurances are contained in the technical issues document accompanying the ETPS.

All-Steel's bubble is based on meeting the SIP-allowable emission limit (3.0 lb VOC/gal coating) as a daily weighted average over all nine of its coating lines. The use of the SIP-allowable emission rate has not been demonstrated to be acceptable.

The ETPS specifies that the lowest of actual, SIP-allowable and RACT-allowable emission rate be used to determine the baseline. IEPA has not correctly identified the date on which All-Steel applied for the bubble nor has IEPA demonstrated that at the time of All-Steel's application for credit its allowable emission rate was less than its actual emission rate. In order to correct this deficiency, the State must identify the correct date and identify the lowest of actual, SIP-allowable and RACT-allowable emission rates as of that date for each source. In addition, the bubble does not provide an extra 20 percent reduction beyond equivalence after application of the appropriate baseline. Therefore, IEPA has not demonstrated that the proposed bubble will provide for surplus emission reductions. Regarding the remaining criteria:

(1) If the emission reductions are determined to be surplus they will also be enforceable because emission limits are incorporated into an enforceable permit. In addition, the permit will ensure that the life of the trade corresponds to the life of enforceable reductions.

(2) The reductions are not quantifiable because the permit does not require daily recordkeeping. Without such daily recordkeeping it is not possible to determine daily emissions.

These issues were raised in a July 20, 1987, letter to IEPA from USEPA commenting on the draft SIP revision. IEPA's final submittal addresses these comments. USEPA's comments, IEPA's responses and USEPA's response are provided below in four categories.

1. *USEPA Comment:* The ETPS requires that surplus emissions be determined using the lowest of actual, SIP-allowable, and RACT-allowable values for three baseline factors as of the time the source applied to bank or trade emissions.

All-Steel's bubble is based on the SIP-allowable emission rate of 3.0 pounds of volatile organic material per gallon of coating, excluding water. The bubble should use a baseline of the lower of actual or allowable emissions for each line involved in the bubble at the time All-Steel initially applied for credit. Any lines that were in compliance at that time cannot generate credit based on the SIP-allowable emission rate.

The submittal does not clearly identify the date of All-Steel's initial application for credit.

IEPA Response: The IEPA believes the relevant tests for setting an actual

emission rate, as contained in the ETPS, are (1) whether subsequent emission reductions were reasonably elicited by the opportunity to trade, and (2) whether subsequent emissions reductions resulted in real improvements in air quality, consistent with ambient air quality standard attainment demonstrations. (This is consistent with All-Steel's comments in this matter.) Both tests are met in this case by using the actual emission rate upon the Board's adoption of section 215.204(g) and section 215.207 on July 12, 1979. Both tests are also met by using the date of the USEPA's approval of these rules as part of Illinois' SIP, February 21, 1980, as of the date of initial application for credit.

At that time, the actual emission rate exceeded 3.0 lb VOM/gallon. This sets the baseline as the SIP-RACT limit of 3.0 lb VOM/gallon. Incidentally, as late as mid-1983 over 80 percent of the volume of All-Steel's coatings was noncomplying, averaging 4.7 lb VOM/gallon, and even in early 1984 over 25 percent of the coatings was noncomplying. (The above use of noncomplying coatings was addressed by Illinois Pollution Control Board (IPCB) Variances, extending to July 1, 1984.)

USEPA Response: IEPA still has not identified the date of All-Steel's initial application for credit. The date of USEPA's approval of Illinois' rules has no relevance in determining baseline emissions. The language and intent of the ETPS are clear that no credit can be granted for reductions that occurred before a source applied to the State. Even if Illinois had an approved generic bubble rule (which it does not), the date of approval of such a rule could not be used for determining baseline emissions.

The ETPS states that in nonattainment areas which need but lack approved demonstrations of attainment, emission reductions achieved prior to the application to trade will not be credited for use in bubbles. Such reductions were not reasonably elicited by the opportunity to trade. Although IEPA states that the reductions achieved by All-Steel were reasonably elicited by the opportunity to trade, on December 21, 1983, All-Steel requested a compliance date extension until December 31, 1984, in order to complete reformulation of the coatings. At that time, All-Steel estimated that 90 percent of its paints had been reformulated to high solids systems, and that the remainder would be reformulated by December 31, 1984. Thus, it appears that All-Steel contemplated achieving compliance by reformulating rather than by trading emissions. Thus, the reductions achieved prior to the application to trade by reformulating were not elicited by an opportunity to trade. However, it should be noted that such considerations are not a factor under the ETPS. The only consideration is whether the reductions occurred prior to the date of application for credit. IEPA has not adequately demonstrated that the SIP-allowable emission rate was lower than the actual emission rate at the time of application. Thus, IEPA has not justified using the allowable emission rate in establishing a baseline value.

2. *USEPA Comment:* The ETPS requires a reduction of at least 20 percent in the emissions remaining after application of the appropriate baseline. This bubble provides no extra reductions.

IEPA Response: The appropriateness of a 20 percent extra reduction requirement for All-Steel is a matter which is addressed by the ETPS. The ETPS established a category of trades, "pending bubbles," for which only some extra reduction beyond equivalence is required. Strictly reading the ETPS, All-Steel's bubble qualifies as a pending bubble because § 215.207 was submitted to USEPA and approved prior to the December 4, 1986, ETPS (See 51 43840).

USEPA Response: According to the ETPS "pending bubbles" are those emission trades formally submitted to USEPA prior to December 4, 1986, as well as any bubble applications which were formally submitted to USEPA regional offices under the 1982 policy but returned without action because the final bubble criteria had not yet been issued. Pending bubble refers to site-specific bubbles submitted to USEPA as SIP revisions.

Because All-Steel's bubble was not officially submitted to USEPA as a SIP revision until December 1, 1987, it is not a pending bubble and must provide an extra 20 percent reduction.

3. *USEPA Comment:* The State must provide assurances that bubbles in nonattainment areas lacking approved attainment demonstrations are consistent with ambient progress and future air quality planning goals. The specific assurances may be found in the Technical Issues Document accompanying the ETPS. Illinois has not provided these assurances.

IEPA Response: IEPA provided several brief statements, which it believes address the requirement for State assurances.

USEPA Response: The statements provided by IEPA do not adequately address this requirement. Because there are other significant deficiencies with this revision, a full discussion of this requirement is not given here.

4. *USEPA Comment:* Coating usage and VOC emissions should be recorded every day so that the emission reductions will be quantifiable.

IEPA Response: Daily quantification of emission reductions is not essential. One must simply assure that actual emissions levels are within allowable levels. The proposed permit requires this, i.e., compliance, on a daily basis. While detailed records on coating usage and VOM emissions are not required on a routine basis, daily records of operations are required. These records are sufficient to confirm compliance on all days (see Condition 3a). In addition, all exceedances of daily limits are to be reported (see Condition 4 (a)(iv)).

The absence of routine detailed records on coating usage and VOM emissions simplifies both All-Steel's and IEPA's implementation of the compliance arrangement. In addition, it provides a constraint on All-Steel's operations which encourages continuing efforts to reduce VOM content of specialty coatings, so as to avoid the burden of detailed daily records.

USEPA Response: All-Steel's permit only requires detailed daily recordkeeping when either the use of noncomplying coatings exceeds 70 gallons or the excess VOC emissions exceed 100 pounds per day. This requirement is based on the assumption that the use of complying coatings is distributed evenly throughout a quarter. However, this bubble is based on a daily weighted average emission rate over all of All-Steel's coating lines. Without detailed recordkeeping every day on which noncomplying coatings are used, it is not possible to determine what the daily emissions are and whether this limit is being met.

Proposed Rulemaking Action and Solicitation of Public Comment

Based on the information provided by the State, USEPA proposes to disapprove the incorporation of the requested SIP revision for All-Steel, Incorporated into the Illinois Ozone SIP. USEPA has identified three major deficiencies in this requested SIP revision.

1. IEPA has not demonstrated that it is appropriate to use the SIP-allowable emission rate to establish the baseline.

2. The bubble does not provide for an extra 20 percent reduction.

3. The permit does not contain adequate recordkeeping requirements.

This notice identifies major deficiencies which cause the revision to

be unapprovable. However, if the State corrects these major deficiencies, it should also ensure conformance with USEPA requirements specified in Appendix A of the Post—1987 Ozone policy, titled "Discrepancies and Inconsistencies Found in Current SIP's" and the "SIP Approvability Checklist–Enforceability," which is attached to a September 23, 1987, policy memorandum titled "Review of State Implementation Plans and Revision for Enforceability and Legal Sufficiency," before resubmitting the revision for approval by USEPA. These documents contain USEPA requirements (largely dealing with enforceability) which must be met for a site-specific SIP revision to be approved.

Public comment is solicited on this requested SIP revision and on USEPA's proposed disapproval of it. Public comments received by the date indicated above will be considered in the development of USEPA's final rulemaking action on this requested SIP revision.

Under 5 U.S.C. 605(b), USEPA has determined that this action, if finally disapproved, will not have a significant economic impact on a substantial number of small entities. Only a single source is involved, All-Steel, Incorporated.

Under Executive Order 12291, today's action is not major. It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to USEPA and any USEPA response, are available for public inspection at the USEPA Region V Office listed above.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental Protection, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401—7642.

Dated: September 12, 1988.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 90–9826 Filed 4–26–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 280

[FRL 3752–5]

Underground Storage Tanks; Technical Requirements

AGENCY: Environmental Protection Agency.

ACTION: Response to rulemaking petition.

SUMMARY: This document announces EPA's determinations regarding a rulemaking petition submitted by the American Petroleum Institute requesting that EPA make several technical changes to its final requirements for new and existing underground storage tank systems. The petition is available for public viewing in the Docket for this rulemaking. This notice briefly describes the Agency's decision to deny the petition for rulemaking in 5 issue areas, and to grant the petition's request in one issue area through a technical amendment to the regulations proposed elsewhere in today's **Federal Register**.

ADDRESSES: The docket for this rulemaking [Docket No. UST 2–1] is located at the U.S. Environmental Protection Agency, 401 SW., Washington, DC 20460. The docket is open from 9:30 am to 3:30 pm Monday through Friday, except for Federal holidays. You may make an appointment to review materials in the docket by calling (202) 475–9720.

FOR FURTHER INFORMATION CONTACT: Call the RCRA/Superfund Hotline at (800) 424–9346 (toll free) or 382–3000 (in Washington, DC).

SUPPLEMENTARY INFORMATION: On September 23, 1988, (53 FR 37082) EPA promulgated technical regulations for underground storage tanks containing petroleum or substances defined as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). These final rules went into effect 90 days later on December 22, 1988. In a letter dated December 8, 1988, the American Petroleum Institute submitted a rulemaking petition under section 7004(a) of RCRA requesting that the EPA's Office of Underground Storage Tanks give further consideration to six technical provisions in the final regulations believed by API to be impractical and in need of modification.

Under section 7004(a) of RCRA, EPA must publish notice in the **Federal Register** of actions taken in response to petitions submitted by persons desiring to promulgate, repeal, or amend any regulation under the Act. Today's notice briefly identifies the nature of the final action taken with regard to API's decision and addresses the reasons supporting the decisions made.

I. The API Petition

The API petition recommends that EPA consider modifications to the technical requirements for:

- overfill protection.
- definition of "corrosion expert".
- wrapping and coating of steel fittings for piping as acceptable alternatives to cathodic protection.
- allowing manual tank gauging as the exclusive method of release detection for used oil tanks of up to 1100 gallons capacity.
- use of soil/clay liners as an allowable excavation liner material.
- the use of groundwater monitoring wells for release detection when the groundwater is within 40 feet of the surface.

The petition contains a detailed discussion of each of these recommendations. API states that although these technical requirements are essentially "tactical" in nature, their modification is necessary to avoid significant implementation problems for the Agency and serious operating problems for the petroleum industry.

II. The EPA Determination

EPA has considered the detailed discussions of each of the six requested technical changes in the petition and, except in the area of spill and overfill controls, has decided to deny the petition's request for rulemaking. In response to the concerns raised about the spill and overfill area of the rule, the Agency is proposing a technical revision for public comment elsewhere in today's **Federal Register**.

Discussion

For several reasons that are generally described below, EPA has concluded that rulemaking is not necessary to appropriately address five of the six technical issues raised in the petition.

A. Definition of "Corrosion Expert"

Under EPA's final technical requirements for underground storage tanks, important functions concerning corrosion protection may only be undertaken by a "corrosion expert". According to the definitions in the final rule, a corrosion expert must be either accredited or certified by the National Association of Corrosion Engineers (NACE), or be a registered professional engineer who has certification or licensing that includes education or experience in corrosion control of underground metal piping systems and metal tanks. API states that these prerequisites both unduly limit the number of qualified corrosion experts and are unnecessary to ensure a competent performance of the tasks required of a "corrosion expert" under the regulations. Consequently, API requested EPA to modify its definition of a corrosion expert to require simply that such an expert be qualified by training and experience, without further restriction.

This issue was addressed by several commenters, including API, on the proposed rule. The petition does not

introduce new issues or facts not already addressed in the rulemaking; therefore, EPA's position on this issue remains as stated in the final rule. The Agency does not believe that a shortage of "corrosion experts" exists as defined under regulations for several reasons listed below. These reasons are divided into "new installations" and "upgrading" categories for clarity.

New installations

EPA believes that few "corrosion experts" are needed for the installation of new tank systems because many systems are available that do not need cathodic protection, and the ones that use cathodic protection are available with pre-engineered cathodic protection systems. Examples of components that do not need cathodic protection include: fiberglass-reinforced-plastic tanks and pipe; composite tanks; and secondarily contained piping where the carrier pipe is isolated from ground contact. Pre-engineered cathodic protection systems include: Coated steel tanks with sacrificial anodes; flexible connectors with factory-supplied anodes; and the coating and sacrificial anode system for steel piping given in the Petroleum Equipment Institute publication RP100/87, "Recommended Practices for Installation of Underground Liquid Storage Systems." There is such a wide variety of these systems available at reasonable costs that EPA believes that the vast majority of new installations would not require a "corrosion expert" to custom design a cathodic protection.

Upgrading

EPA agrees with API that "corrosion experts" will be required in the design of some tank system upgrades; however, they are not required for all upgrading. Tank upgrading can be accomplished by either lining or cathodic protection; only the cathodic protection option requires a "corrosion expert." In addition, ten years are allowed for these upgrades to occur, allowing ample time for the corrosion protection industry to develop the needed services. Lastly, NACE has streamlined the certification process to make it easier for qualified individuals to be certified. Many experienced individuals that do not have formal training in corrosion engineering will be able to be certified by passing a written exam.

EPA does not agree that the suggestion offered by API will adequately assure protection of human health and the environment. During preparation of the proposed and final rules, it was pointed out to the Agency numerous times by experienced practitioners that a proper level of training and experience is essential before an individual can design corrosion protection systems that will actually prevent corrosion-induced releases from UST systems. Simply requiring that an expert be qualified by "training and experience" would allow a wide range of individuals to claim to be "corrosion experts" who may have serious gaps in their knowledge. Such gaps in proper training or experience can result in site-specific system designs that, in fact, accelerate corrosion rates. Thus, EPA believes the problems of corrosion-induced UST releases that prompted the corrosion protection requirements in the final rule could be made worse by such a loosely-worded definition of corrosion expert.

EPA recognizes, and the petition correctly points out, that the rule's term "corrosion expert" does not match any of the NACE categories of certification (corrosion specialist, cathodic protection specialist, senior corrosion technologist, corrosion technologist and corrosion technician.) The use of the more generic term was intentional because EPA concluded that the different NACE categories and other certification systems qualify an individual for different tasks. For example, the determination that a site is not corrosive enough to warrant additional corrosion protection measures requires the expertise of a NACE certified "corrosion specialist." A NACE-certified "senior corrosion technologist" can design a sacrificial anode cathodic protection system to retrofit to an existing flexible connector. EPA wanted also to allow professional engineers with other licensing to be "corrosion experts" without the need for NACE certification. The Agency believes that determining which level of NACE certification is needed for each type of work could be clarified, and encourages API to work with NACE to determine within national consensus codes which tasks should be performed by which level of corrosion expert.

B. Corrosion Protection for Steel Fittings

In the final rule, EPA requires corrosion protection for all metal piping, including metal fittings used with fiberglass reinforced plastic (FRP) piping (§ 280.20(b)). API reads the rule to explicitly allow only cathodic protection as adequate corrosion protection and believes that cathodic protection for all metal pipe fittings is not necessary to adequately prevent releases due to corrosion. Noting the difficulty of retrofitting cathodic protection (particularly to numerous isolated pipe fittings), the petition requests EPA to revise the final rules to make clear that owners and operators may use corrosion protection alternatives on stainless steel or wrapped metal fittings. (Field-wrapped steel piping, as well as the use of stainless steel, are cited by the petitioners as two examples of alternative corrosion protection measures that would protect against corrosion leaks from piping fittings without the need for cathodic protection). Finally, API further requests that a regular pipe-testing program be allowed as a substitute for the excavation and retrofit of cathodic protection, particularly at existing sites with FRP piping where it is not clear whether metal fittings were used in the past.

This issue was the subject of many comments on the proposed rule. The petition does not raise new issues or facts; therefore, EPA's position is as stated in the final rule. The Agency determined that it was necessary to require corrosion protection for metal pipe and any metal fittings because, as many commenters pointed out, the stainless steel varieties used in fittings are not resistant to corrosion in the ground when chlorides are present. The commenters also suggested that coatings are not free of gaps and cracks. Field-applied coating of parts subject to movement are particularly susceptible to this type of coating flaw. In fact, the commenters suggested that the corrosion would penetrate a fitting because the corrosive forces will focus on the flawed areas.

The final rules allow three general approaches for protecting metal pipe from corrosion: (1) Cathodic protection, (2) isolation of the piping from the backfill, and (3) ensuring a low-corrosion environment (requires determination by corrosion expert.) There are a number of variations within the first two general options. Cathodic protection is generally accomplished by attaching sacrificial anodes to the fitting with wires or by welding on the anode in the factory.

The second approach to preventing corrosion failure in piping is to isolate the metal components from the backfill. This can be done with manways or secondary containment "boots" that hold back the surrounding soil from the pipe fitting. Both approaches satisfy the regulation's performance standards. The manway has the additional advantage feature of allowing the FRP-pipe-flexible-connector joint to be easily inspected and maintained, although it is not appropriate in high watertable areas unless the manway is water tight.

The retrofit of cathodic protection to stainless steel or field-wrapped fittings

is believed by EPA to be necessary in most instances to prevent corrosion-induced releases. The Agency has received no evidence that such alternative corrosion control approaches prevent corrosion releases. National code-making bodies that are expert in this area have been consistent during the proposed and final rulemaking in cautioning the Agency about the inadequacy of alternative approaches towards corrosion control. EPA has significant evidence that corrosion-induced piping leaks are a serious national problem, and retrofitting cathodic protection, or isolating the fittings from the soil, at existing UST systems may be the surest way to solve this problem in many instances. As discussed below, the rule allows owners and operators not to use cathodic protection or isolation from the soil in certain circumstances.

EPA agrees with the petitioner that under the final rule, it will probably be necessary to add cathodic protection to a large number of isolated fittings along existing FRP runs of piping, and that this could necessitate major reconstruction at specific sites. However, EPA does not believe that this warrants the requested rule change for several reasons.

The Agency does not believe that the corrosion protection requirement at issue is overly burdensome. First, the regulations allow for the requisite upgrading changes to be accomplished over a 10 year period. EPA continues to believe this provides a reasonable time for making any necessary adjustments. EPA notes that exerienced installers of UST systems provided comments that UST piping systems are typically replaced or altered at retail motor fuel outlets about every 10 years due to station remodeling needs anyway. Second, as mentioned above, the use of stainless steel or wrapped fittings without cathodic protection is acceptable in certain circumstances under the regulations. EPA believes that the instances where corrosion protection is not needed are rare; however, this provision allows owners and operators the flexibility not to use cathodic protection or soil isolation devices where they are not needed. To meet the requirements of this option, a corrosion expert must determine that the fitting will not experience a corrosion-induced release during the operating life of the UST system under the conditions of the site. Documentation of this determination must be kept by the UST system's owner and operator. Third, stainless steel or wrapped fittings without cathodic protection may be allowed by State implementing agencies under conditions that are determined to prevent corrosion-induced releases for the system's operating life. This option is also not expected to be widely used, but allows additional flexibility when warranted.

Finally, EPA does not agree that a piping testing program is an adequate substitute for the corrosion protection upgrading requirements. As discussed in the preamble to the final rules, release detection and corrosion protection upgrading are together necessary to protect human health and the environment. The additional flexibility sought by API here to allow just testing would be detrimental to the level of protection required under the final regulations.

C. Release Detection: Soil/Clay Liners

Under the provisions of final rule, EPA allows owners and operators to install an impermeable barrier in the bottom of a tank excavation for use as a release detection method. The barrier must channel any release to a monitoring well in accordance with an established performance standard (§ 280.43(g)(2)). EPA stated in the preamble that this performance standard excludes soil/clay liners, including such mixes as bentonite-sealed soils (52 FR 37164). API contends, contrary to EPA's conclusion, that soil/clay liners can be designed to achieve EPA's performance standard for impenetrable barriers (particularly for purposes of release detection), and that EPA's conclusion was incorrectly derived from a study of landfills, not tanks. API does not generally contest the appropriateness of the Agency's performance standard. Although it is not entirely clear from their petition, API seems only to want the Agency to state that soil/clay liners are acceptable.

This issue was raised by several commenters on the proposed rule. The petition does not raise any new issues or facts relevant to soil/clay liners; therefore, EPA's position remains as stated in the final rule. API misconstrues the preamble discussion on soil/clay liners. The basis of the Agency's decision not to allow soil/clay liners was not the fact that such liners may not meet the performance standard. Rather, as the Agency stated, "soil/clay liners are not being allowed because there is enough evidence about the inadequate performance of these materials as reliable barriers to question their reliability for release detection purposes" (53 FR 37165). However, EPA continues to believe that the final requirements disallowing soil/clay liners as an excavation material (used to assure detection of underground releases) is necessary to protect human health and environment. Therefore, the changes sought by API to allow soil/clay liners for release detection are being denied.

Based on the study cited by API ("Background Document on Bottom Liner Performance in Double-lined Landfills and Surface Impoundments") completed under the Agency's RCRA Subtitle C program, it is apparent that soil/clay liners require careful design and construction to be effective in assuring the underground migration of contaminants are retarded. Even for the purpose of promoting the detection of releases, effective use of this barrier method would not be easily accomplished in an UST excavation. For example, the even-spreading and hand-tamping of clay soils to the proper thickness and slope at the bottom and sides of the excavation is not an easy task. It is also apparent that clay/soil barriers are not something that can be inspected after the UST system is installed. Thus, EPA is concerned about how it could assure compliance if this type of approach were to be allowed. Several commenters to the proposal pointed out the added concern that the permeability of these soil/clay liner materials increases in the presence of several components of gasoline, again pointing out the need for careful design and construction of such barriers.

Even when the liners are well constructed, they may not contain a small gasoline spill long enough to direct it to the monitoring point because the soils are more permeable to gasoline constituents than to water. The fact that the surface impoundment study pointed out the importance of such construction/design factors still leads the Agency to conclude that: (a) The surface impoundment study (while conservative) is relevant to UST applications; and (b) these special concerns about using clay liners at UST sites remain valid. For example, material submitted by commenters showed that the permeability of these materials increases in the presence of several gasoline components, particularly aromatic compounds such as benzene, toluene, and xylene. The exact permeability of the liners to these substances is unknown.

The Agency's decision is also supported by practical implementation concerns. First, it would be difficult for local agencies to ensure the permeability of treated or compacted soils in the field at the large number of UST sites that might potentially use them as liner systems. It would be difficult for an inspector to ascertain

that an existing system had a soil/clay liner at all; determining its permeability would be virtually impossible. Second, EPA did not receive any comments or information indicating that soil/clay liners were widely used for UST leak detection purposes. This lack of field experience compounds that technical concerns listed above. Finally, EPA believes that it is easy for owners with dry observation wells to conduct vapor monitoring with a portable or permanent monitoring device. Such a "retrofit" is relatively inexpensive and does not require the owner to "start over" as the petition maintains. EPA continues to believe it is wise to exclude the use of soil/clay barriers for the technical and implementation reasons stated above.

D. Release Detection: Groundwater Monitoring Depth

In the final rule, EPA allows the use of groundwater monitoring as a release detection method, but only where groundwater is not more than 20 feet below the surface and the hydraulic conductivity of the soil is not less than 0.01 cm/sec. (§ 280.43(f)(2)). API in its petition contends that these restrictions upon the use if groundwater monitoring are not necessary to achieve the Agency's goal that leaks be detected within 30 days and requests that they be removed.

This issue was raised by many commenters, including API, on the proposed rule. API has not raised any new issues or provided new facts on this issue in the petition. Therefore, EPA's position on this issue remains as stated in the final rule for several reasons. EPA chose to limit the use of groundwater monitoring to sites where the water table was within 20 feet of ground surface to ensure reliable, rapid detection of releases and to limit the extent of contamination that would need to be cleaned up once the leak was discovered. The Agency continues to believe that this regulatory standard is both reasonable and protective and does not intend to change this portion of the regulation.

Based on some public comments, EPA gave serious consideration to changing the proposed depth to groundwater limitation when finalizinq the technical standards (53 FR 37163). Deeper wells were rejected because they compromised the goal of early warning of leaks to avoid extensive cleanup efforts. Available evidence indicated that at 20 feet depth an 0.01 cm/sec hydraulic conductivity release barely reaches monitoring wells within 30 days. This conclusion was based on a modelling effort conducted by EPA that is in the rulemaking docket ("Computer Simulation of Gasoline Leakage to Ground Water," EPA). Simply doubling the conductivity and the depth to groundwater will not ensure that releases will reach monitoring wells within 30 days. In fact, at greater depths it is much more likely that releases will be missed because of intervening clay lenses or lateral migration off site. Several existing state and local programs that rely on groundwater monitoring have recognized these limitations and restricted well use to where ground water is within 20 feet of the surface. Contrary to the assertion in the petition, Florida's program is one of those that include this limitation on the use of groundwater monitoring.

A more important reason for the 20 foot maximum depth restriction is that increased depth increases the amount of product released and, consequently, increases the amount of soil and groundwater that may be contaminated before a leak is detected. Assuming a constant rate of travel and a constant cross-sectional area of a leak, at least twice as much product will be released before a leak is detected at 40 feet as compared to 20 feet, regardless of the conductivity of underlying soils. In addition, fewer options are available for cleanups at greater depths. The most common method of soil remediation, excavation, will not work much beyond 20 feet because backhoes cannot reach any deeper. Only in-situ techniques are available for work at 30 or 40 feet, and their success is less certain.

If a state program has an approach to groundwater monitoring that allows wells at greater depth but can be shown to detect releases of similar sites in equivalent periods of time, the method could possibly be used under the "other methods" section of the regulation (§ 280.43(h)). However, EPA believes that such a case will be difficult to develop.

E. Manual Tank Gauging

EPA allows manual tank gauging (MTG) as a release detection method for tanks of 2,000 gallons or less capacity. MTG may be used as the exclusive method of leak detection for tanks of under 550 gallons, and as a substitute for inventory control in tanks of 551 to 2,000 gallons (§ 280.43(b)).

API contends in its petition that the study EPA used to base the rule's restrictions on the use of MTG does not in fact support them. As a result, API requests that EPA amend the regulations to allow the use of MTG as the exclusive method of release detection for used oil tanks of up to 1,100 gallons.

This issue was raised by many commenters, including API, on the proposed rule. The petition does not introduce new issues or facts that were not addressed in the final rule. Therefore, EPA's position remains as stated in the final rule. In developing the regulation EPA made every effort to allow all leak detection methods with proven effectiveness in protecting human health and the environment. Generally, methods were allowed if they could be proven to detect a 0.2 gallon per hour release within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05. EPA restricted the use of MTG to tanks of 550 gallons because the available information, submitted by API, showed that MTG could not meet this standard for 1000 gallon tanks.

This disagreement over the performance of MTG centers on differing interpretations of the API study "Analysis of Static Tank Testing as a Leak Detection Technique for Used Oil Tanks at Retail Outlets," prepared by Radian Corporation. In its comments, and in the petition, API maintains that the "effective leak rate errors" in this study represent the "detectable leak rate" used in the EPA regulations. However, EPA believes the numbers presented are the standard error (in gallons) of consecutive stick readings, not the minimum detectable leak rate ("Review of Effectiveness of Static Tank Testing," Midwest Research Institute (MRI)). The MRI report accepts the standard errors in the Radian report and uses them to calculate detectable leak rates. The difference between the two numbers can be illustrated by considering a 1000 gallon tank that is tested with MTG at 36 hour intervals four times a month. The standard error of this test will be 0.107 gallons, but the detectable leak rate will be only 0.498 gallons. The MRI study concluded that for 1000 gallon tanks the probability of detecting a 0.2 gallon per hour leak was only 73 percent, well below the target of 95 percent in the final rule.

In light of the earlier API study results, establishing the performance of manual tank gauging for the larger used oil tanks will require additional performance information. However, the Agency believes that the standard in fact might be achievable for small used oil tanks and suggests there may be a course of study that would provide the data needed to prove this assertion. EPA is developing standard test procedures for demonstrating the achieved performance of different methods of release detection, including inventory methods. When these procedures are completed later this year they can be used to provide conclusive performance

estimates for manual tank gauging for different sized tanks. In the absence of the completed protocol however, we believe a simple data collection effort could be accomplished to support the use of this method for used oil tanks under 1100 gallons, if it established under the "other methods" allowed section in 40 CFR 280.43(b) that the sticking accuracy for used oil tanks is better than was reported for larger gasoline tanks in the earlier API study.

Sticking error is the primary factor that limits the performance of MTG for larger tanks, according to the Radian study. The standard error of a stick reading is taken as 0.31 inches, and is based on an earlier Radian study using large gasoline tanks. For MTG to meet the performance standard in the regulations for 1100 gallon tanks, the standard error of a single stick reading will need to be reduced 30 to 50 percent from those reported for larger gasoline tanks. If the testing procedure specified in the regulation is employed, the stick reading standard error for the two most common 1100 gallon tank dimensions would need to be:

48″×128″—0.16 inches
64″×73″—0.22 inches

Using different testing procedures, such as longer test times, would allow the standard to be met with less accurate sticking.

In summary, EPA agrees that it may be technically possible to achieve such accuracy for 1100 gallon used oil tanks, but it has not been demonstrated. Sticking accuracy in these tanks could be less than in the earlier study because used oil is darker and more viscous than gasoline and the tanks involved are smaller. This could be tested by repeating the earlier study with a similar design (restricted to 1100 gallon used oil tanks). Also, any particular method could be used provided it meets release detection performance standards as demonstrated through more rigorous testing, such as that specified in the standard test procedure for inventory control methods now under development by EPA. Once it has been proven to meet the standard, the method also could be used by owners and operators under the "other methods" section in 40 CFR 280.43(h). However, until the suggested API study or the inventory testing protocol procedure is completed, EPA can not support the use of MTG as the sole method of leak detection for used oil tanks of over 550 gallons.

F. Spill and Overfill Controls

The final rule change requested by the API petition is the change of the overfill and spill prevention standard to allow devices that meet performance standards based on the volume remaining in the tank (ullage) rather than just the design requirements provided in the final rule. These are stated to be 90% full for alarms and flow restrictor devices, and 95% full for shut-off equipment (§ 280.20). Upon review of this aspect of the petition, EPA has determined that there is merit in API's request because the current rule language may unintentionally restrict the application of different alternative types of equipment, whether or not they are equally protective in performance to the designs explicitly allowed. To rectify this unintended effect, EPA is proposing a simple technical addition to the overfill section of the regulations for public review and comment elsewhere in today's **Federal Register**. Until this proposed regulation change is finalized, EPA wishes to remind the public that it (or the relevant implementing agency) will accept descriptions of alternative spill and overfill equipment (under § 280.20(2)(i)) and make a determination as to whether this equipment is no less protective in preventing overfills than those allowed under the rule's current design standards.

III. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Since this document is merely an announcement of a series of decisions concerning a petition for technical amendment of a regulation it does not require a Regulatory Impact Analysis.

This document was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: March 29, 1990.

Don R. Clay,

Assistant Administrator.

[FR Doc. 90–9589 Filed 4–26–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 280

[FRL 3752–4]

Underground Storage Tanks; Technical Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This is a document by the Environmental Protection Agency announcing a proposed amendment to the underground storage tank regulations. The Agency is proposing to add a standard allowing the use of overfill prevention equipment that can achieve certain levels of performance. This technical amendment is issued in response to a petition for rulemaking.

DATES: Comment may be submitted on the proposed action on or before May 29, 1990.

ADDRESSES: The Docket for this rulemaking (Docket No. UST 2–1) is located at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Written comments may be sent to the above address and to the attention of the RCRA, Subtitle I Docket Clerk. The Docket is open from 9:30 a.m. to 3:30 p.m., Monday through Friday, except for Federal holidays. You may make an appointment to review materials in the Docket by calling (202) 475–9720.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or 382–3000 (in Washington, DC).

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 1988, (53 FR 37082) EPA promulgated technical requirements under subtitle I of RCRA for underground storage tanks containing petroleum or substances defined as hazardous under the Comprehensive Response, Compensation, and Liability Act of 1980 (CERCLA), except for substances regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA). These rules went into effect 90 days later on December 22, 1988. Today's document addresses a technical problem in those final regulations.

In a letter dated December 8, 1988, the American Petroleum Institute submitted a petition under section 7004(a) of RCRA requesting that EPA consider six technical amendments to the final regulations. This proposal addresses one of the issues of the petition. The Agency's response to the other five requested rule changes is addressed elsewhere in today's **Federal Register**. In this document EPA proposes to add a performance standard to the spill and overfill requirements to resolve the technical concerns raised by API concerning alternative ways overfill prevention equipment can be used on new and existing tanks: particularly with larger tanks (those greater than 4,000 gallons).

II. Proposal for Amendment of Spill and Overfill Requirements

Sections 280.20(c) and 280.30 provide requirements for spill and overfill prevention that mandate UST owners and operators to provide equipment and follow procedures to prevent spillage and overfills into the environment during the filling of a tank. Overfilling occurs when the tank liquid level exceeds tank capacity and product escapes through the tank bung holes, vent lines, or fill ports, (see 53 FR 37133). Section 280.20(c)(1)(ii) requires that owners or operators prevent overfills by installing equipment that complies with either of the following two design standards:

- A device that will alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm; or
- A device that will automatically shut off flow into the tank when the tank is no more than 95 percent full.

Owners and operators may also meet the requirement to prevent overfills by petitioning the relevant implementing agency to allow the installation of alternative equipment that is determined by the implementing agency to be no less protective of human health and the environment.

Several assumptions, concerns, and underlying criteria were used to develop the rule's final design standards for automatic shut-off and restrictor/alarm equipment. First, the Agency determined that a transfer operator should have up to one minute to shut off the flow into the tank in response to an alarm and thirty minutes to shut off the flow in response to an automatic flow restrictor. Second, these standards were developed with the following conservative assumptions in mind:

—regular flow rates of 350–400 gal/minute
—restricted flow rate of 16 gal/minute
—average tank size of 4,000 gallons
—automatic shut-off devices may be equipped with manual override

Using these conservative assumptions, the Agency determined that a tank could be filled only to 90%, leaving 400 gallons of tank capacity (ullage). This ullage would leave up to a one minute to respond to an alarm, and thirty minutes to complete the transfer once the flow restrictor has engaged.

In their petition, API noted that the estimated average tank size within the regulated community is likely to increase overtime from the 4,000 gallons used in the EPA typical case example to 10,000 gallons or more, particularly in the retail motor fuel sector. The Agency recognizes that, other things being equal, larger tanks may be filled to a higher capacity and still provide the requisite amount of response time. Given that the most effective flow restrictor is calibrated to reduce the inflow rate to approximately 3.5 gallons per minute, inflow into a 10,000 gallon tank with such a device could be filled to 99% capacity (i.e., leaving 100 gallons ullage) and should still allow approximately 30 minutes for the operator to respond to the restricted flow before an overfill occurred. Similarly, a 10,000 gallon tank filled at 350 to 400 gallons/minute may be filled to 96% capacity, (i.e., leaving 400 gallons ullage) and still allow the operator a full minute to respond to the potential overfill. In summary, the amount of response time believed by the Agency to be necessary to protect human health and the environment (i.e. one minute in reaction to an alarm and 30 minutes in response to a flow-restricter) may still be present even where the tank is filled above the regulatory-mandated 90%, depending upon the size of the tank, the rate that the tank is filled, and the rate of flow reduction achieved by a flow restrictor.

The Agency used the same conservative assumptions regarding tank size, flow-rate, etc., when it mandated that all automatic shut-off devices cut off the flow into the tank when the tank is filled to 95% capacity. The Agency also determined that the standard must be set so that the product level would not come in contact with the bungs and fittings located at the top of the tank, even after the shut-off was overridden manually for a short period of time by the operator. Using the 4,000 gallon tank example, which the Agency considers to be the typical tank size, 200 gallons ullage would remain when the tank was filled to 95% capacity. This ullage was deemed reasonable and protective considering the capability of the operator to manually override the automatic shut-off device, the capacity of the delivery hose to be drained into the tank after the automatic shut-off, and the possible increases in product levels due to tank tilt.

As with the alarm and automatic flow-restrictor, however, the Agency now recognizes that a tank larger than 4,000 gallons may be filled to above 95% capacity and still leave a reasonable amount of ullage to prevent product from reaching the bungs.

To alleviate the effect of the present regulations in needlessly reducing maximum tank capacity of large tanks, despite the allowance of adequate response time to the transfer operator, an overfill equipment performance standard is today being proposed for addition to the regulations as new § 280.20(c)(1)(ii)(C). By adding this new performance standard, EPA intends to clarify how different types of overfill equipment can be used and still achieve the level of protection necessary to protect human health and the environment. For example, overfill equipment could be used closer to the top of large bulk tanks located at retail gasoline marketing stations because sufficient volumes to receive excess product would still be available. This proposed change will enable the use of the numerous types of overfill equipment at the larger tanks, as long as they achieve one of the proposed minimum standards of performance.

EPA expects that the existing design standards will continue to be the requirement of choice by owners and operators with tanks smaller than 4,000 gallons because they are the simplest to understand, and do not unnecessarily restrict the amount of space that can be used for storage. These standards continue to be protective given the different in-fill rates and operating practices that are often used to prevent overfilling with these smaller tanks.

III. Compliance with Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Today's document merely proposes a new performance standard that would increase the flexibility of implementing the existing requirement; the proposed rule is not "major" as contained in the Office of Management and Budget's Interim Regulatory Impact Analysis Guidance."

This document was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: April 11, 1990.

William Reilly,

Administrator.

For the reasons set out in this document, 40 CFR part 280 is amended as set forth below:

PART 280—TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS (UST)

1. The authority citation for part 280 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991, 6991(a), 6991(b), 6991(c), 6991(d), 6991(e), 6991(f), 6991(h).

2. Section 280.20 is amended by adding paragraph (c)(1)(ii)(C) to read as follows:

§ 280.20 Performance standards for new UST systems.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(C) Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

* * * * *

[FR Doc. 90-9587 Filed 4-26-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42012I; FRL 3713-5]

Diethylenetriamine; Withdrawal of Proposed Test Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: EPA is terminating rulemaking under the Toxic Substances Control Act (TSCA) for oncogenicity testing of Diethylenetriamine (DETA; CAS No. 111-40-0). EPA's decision is based on the analysis of scientific data submitted by the testing sponsors of DETA which demonstrated that the chemical is not mutagenic.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: EPA is withdrawing its proposed requirement under section 4(a) of TSCA for oncogenicity testing of DETA.

I. Introduction

EPA promulgated a final test rule for DETA (50 FR 21398, May 23, 1985), requiring testing of this chemical substance for oral subchronic (90-day) health effects in at least one mammalian species, for dermal absorption in the same mammalian species used for the subchronic study, for chemical fate under aerobic conditions, and *in vitro* and *in vivo* chromosomal aberrations (tiered testing sequences). Consistent with the Agency's approach of requiring oncogenicity bioassay testing under section 4 of TSCA when certain mutagenicity tests are positive, EPA proposed (50 FR 21413, May 23, 1985), under TSCA section 4(a)(1)(A) to require chronic oncogenicity bioassays of DETA in both rats and mice, if this substance exhibited positive test results in any of the following mutagenicity assays in the tiered mutagenicity testing sequences (for *in vivo* gene mutation testing and both *in vitro* and *in vivo* chromosomal aberration testing) required in the final test rule for DETA. These assays are: the sex-linked recessive lethal gene mutation assay in *Drosophila melanogaster*, the *in vitro* cytogenetics assay, and the *in vivo* cytogenetics assay.

II. Results from Required Testing

The Agency has reviewed the test results obtained from the DETA test rule, and has concluded that negative responses were exhibited in both the *in vitro* and *in vivo* cytogenetics assays. The Agency has also determined from evaluating data obtained with the sex-linked lethal test in *Drosophila melanogaster* that a positive response was not obtained. Therefore, EPA is withdrawing the proposed requirement for oncogenicity testing of DETA because positive results have not been observed for DETA in any of the three proposed triggering mutagenicity tests.

III. Rulemaking Record

EPA has established a record for this rulemaking (docket number OPTS-42012I). This record contains the basic information considered by EPA in developing this notice and appropriate **Federal Register** notices.

This record includes:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule, consisting of:

(a) Notice of proposed rules on DETA (47 FR 18386, April 29, 1982) and (50 FR 21413, May 23, 1985).

(b) Notice of final test rule on DETA (50 FR 21398, May 23, 1985).

(c) Notice containing the ITC designation of DETA to the priority list (46 FR 28138, May 22, 1981).

(d) Notice containing EPA's Good Laboratory Practice Standards (54 FR 34034, August 17, 1989).

(e) Notice of final rule on test development and exemption procedures for one-phase rulemaking (50 FR 20652, May 17, 1985).

(f) Notice of final rule concerning data reimbursement (48 FR 31786, July 11, 1983).

(g) Reports— published and unpublished factual materials, including mutagenicity testing results and evaluations on DETA.

(h) OTS Health Effects Test Guidelines— chronic oncogenicity bioassay testing (40 CFR 799.3300).

B. References

(1) The Dow Chemical Company. "Evaluation of Diethylenetriamine in an *in vitro* Chromosomal Aberration Assay Utilizing Chinese Hamster Ovary (CHO) Cells" (September 17, 1987).

(2) The Dow Chemical Company. "Evaluation of Diethylenetriamine in the Mouse Bone Marrow Micronucleus Test" (May 5, 1988).

(3) The Dow Chemical Company. "Evaluation of Diethylenetriamine in *Drosophila melanogaster* Sex-Linked Recessive Lethal Test" (May 10, 1988).

Therefore, 40 CFR 799.1575 (c)(5) Diethylenetriamine, proposed in the **Federal Register** of May 23, 1985 (50 FR 21413), is hereby withdrawn.

List of Subjects in 40 CFR Part 799

Chemicals, Environmental Protection, Hazardous substances, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: April 19, 1990.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 90-9858 Filed 4-26-90; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-211, RM-7178]

Radio Broadcasting Services; Gretna, Marianna, Quincy and Tallahassee, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Dolcom Broadcasting, Inc., licensee of Station WTHZ(FM), Channel 276A, Tallahassee, Florida, seeking the substitution of Channel 276C2 for Channel 276A at Tallahassee, Florida, and modification of its license to specify operation on the higher class channel. The proposal to upgrade at Tallahassee requires the substitution of Channel 231A for vacant but applied for Channel 227A at Marianna, Florida, the substitution of Channel 227A for Channel 264A at Gretna, Florida, and modification of the construction permit (BMPH-8705181F) for Station WGWD(FM), and substitution of Channel 264A for vacant but applied for Channel 274A at Quincy, Florida. The coordinates for Channel

276C2 at Tallahassee are North Latitude 30–29–43 and West Longitude 84–13–51. The coordinates for Channel 227A at Gretna are North Latitude 30–33–24 and West Longitude 84–36–05. The coordinates for Channel 231A at Marianna are North Latitude 30–45–47 and West Longitude 85–13–52. The coordinates for Channel 264A at Quincy are North Latitude 30–32–05 and West Longitude 84–32–37.

DATES: Comments must be filed on or before June 14 , 1990, and reply comments on or before June 29, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Irving Gastfreund, Kaye, Scholer, Fierman, Hays & Handler, 901 15th Street, NW., Suite 1100, Washington, DC 20005 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634–6530

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–211, adopted March 23, 1990, and released April 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involves channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–9763 Filed 4–26–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–212; RM–7151]

Radio Broadcasting Services; Americus, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Guest-Mattox Broadcasting, requesting the substitution of Channel 234C3 for Channel 232A at Americus, Georgia, and modification of its license for Station WDEC(FM) to specify the higher powered channel. Channel 234C3 can be allotted to Americus in compliance with the Commission's minimum distance separation requirements with a site restriction 11.5 kilometers (7.1 miles) southwest, in order to avoid a short-spacing to Station WBYZ(FM), Channel 233C, Baxley, Georgia. The coordinates for this allotment are North Latitude 31–59–10 and West Longitude 84–18–06. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in the higher powered channel at Americus or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before June 14, 1990, and reply comments on or before June 29, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Neal J. Friedman, Pepper & Corazzini, 1776 K Street NW., Washington, DC 20006 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–212, adopted March 23, 1990, and released April 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–9764 Filed 4–26–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–210, RM–7153]

Radio Broadcasting Services; Glasgow, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by WOVO Broadcasting Inc., requesting the substitution of Channel 287C3 for Channel 288A at Glasgow, Kentucky, and modification of its license for Station WOVO (FM) to specify the higher powered channel. Channel 287C3 can be allotted to Glasgow in compliance with the Commission's minimum distance separation requirements with a site restriction 18.9 kilometers (11.8 miles) southeast, in order to avoid a short-spacing to Station WYNG (FM), Channel 287B, Evansville, Indiana. The coordinates are North Latitude 36–53–33 and West Longitude 85–44–48. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in the higher powered channel at Glasgow or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before June 14, 1990, and reply comments on or before June 29, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: John M. Barrack, President, WOVO Broadcasting, Inc., P.O. Box 478, Glasgow, Kentucky 42141 (petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–210, adopted March 23, 1990, and released April 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *all ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–9765 Filed 4–26–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–213, RM–7083]

Radio Broadcasting Services; Pikeville, KY and Matewan, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by East Kentucky Broadcasting Corporation, licensee of Station WDHR(FM), Channel 221A, Pikeville, Kentucky, seeking the substitution of Channel 294C3 for Channel 221A at Pikeville, Kentucky, and modification of its license to specify the higher class channel. The proposal to upgrade at Pikeville requires the substitution of Channel 221A for Channel 294A at Matewan, West Virginia, and modification of the construction permit for Station WVKM(FM) at its present site. The coordinates for Channel 294C3 at Pikeville are North Latitude 37–27–00 and West Longitude 82–30–00. The coordinates for Channel 221A at Matewan are North Latitude 37–37–54 and West Longitude 82–09–32.

DATES: Comments must be filed on or before June 14, 1990, and reply comments on or before June 29, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Erwin G. Krasnow, Verner Liipfert, Bernhard, McPherson & Hand, 901 15th Street, NW., Washington, DC 20005–2301 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 90–23, adopted March 23, 1990, and released April 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–9766 Filed 4–26–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 240

[FRA Docket No. RSOR–9, Notice 4]

RIN 2130–AA51

Qualifications for Locomotive Operators; Extension of Comment Period

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Extension of comment period.

SUMMARY: On December 11, 1989 (54 FR 50890) FRA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) concerning the establishment of minimum qualifications for locomotive operators. FRA has found it necessary to extend the period for filing written comments in order to permit commenters additional time to prepare their responses to this proposal.

DATES: Written comments must be received no later than June 4, 1990. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: Written comments (three copies) should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in room 8201 of the Nassif Building at the above address.

FOR FURTHER INFORMATION CONTACT: Richard M. McCord, Regional Director

for Safety, FRA, Portland, Oregon, (Telephone: 503–326–3011); or Lawrence I. Wagner, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590 (Telephone: 202–366–0628); or Edward R. English, Chief of Maintenance Programs Division, Office of Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590 (Telephone: 202–366–9186).

SUPPLEMENTARY INFORMATION: FRA has found it necessary to revise the public participation schedule announced in its NPRM concerning the qualifications of locomotive operators that appear in the **Federal Register** on December 11, 1989. These changes are in response to requests for additional time submitted by the Association of American Railroads (AAR), the American ShortLine Railroad Association (ASLRA) and the Railway Labor Executives Association (RLEA). All three organizations represent large segments of the regulated community that would be impacted by the adoption of any regulation concerning the certification of locomotive operators. After reviewing the arguments advanced in support of additional time, FRA has concluded that a 30-day extension of the comment period should provide sufficient additional time to respond to this proposal.

Issued in Washington, DC., on April 23, 1990.

S. Mark Lindsey,

Chief Counsel.

[FR Doc. 90–9783 Filed 4–26–90; 8:45 am]

BILLING CODE 4910–06–M

Notices

Federal Register
Vol. 55, No. 82
Friday, April 27, 1990

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

Forest Service

EIS Wild and Scenic River Suitability Study for the Chewaucan River, Fremont National Forest, Lake County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare envionmental impact statement.

SUMMARY: The Forest Service will prepare a draft environmental impact statement (DEIS) and wild and scenic river study report to determine the suitability or non-suitability of the Chewaucan River on the Fremont National Forest for inclusion into the National Wild and Scenic Rivers System. The Forest Service invites written comments and suggestions on management of this river and the scope of this analysis. The agency gives notice of the full environmental analysis and decisionmaking process that will occur on this study so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received by June 1, 1990.

ADDRESSES: Send written comments and suggestions concerning the management of this river to Orville D. Grossarth, Forest Supervisor, Fremont National Forest, 524 North G. Street, Lakeview, Oregon 97630.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and draft EIS should be directed to Ben Kizer, Wild & Scenic River Coordinator; telephone (503) 947–2151.

SUPPLEMENTARY INFORMATION: The Omnibus Oregon Wild and Scenic Rivers Act of 1988 amended section 5(a) of the Wild and Scenic Rivers Act (Pub. L. 90–542, 82 Sta. 910, as amended) to include the Chewaucan River. Section 5(b) of the Act requires that rivers identified in section 5(a) be studied "to determine whether it should be included in the national wild and scenic rivers system". The study will consider a 23 mile segment of the Chewaucan River to include lands within ¼ mile from each stream bank. Preliminary alternatives include a wild and scenic designation for the length of the proposal, an unsuitable for designation alternative, and various other alternatives to include a mix of wild and recreational river designations.

Orville D. Grossarth, Forest Supervisor, Fremont National Forest is the responsible official for the suitability study. Clayton Yeutter, Secretary of Agriculture, U.S. Department of Agriculture, Room 200–A, Administration Building, Washington, DC 20250 is the responsible official for recommendations for wild and scenic river designation.

Public participation is especially important at several points in the study process. The first point is the scoping process (40 CFR 1501.7). The Forest Service is seeking information, comments, and assistance from Federal, State, and local agencies, the Klamath Indian tribe, individuals and organizations who may be interested in or affected by the proposed action. The public input will be used in preparation of the draft EIS.

Initial scoping has occurred. Public meetings have been held and comments have been solicited by letters, newsletters, and newspaper articles. Informal public meetings and/or solicitations for involvement will continue to occur during April and May 1990. Federal, State, and local agencies, the Klamath Indian tribe, user groups and other organizations that may be interested in the study will be invited to participate in identifying issues that should be considered. In addition, the Fremont Forest Interdisciplinary Team will help to develop recommendations for the future management of this river.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA), and available for public review by January 1991. At that time, the EPA will publish a notice of availability of the draft EIS in the **Federal Register.**

The comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of this river participate at that time. To be the most helpful, comments on the draft EIS should be as specific as possible any may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435, U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

After the comment period ends on the draft EIS, comments will be analyzed and considered by the Forest Service in preparing the final EIS. In the final, the Forest Service is required to respond to comments received (40 CFR 1503.4). The final EIS is scheduled to be completed by the end of July, 1991. The Secretary will consider the comments, responses, and consequences discussed in the EIS, applicable laws, regulations, and policies in making a recommendation to the President regarding the suitability of these rivers for inclusion into the National Wild and Scenic River System. The final decision on inclusion of a river in the National Wild and Scenic Rivers System rests with the Congress of the United States.

Dated: April 19, 1990.

David E. Ketcham,

Director of Environmental Coordination.

[FR Doc. 90–9841 Filed 4–26–90; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.
Title: Boundary and Annexation Survey (BAS).
Form Number(s): BAS–1, 1A, 2, 2A, 3, 3A, 4.
Agency Approval Number: 0607–0151.
Type of Request: Revision of a currently approved collection.
Burden: 10,905 hours.
Number of Respondents: 7,270.
Avg Hours Per Response: one and one-half hours.
Needs and Uses: The Census Bureau uses the BAS annually to collect information on the creation of newly incorporated municipalities and minor civil divisions (MCDs), the dissolution of incorporated municipalities and MCDs, and changes to the boundaries of counties, incorporated municipalities, and MCDs. The survey provides accurate identification of geographic areas for the decennial and economic censuses and to support the annual population estimates program. It is also used to update the municipal, MCD, and county inventory for the Federal Information Processing Standards (FIPS) program at the U.S. Geological Survey and the National Institute of Standards and Technology. Other Federal Agencies use BAS results in their legislative programs.
Affected Public: State or local governments.
Frequency: Annual.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Don Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377–3271, Department of Commerce, room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 23, 1990.
Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.
Title: Census of Transportation, Communications, and Utilities—1989 Pretest.
Form Number(s): CB–4100, 4500 4600, 4801, 4802, 4900.
Type of Request: New.
Burden: 4,580 hours.
Number of Respondents: 3,300.
Avg Hours Per Response: 83 minutes.
Needs and Uses: This pretest will submit plans and materials developed for the 1992 Census of Transportation, Communications, and Utilities to rigorous testing under conditions that closely approximate an actual census. Census will use pretest results to plan and implement economic census coverage for the following service sector industries: local and suburban transit and interurban highway passenger transportation; transportation by air; pipelines; communications; and electric, gas, and sanitary services.
Affected Public: Businesses or other for-profit organizations and Non-profit institutions.
Frequency: One-time.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Don Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377–3271, Department of Commerce, room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 24, 1990.
Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–9797 Filed 4–26–90; 8:45 am]
BILLING CODE 3510–07–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.
Title: March 12 Employment From IRS Form 941E.
Form Number(s): IRS 941E.
Agency Approval Number: 0607–0203.
Type of Request: Extension of Currently Approved Collection.
Burden: 6,000 hours.
Number of Respondents: 60,000.
Avg Hours Per Response: 6 minutes.
Needs and Uses: The Internal Revenue Service (IRS) uses Form 941E to determine taxes for employers not covered under the Federal Insurance Contributions Act. These include state and local governments, payers of supplemental unemployment benefits, certain churches and church-controlled organizations, and certain payers of annuities and sick pay. The Census Bureau uses responses to Question 1a on March 12 employment data from the first quarter returns of IRS Form 941E to update the Standard Statistical Establishment List (SSEL). The SSEL, as a universal sampling frame of U.S. business activity, requires employment data from all sectors of the economy.
Affected Public: State or local governments; Businesses or other for-profit organizations; and Non-profit institutions.
Frequency: Annually (first quarter only).
Respondent's Obligation: Mandatory.
OMB Desk Officer: Don Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 24, 1990.
Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–9798 Filed 4–26–90; 8:45 am]
BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Order No. 471]

Approval for Expansion of Foreign-Trade Zone 70 Detroit, Michigan, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 3, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., Grantee of Foreign-Trade Zone 70, has applied to the Board for authority to expand two of its general-purpose zone sites located at the Detroit Metropolitan Airport and at the Ecorse Docks in the Detroit, Michigan, area, within the Detroit Customs port of entry;

Whereas, the application was accepted for filing on September 29, 1989, and notice inviting public comment was given in the **Federal Register** on September 30, 1989 (FTZ Docket 17–89, 54 FR 40153);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Detroit area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed September 19, 1989. The grant does not include authority for manufacturing operations, and Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 20th day of April, 1990.

Lisa B. Barry,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–9749 Filed 4–26–90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A–582–802]

Preliminary Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber From Hong Kong

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that sweaters wholly or in chief weight of man-made fiber (MMF sweaters) from Hong Kong are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of MMF sweaters from Hong Kong, except for those of Crystal Knitters Ltd. and Laws Fashion Knitters Ltd., as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by July 5, 1990.

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Carole A. Showers, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–3217.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that MMF sweaters from Hong Kong, except those of Crystal Knitters Ltd. and Laws Fashion Knitters Ltd., are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation (54 FR 42972, October 19, 1989), the following events have occurred. On November 6, 1989, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports of MMF sweaters from Hong Kong (54 FR 47585, November 15, 1989).

Due to the extremely large number of potential respondents in this investigation, on October 30, 1989, the Department issued a letter to all parties to the proceeding proposing the use of sampling techniques, in accordance with section 777A(b) of the Act, to limit the number of respondents investigated. After considering all comments received, we determined that, due to the lack of industry-specific information on the record, we would be unable to develop a representative sample. Consequently, we decided not to limit our selection of respondents by sampling. Instead, we limited our analysis by investigating only those companies accounting for the top 30 percent of exports by volume to the United States during the period of investigation (POI), rather than the "normal" 60 percent of exports to the United States stated in § 353.42(b) of the Department's regulations (19 C.F.R. 353.42(b)(1989)) (the Department's regulations). In this investigation, four companies accounted for at least 30 percent of exports by volume to the United States during the POI.

On November 14, 1989, petitioner, contending that seasonal pricing variations exist with respect to the sale of MMF sweaters, requested that the POI be expanded from the "normal" six months to a full year covering the period October 1, 1988 through September 30, 1989. On November 16, 1989, petitioner was asked to supply additional support for its contention. On November 21, 1989, another submission on this matter was made by petitioner in response to our request. In addition, comments were received from other interested parties on this issue. After reviewing all comments received, we determined that petitioner failed to provide adequate justification for changing the POI. Specifically, petitioner did not adequately explain the seasonal effects alleged nor did it adequately demonstrate that such effects exist. For example, petitioner argued that a low percentage of yearly sales occurs during the months covered by the "normal" six-month POI. However, our analysis of the data provided by respondents in their Section A responses reveals that the percentage of yearly sales made during the normal POI varies greatly among producers. Furthermore, even if the percentage of yearly sales during the POI had been uniformly low for all firms, petitioner did not explain why in this investigation

the low percentage of sales would necessarily be indicative of unrepresentative prices. Accordingly, the POI was not changed.

On November 22, 1989, the Department presented sections A, B and C of its questionnaire to the following four companies: Comitex Knitters Ltd. (Comitex), Crystal Knitters Ltd. (Crystal), Laws Fashion Knitters Ltd. (Laws), and Prosperity Clothing Co., Ltd./Estero Enterprises Limited (Prosperity). Responses to section A of the questionnaire were due on December 6, 1989, and responses to the remaining sections were due on December 22, 1989. At the request of the respondents, the response deadline for section A of the questionnaire was extended to December 11, 1989, for Laws, December 13, 1989, for Crystal, and December 18, 1989, for Prosperity and Comitex. After a similar extension request by the respondents, the response deadline for sections B and C of the questionnaire was extended to January 16, 1990, for Crystal and Laws and January 19, 1990, for Comitex and Prosperity. Responses to sections A, B and C were received on their respective extended due dates.

The Department issued deficiency letters to respondents for section A on December 22, 1989, and for sections B and C on February 2 and 12, 1990. The response to the section A deficiency letter was received from Comitex on January 3, 1990. Laws requested an extension of time to respond to the section A and section C deficiency letters. Comitex requested an extension of time to respond to the section C deficiency letter. Both requests were granted and those responses were received on January 8, February 16, and February 23, 1990, respectively. On January 26, 1990, Comitex submitted a letter correcting minor errors in its January 19, 1990, submission.

On January 3, 1990, the Department presented section D (constructed value) of its questionnaire to Comitex, Crystal, and Laws. *See* the "Foreign Market Value" section of this notice for a discussion of the market viability test. At the request of the respondents, the response deadline was extended to January 3, 1990 and responses were received on that date. On February 15, 1990, the Department issued section D deficiency letters and responses were received on March 5, 1990.

Prosperity submitted revisions to previously submitted information for sections A, B and C, on December 26, 1989, January 8 and 25, and March 9 and 14, 1990. Crystal submitted revisions to previously submitted information for sections A and C on December 13, 1989, January 26, and March 6, 1990.

On February 2, 1990, petitioner requested that the Department extend the period for the preliminary determination until April 6, 1990. This request was granted, in accordance with section 733(c)(1)(A) of the Act, and the deadline for the preliminary determination was postponed to April 6, 1990 (55 FR 5641, February 16, 1990). On March 19, 1990, petitioner requested that the Department further extend the period for the preliminary determination until April 20, 1990. This request was also granted, in accordance with section 733(c)(1)(A) of the Act, and the deadline for the preliminary determination was further postponed to April 20, 1990 (55 FR 11419, March 28, 1990).

On February 20, 1990, petitioner alleged that Prosperity was selling to a third country at prices below the cost of production (COP). On March 1, 1990, we sent a letter to petitioner noting areas where additional information was necessary before a COP investigation could be initiated. In particular, the Department noted that because respondent had submitted cost data on the record and such data was available to petitioner, petitioner should base its COP allegation to the extent possible on respondent's cost information, or explain its reasons for not using that information. We noted that this company-specific information standard is consistent with our final determinations in *Antifriction Bearings and Parts Thereof from the Federal Republic of Germany* (54 FR 19019, May 3, 1989) and *Certain Residential Door Locks and Parts Thereof from Taiwan* (54 FR 53153, December 27, 1989). *See also Al Tech Specialty Steel Corp.* v. *United States*, 6 CIT 245 (1983). On March 7, 1990, petitioner responded to the Department's March 1, 1990 letter, defending the basis of its original allegations. On March 14, 1990, the Department met with petitioner's counsel to address additional questions regarding the company-specific cost information on the record. On March 19, 1990, petitioner supplemented its cost allegation using the company-specific cost information. Based on petitioner's allegation and supplemental submissions, we initiated a COP investigation for Prosperity.

On March 26, 1990, we presented a COP questionnaire to Prosperity. On April 6, 1990, we sent letters noting omissions from the COP questionnaire and/or areas where additional clarification was needed. The responses to the questionnaire and letters were due and received on April 16, 1990. Although we were unable to use the information contained in the response to the COP questionnaire for purposes of the preliminary determination due to time constraints, we intend to verify and use this information for purposes of the final determination.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date is being classified solely according to the appropriate HTS item numbers.

The products covered by this investigation include sweaters wholly or in chief weight of man-made fiber. For purposes of this investigation, sweaters of man-made fiber are defined as garments for outerwear that are knitted or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths, wholly or in chief weight of man-made fiber. The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by weight of wool. It includes men's, women's, boys', or girls' sweaters, as defined above, but does not include sweaters for infants 24 months of age or younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that, with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

This merchandise is currently classifiable under HTS item numbers 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25, 6103.23.00.70. 6103.29.10.40, 6103.29.20.62, 6104.23.00.40, 6104.29.10.60, 6104.29.20.60, 6110.30.10.10, 6110.30.10.20, 6110.30.20.10 and 6110.30.20.20. This merchandise may also enter under HTS item numbers 6110.30.30.50 and

6110.30.30.55. Since the initiation of this investigation, we have clarified the scope of the investigation. We have deleted HTS item numbers 6110.90.00.14 and 6110.90.00.30 from the scope since the subject merchandise is not imported under these categories. We also clarified the scope by deleting the phrase "but most typically ending at the waist." The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

On April 12 and 16, 1990, petitioner stated that the petition was not intended to cover MMF sweaters assembled in Guam that are produced from knit-to-shape component parts imported from Hong Kong and asked that such sweaters be excluded from the scope of this investigation. Given Guam's status as an unincorporated territory of the United States, and the current Customs' classification of sweaters assembled in Guam, we have decided to grant petitioner's request.

Period of Investigation

The POI is April 1, 1989 through September 30, 1989.

Such or Similar Comparisons

For all respondent companies, in accordance with section 771(16) of the Act, we established one such or similar category of merchandise, consisting of all MMF sweaters.

Product comparisons were made on the basis of the following criteria, which are ranked in the order of importance: (1) Style of sweater; (2) fiber content; (3) yarn weight; (4) yarn gauge; (5) weight per dozen; and (6) type of knit.

Where there were no sales of identical merchandise in the third country markets to compare to sales of merchandise in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above.

In cases where respondents made incorrect product comparisons, we revised the concordance based on the product characteristics and the matching criteria set forth above. In doing so, we limited our comparisons to products sold in the third country market where the reported adjustment for physical differences in merchandise did not exceed 20 percent of the net third country market price of the comparison merchandise. We determined that differences in merchandise adjustments of greater magnitude would be unreasonable in this case.

Fair Value Comparisons

To determine whether sales of MMF sweaters from Hong Kong to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For Crystal, Laws, and Prosperity, we based the United States price on purchase price, in accordance with section 772(b) of the Act, because all sales were made directly to unrelated parties prior to importation into the United States. For Comitex, we based United States price on both purchase price and exporter's sales price (ESP), in accordance with section 772 (b) and (c) of the Act. ESP was used where the merchandise was sold to unrelated purchasers after importation into the United States. ESP was also used where the merchandise was sold to unrelated purchasers prior to importation but was carried in the inventory of a related U.S. company of Comitex prior to delivery in the United States. We will further consider the classification of these sales as ESP for the final determination.

A. Comitex

Where United States price was based on purchase price, we calculated purchase price based on packed, f.o.b. Hong Kong port or customer's warehouse prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, containerization expenses, ocean freight, marine insurance, U.S. duty and fees, U.S. inland freight, and U.S. brokerage and handling expenses, in accordance with section 772(d)(2) of the Act.

Where United States price was based on ESP, we calculated ESP based on packed, f.o.b. U.S. warehouse or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, containerization expenses, ocean freight, marine insurance, U.S. brokerage and handling expenses, U.S. duty and fees, and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We made further deductions, where appropriate, for quota expenses, credit expenses, product liability premiums, inventory carrying costs, and other indirect selling expenses, in accordance with section 772(e)(1) and (2) of the Act.

B. Crystal

We calculated purchase price based on packed, f.o.b. Hong Kong port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, and foreign inland freight, in accordance with section 772(d)(2) of the Act. We did not however make, an adjustment to U.S. price for interest revenue because insufficient information was provided by respondent with respect to this adjustment. Although the respondent provided an additional submission addressing this adjustment on April 10, 1990, the Department did not have sufficient time to consider it for purposes of the preliminary determination.

C. Laws

We calculated purchase price based on packed, f.o.b. Hong Kong port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, and containerization expenses, in accordance with section 772(d)(2) of the Act.

D. Prosperity

We calculated purchase price based on packed, f.o.b. Hong Kong port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight and insurance, and containerization expenses, in accordance with section 772(d)(2) of the Act.

Foreign Market Value

In order to determine whether there were sufficient sales of MMF sweaters in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category (*i.e.*, all MMF sweaters) to the volume of third country sales, in accordance with section 773(a)(1) of the Act. For each respondent, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, we determined that home market sales did not constitute a viable basis for calculating FMV, in accordance with section 353.48 of the Department's regulations. If the volume of sales of the such or similar category to one or more third countries was greater than or equal to five percent of the volume sold to the United States, we based FMV on sales to the largest third country market having a sales volume greater than or equal to five percent of the volume sold to the United States, in accordance with section 773(a)(1)(B) of the Act. If the aggregate volume of third country sales was less than five percent of the volume sold to the United States, we based FMV on constructed value

(CV), in accordance with section 773(a)(2) of the Act.

A. Comitex

We calculated FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. For comparisons involving purchase price sales: (1) We used the higher of the actual general expenses or the statutory ten percent minimum of materials and fabrication; (2) since actual profit was less than the statutory minimum, the statutory eight percent minimum profit was applied; (3) imputed credit was included in selling expenses; therefore, interest expense reflected on the company books was reduced for a portion of the expense related to these costs in order to avoid double counting. For comparisons involving ESP sales: (1) Actual general expenses were used, since these exceeded the statutory minimum requirement of ten percent of materials and fabrication; (2) since actual profit was less than the statutory minimum, the statutory eight percent minimum profit was applied; (3) imputed credit and inventory carrying cost were included in selling expenses; therefore, interest expense reflected on the company books was reduced for a portion of the expense related to these costs in order to avoid double counting.

As stated above in the "Foreign Market Value" section of this notice, neither the home market nor any third country market was viable. Accordingly, we included in CV an amount equal to the product-specific weighted-average selling expenses based on reported U.S. experience. These selling expenses differed depending on whether the product was sold through a purchase price or an ESP transaction.

Further, the weighted-average percentage of general and administrative expenses for the POI was used because Comitex reported a different general and administrative percentage for each quarter. We included quota income in the calculation of general expenses. In addition, interest expenses were adjusted to reflect consolidated interest expenses of the holding company.

We made an adjustment to CV, in accordance with section 353.56 of the Department's regulations, for differences in circumstances of sale. This adjustment was made for differences in credit expenses, quota expenses, transit interest, and bank handling charges, where appropriate.

For comparisons involving ESP transactions, we made further deduction for certain identified indirect selling expenses capped by the claimed "indirect selling expenses" on ESP sales. We did not include the indirect selling expenses in the ESPCAP because we did not receive an itemized listing of these expenses reported by Comitex.

B. Crystal

We calculated the FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases: (1) Actual general expenses were used, since these exceeded the statutory minimum requirement of ten percent of materials and fabrication; (2) since actual profit was less than the statutory minimum, the statutory eight percent minimum profit was applied; (3) imputed credit was included in selling expenses; therefore, interest expense reflected on the company books was reduced for a portion of the expense related to these costs in order to avoid double counting.

As stated above in the "Foreign Market Value" section of this notice, neither the home market nor any third country market was viable. Accordingly, we included in CV an amount equal to the product-specific weighted-average selling expenses based on reported U.S. experience.

Further, general and administrative expenses were increased to include donations and miscellaneous expenses which were considered to be general expenses. In addition, interest expense was calculated based on the consolidated financial statements of Crystal's holding company for the nine months ending September 30, 1989, instead of the portion of net interest expense which the company attributed to the product under investigation.

We made an adjustment to CV in accordance with section 353.56 of the Department's regulations for differences in circumstances of sale. This adjustment was made for differences in credit expenses, and bank handling charges.

C. Laws

We calculated the FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases: (1) Actual general expenses were used, since these exceeded the statutory minimum requirement of ten percent of materials and fabrication; (2) since actual profit was less than the statutory minimum, the statutory eight percent minimum profit was applied; (3) imputed credit was included in selling expenses; therefore, interest expense reflected on the company books was reduced for a portion of the expense related to these costs in order to avoid double counting.

As stated above in the "Foreign Market Value" section of this notice, neither the home market nor any third country market was viable. Accordingly, we included in CV an amount equal to the product-specific weighted-average selling expenses based on reported U.S. experience.

Further, the general and administrative expenses were increased for factory overhead amounts reclassified by Laws as general expenses but not included by Laws in its consolidated general expenses. In addition, interest expenses were adjusted to reflect an allocation over consolidated cost of sales instead of an allocation over total consolidated expenses excluding interest expense.

We made an adjustment to CV in accordance with § 353.56 of the Department's regulations for differences in circumstances of sale. This adjustment was made for differences in credit expenses and commissions.

D. Prosperity

We determined that sales to the United Kingdom were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed c.i.f., c&f, or f.o.b. Hong Kong port prices to unrelated customers in the United Kingdom. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, containerization expenses, marine insurance, and ocean freight. For these sales, we deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in credit and banking expenses, credit insurance, and quota purchases. We made further adjustments for indirect selling expenses to offset commissions paid in one market but not in the other, in accordance with § 353.56(b) of the Department's regulations.

In addition, where appropriate, we made further adjustments to FMV for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

Currency Conversion

We made currency conversions in accordance with § 353.60(a) of the Department's regulations. All currency

conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of MMF sweaters, except for those of Crystal and Laws, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of MMF sweaters exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Comitex Knitters Ltd.	1.89
Crystal Knitters Ltd. (de minimis)	0.01
Laws Fashion Knitters Ltd. (de minimis)	0.02
Prosperity Clothing Co., Ltd Estero Enterprises Ltd.	12.04
All Others	5.90

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the latter of 120 days after the date of this determination, or 45 days after the final determination, if affirmative.

Public Comment

In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment. For the date of this hearing and the briefing schedule, please contact the person listed under the "For Further Information Contact" section of this notice. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue, NW., Washington, DC. 20230, within ten days of the publication of this notice in the Federal Register. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary and five copies of the nonproprietary versions of the case briefs must be submitted to the Department at the address above in accordance with § 353.38 of the Department's regulations. In accordance with section 353.38(b) of the Department's regulations, oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act.

Dated: April 20, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-9800 Filed 4-26-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-808]

Preliminary Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that sweaters wholly or in chief weight of man-made fiber (MMF sweaters) from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of MMF sweaters from Taiwan, except those of Jai Farn Manufacturing Co., Ltd., as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by July 5, 1990.

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Carole A. Showers (Bonanza Industries Co., Ltd., Jai Farn Manufacturing Co., Ltd., Nicewear Knitting Co., Ltd., Oriental Knitting Co., Ltd., Supertex Knitting Co., Ltd., and Taih Yung Enterprise Co., Ltd.) or Mary S. Clapp (all other companies), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3217 or 377-3965, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that MMF sweaters from Taiwan, except those of Jai Farn Manufacturing Co., Ltd., are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation (54 FR 42972, October 19, 1989), the following events have occurred. On November 6, 1989, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports of MMF sweaters from Taiwan (54 FR 47585, November 15, 1989).

Due to the extremely large number of potential respondents in this investigation, on October 30, 1989, the Department issued a letter to all parties to the proceeding proposing the use of sampling techniques, in accordance with section 777A(b) of the Act, to limit the number of respondents investigated. After considering all comments received, we determined that, due to the lack of industry-specific information on the record, we would be unable to develop a representative sample. Consequently, we decided not to limit our selection of respondents by sampling. Instead, we limited our analysis by investigating only those companies accounting for the top 30 percent of exports by volume to the United States during the period of investigation (POI), rather than the "normal" 60 percent of exports to the

United States stated in § 353.42(b) of the Department's regulations (19 CFR 353.42(b)(1989)) (the Department's regulations). In this investigation, 14 companies accounted for at least 30 percent of exports by volume to the United States during the POI.

On November 14, 1989, petitioner, contending that seasonal pricing variations exist with respect to the sale of MMF sweaters, requested that the POI be expanded from the "normal" six months to a full year covering the period October 1, 1988 through September 30, 1989. On November 16, 1989, petitioner was asked to supply additional support for its contention. On November 21, 1989, another submission on this matter was made by petitioner in response to our request. In addition, comments were received from other interested parties on this issue. After reviewing all comments received, we determined that petitioner failed to provide adequate justification for changing the POI. Specifically, petitioner did not adequately explain the seasonal effects alleged nor did it adequately demonstrate that such effects exist. For example, petitioner argued that a low percentage of yearly sales occurs during the months covered by the "normal" six-month POI. However, our analysis of the data provided by respondents in their Section A responses reveals that the percentage of yearly sales made during the normal POI varies greatly among producers. Furthermore, even if the percentage of yearly sales during the POI had been uniformly low for all firms, petitioner did not explain why in this investigation the low percentage of sales would necessarily be indicative of unrepresentative prices. Accordingly, the POI was not changed.

On November 22, 1989, the Department presented Sections A, B and C of its questionnaire to the following 14 companies: Bay/Joy Flower Knitting Co., Ltd. (Bay/Joy Flower), Bonanza Industries Co., Ltd. (Bonanza), Chen Hwa Knitting Factory, Ltd. (Chen Hwa), Chung Ling Co., Ltd. (Chung Ling), Chung Tai Industries Co., Ltd. (Chung Tai), Goodman Knitting Co., Ltd. (Goodman), Jai Farn Manufacturing Co., Ltd. (Jai Farn), Knitwear Express Co., Ltd. (Knitwear), Modern Knitting Mills Inc. (Modern), New Northern Knitting Co., Ltd. (New Northern), Nicewear Knitting Co., Ltd. (Nicewear), Oriental Knitting Co., Ltd. (Oriental), Supertex Knitting Co., Ltd. (Supertex), and Taih Yung Enterprise Co., Ltd. (Taih Yung). Responses to Section A of the questionnaire were due on December 6, 1989, and responses to the remaining sections were due on December 22, 1989. At the request of the respondents, the response deadline for Section A of the questionnaire was extended to December 13, 1989, and for Sections B and C to January 16 and 24, 1990. Responses to Section A were received on December 12, 13, and 14, 1989, and responses to Sections B and C were received on January 16 and 24, 1990.

The Department issued deficiency letters to respondents for Section A on December 22, 1989, and for Sections B and C on January 30, February 2, 5, 6, and 12, 1990. Responses to Section A deficiency letters were received on January 5, 1990. Responses to Sections B and C deficiency letters were received on February 14, 20, and 23, 1990. On February 15, 1990, respondents requested an extension of time to respond to the deficiency letters. The Department granted the extension and the responses were received on February 23, 1990.

On January 3, 1990, the Department presented Section D (constructed value) of its questionnaire to Chen Hwa, Goodman, Jai Farn, Knitwear, Modern, Nicewear, and Taih Yung See the "Foreign Market Value" section of this notice for a discussion of the market viability test. On January 23, 1990, respondents requested an extension to respond to the Section D questionnaires. The Department granted the extension until January 31, 1990, and responses were received on that date. On February 15, 1990, the Department issued Section D deficiency letters. At the request of the respondents, the response deadline for the Section D deficiency letters was extended until March 1, 1990, and responses were received on that date.

On February 2, 1990, petitioner requested that the Department extend the period for the preliminary determination until April 6, 1990. This request was granted, in accordance with section 733(c)(l)(A) of the Act, and the deadline for the preliminary determination was postponed to April 6, 1990 (55 FR 5641, February 16, 1990). On March 19, 1990, petitioner requested that the Department further extend the period for the preliminary determination until April 20, 1990. This request was also granted, in accordance with section 733(c)(1)(A) of the Act, and the deadline for the preliminary determination was further postponed to April 20, 1990 (55 FR 11419, March 28, 1990).

On February 2 and 21, 1990, we received notice from Goodman and Knitwear, respectively, that they would not be completing their responses to significant portions of our questionnaire because each company stated that it was going out of business. On April 17, 1990, we were notified by Nicewear that it was going out of business and would not be participating in the remainder of this investigation. For purposes of this determination, we have used the best information available (BIA) for these companies, in accordance with section 776(C) of the Act, as set forth in the "Best Information Available" section of this notice.

On February 20, 1990, petitioner alleged that three of the respondents, namely, Chung Tai, Oriental, and Supertex, were selling to third countries at prices below the cost of production (COP). On March 1, 1990, we sent a letter to petitioner noting areas where additional information was necessary before a COP investigation could be initiated. In particular, the Department noted that because respondents had submitted cost data on the record and such data was available to petitioner, petitioner should base its COP allegation to the extent possible on respondents' cost information, or explain its reasons for not using that information. We noted that this company-specific information standard is consistent with our final determinations in *Antifriction Bearings and Parts Thereof from the Federal Republic of Germany* (54 FR 19019, May 3, 1989) and *Certain Residential Door Locks and Parts Thereof from Taiwan* (54 FR 53153, December 27, 1989). *See also Al Tech Specialty Steel Corp.* v. *United States,* 6 CIT 245 (1983). On March 7, 1990, petitioner responded to the Department's March 1, 1990 letter, defending the basis of its original allegations. On March 14, 990, the Department met with petitioner's counsel to address additional questions regarding the company-specific cost information on the record. On March 19, 1990, petitioner supplemented its cost allegations using the company-specific cost information. The supplemental information included allegations against five additional respondents, namely, Bay/Joy Flower, Bonanza, Chen Hwa, Chung Ling, and New Northern. The supplemental allegation relative to Chung Ling was made with regard to home market prices, rather than third country prices, because Chung Ling had a viable home market. Based on petitioner's allegations and supplemental submissions, we initiated COP investigations for all companies fo which we are using home market or third country sales information as the basis for foreign market value (FMV).

On March 26, 1990, we presented COP questionnaires to the affected companies. Responses to these questionnaires were due on April 16, 1990. On April 4, 1990, respondents

requested an extension of time to respond to the COP questionnaire until April 26, 1990. On April 6, 1990, we sent letters noting omissions from the COP questionnaires and/or areas where additional clarifications were needed. On April 12, 1990, respondents modified their extension requests, asking for only four additional days to respond to the COP questionnaire. Furthermore, respondents requested that, should this determination be affirmative, the final determination be postponed for two weeks. Accordingly, on April 12, 1990, we granted an extension until April 20, 1990. Although we were unable to use the information contained in the responses to the COP questionnaire for purposes of the preliminary determination due to time constraints, we intend to verify and use this information for purposes of the final determination.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date is being classified solely according to the appropriate HTS item numbers.

The products covered by this investigation include sweaters wholly or in chief weight of man-made fiber. For purposes of this investigation, sweaters of man-made fiber are defined as garments for outerwear that are knitted or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths, wholly or in chief weight of man-made fiber. The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by weight of wool. It includes men's, women's, boys, or girls, sweaters, as defined above, but does not include sweaters for infants 24 months of age or younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that, with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

This merchandise is currently classifiable under HTS item numbers 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25, 6103.23.00.70, 6103.29.10.40, 6103.29.20.62, 6104.23.00.40, 6104.29.10.60, 6104.29.20.60, 6110.30.10.10, 6110.30.10.20, 6110.30.20.10 and 6110.30.20.20. This merchandise may also enter under HTS item numbers 6110.30.30.50 and 6110.30.30.55. Since the initiation of this investigation, we have clarified the scope of the investigation. We have deleted HTS item numbers 6110.90.00.14 and 6110.90.00.30 from the scope since the subject merchandise is not imported under these categories. We also clarified the scope by deleting the phrase "but most typically ending at the waist." The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

On April 12 and 16, 1990, petitioner stated that the petition was not intended to cover MMF sweaters assembled in Guam that are produced from knit-to-shape component parts imported from Taiwan and asked that such sweaters be excluded from the scope of this investigation. Given Guam's status as an unincorporated territory of the United States, and the current Customs, classification of sweaters assembled in Guam, we have decided to grant petitioner's request.

Period of Investigation

The POI is April 1, 1989 through September 30, 1989.

Such or Similar Comparisons

For all respondent companies, in accordance with section 771(16) of the Act, we established one such or similar category of merchandise, consisting of all MMF sweaters.

Product comparisons were made on the basis of the following criteria, which are ranked in the order of importance: (1) Style of sweater; (2) fiber content; (3) yarn weight; (4) yarn gauge; (5) weight per dozen; and (6) type of knit.

Where there were no sales of identical merchandise in the home or third country markets to compare to sales of merchandise in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above. In cases where there was equally similar home or third country merchandise, we calculated weighted-average prices and adjustments for differences in the merchandise for comparison purposes.

Where there were no comparison sweaters sold in the third country having a difference in merchandise adjustment less than 20 percent of the net foreign market price, we disregarded those U.S. transactions from our analysis for this determination because we determined that difference in merchandise adjustments of greater magnitude would be unreasonable in this case.

In cases where respondents made incorrect product comparisons, we revised the concordance based on the product characteristics and the matching criteria set forth above. In doing so, we limited our comparisons to products sold in the home or third country market, as appropriate, where the reported adjustment for physical differences in merchandise did not exceed 20 percent of the net home or third country market price of the comparison merchandise, for the reason stated above.

Best Information Available

In accordance with section 776(c) of the Act, where a company has failed to respond to our questionnaire, has submitted a response which we consider to be substantially deficient, has submitted information too late to be considered for purposes of this preliminary determination or has indicated that it will not be participating in the remainder of this investigation, we relied on BIA. Those instances where we used BIA in this determination are fully described below.

(1) In certain cases, rematching was not possible because respondent failed to provide the requested cost information for all products sold in each of the reported markets. Therefore, we based BIA on the higher of the highest weighted-average rate calculated for any other Taiwanese company or the highest rate calculated for that specific company.

(2) Chung Tai failed to report a portion of its U.S. sales constituting numerous transactions of small quantities. Because it is the Department's practice to require that respondents report all sales made during the POI unless specifically instructed not to do so, we have used BIA for this portion of Chung Tai's U.S. sales. Therefore, we based BIA on the highest of the highest weighted-average rate calculated for any other Taiwanese company, the highest rate calculated for that specific company, or the highest rate alleged in the petition.

(3) New Northern characterized certain unreported exporter's sales price (ESP) sales as sample ("in-house label") sales. Contrary to respondent's claim, these sales do not appear to be sample sales made out of the ordinary course of trade, but instead were made to establish a new channel of distribution

in the United States. As stated above, it is the Department's practice to require that respondents report all sales made during the POI; therefore, we have used BIA for this portion of New Northern's U.S. sales. Therefore, we based BIA on the highest of the highest weighted-average rate calculated for any other Taiwanese company, the highest rate calculated for that specific company, or the highest rate alleged for Taiwan in the petition.

(4) Taih Yung claimed that its reported stock sales occurred outside the POI. Because there is insufficient information on the record to support respondent's claim, we have preliminarily determined that these sales were made within the POI and have included them in our analysis. Because an accurate date of sale could not be determined for these sales, we have based the exchange rate used to convert charges and adjustments on BIA, as described in the "United States Price" section of this notice.

(5) Goodman and Knitwear failed to respond to significant portions of the Department's requests for information. In addition, we were notified on April 17, 1990, by Nicewear that it was going out of business and would not be participating in the remainder of this investigation. Therefore, we used BIA for purposes of the preliminary determination, in accordance with section 776(c) of the Act. As BIA we used the highest weighted-average margin calculated for any other Taiwanese respondent, and included these companies' margins in the calculation of the "all others" rate.

Fair Value Comparisons

To determine whether sales of MMF sweaters from Taiwan to the United States were made at less than fair value, we compared the United States price to the FMV, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For Bay/Joy Flower, Bonanza, Chen Hwa, Chung Ling, Jai Farn, Modern, Oriental, Supertex and Taih Yung, we based the United States price on purchase price, in accordance with section 772(b) of the Act, because all sales were made directly to unrelated parties prior to importation into the United States. For Chung Tai and New Northern, we based United States price on both purchase price and ESP, in accordance with section 772(b) and (c) of the Act. ESP was used where the merchandise was sold to unrelated purchasers after importation into the United States.

A. Bay/Joy Flower

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, air freight, and harbor maintenance fees, in accordance with section 772(d)(2) of the Act. Where rematching was not possible as described in the "Best Information Available" section above, we based BIA on the highest rate calculated for a sale made by Bay/Joy Flower.

Bay/Joy Flower reported quota fees (identified in its response as Taiwan Textile Federation (TTF) service fees) as part of movement charges incurred on U.S. sales. We have preliminarily determined that quota fees are more characteristic of direct selling expenses than of movement charges or indirect selling expenses, because it appears unreasonable for a company to sell to the United States without having, or being sure of obtaining, a quota allocation. Therefore, we have reclassified the portion of movement charges pertaining to quota fees as a direct selling expense, and have allowed it as a circumstance of sale adjustment to FMV. (*See* "Foreign Market Value" section of this notice, subsection A, for treatment of this expense.)

B. Bonanza

We calculated purchase price based on packed f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act. Where rematching was not possible as described in the "Best Information Available" section above, we based BIA on the highest rate calculated for a sale made by Bonanza.

Bonanza reported "export promotion fees" as part of movement charges incurred on U.S. sales. Based on information submitted by the Taiwan Textile Federation, we have preliminarily determined that the "export promotion fees" referred to by Bonanza are TTF quota fees. Because we could not establish that these fees were included in the reported movement charges, we calculated a separate expense for TTF quota fees based on the methodology provided in the TTF submission. For the reasons stated above for Bay/Joy Flower, we have preliminarily determined that these fees are more characteristic of direct selling expenses than movement charges. Therefore, we have made a circumstance of sale adjustment to FMV for these expenses. (*See* "Foreign Market Value" section of this notice, subsection B, for treatment of this expense.)

C. Chen Hwa

We calculated purchase price based on packed, ex-factory or f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts. Where rematching was not possible as described in the "Best Information Available" section above, we based BIA on the highest weighted-average rate calculated for any other Taiwanese respondent.

Chen Hwa reported TTF quota fees as part of movement charges incurred on U.S. sales. For the reasons stated above for Bay/Joy Flower, we have reclassified the portion of movement charges pertaining to quota fees as a direct selling expense, and have allowed it as a circumstance of sale adjustment to FMV. (*See* "Foreign Market Value" section of this notice, subsection C, for treatment of this expense.)

D. Chung Ling

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, air freight, and harbor maintenance fees, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for rebates. Where rematching was not possible as described in the "Best Information Available" section above, we based BIA on the highest rate calculated for a sale made by Chung Ling. We have excluded sample sales from our calculation of U.S. price because these sales comprised an insignificant portion of total reported U.S. sales. Where rematching was not possible as described in the "Best Information Available" section above, we based BIA on the highest rate calculated for a sale made by Chung Ling.

Chung Ling reported TTF quota fees as part of movement charges incurred on U.S. sales. For the reasons stated above for Bay/Joy Flower, we have reclassified the portion of movement charges pertaining to quota fees as a

direct selling expense, and have allowed it as a circumstance of sale adjustment to FMV. (*See* "Foreign Market Value" section of this notice, subsection D, for treatment of this expense.)

E. Chung Tai

Where United States price was based on purchase price, we calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act.

Where United States price was based on ESP, we calculated ESP based on packed, f.o.b. U.S. port prices to the first unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, ocean freight, marine insurance, harbor maintenance fees, containerization fees, U.S. brokerage and handling expenses, U.S. import duties, and U.S. inland freight, in accordance with section 772(d)(2) of the Act. Because Chung Tai failed to explain the methodology used to calculate foreign inland freight expenses incurred on ESP sales, we deducted the amount reported for foreign inland freight expenses incurred on purchase price sales as BIA. We also made deductions, where appropriate, for commissions, credit, TTF quota fees, and indirect selling expenses, including product liability fees, in accordance with sections 772(e)(1) and (2) of the Act.

Chung Tai claimed "export promotion taxes" as part of indirect selling expenses incurred on U.S. sales, but failed to itemize these expenses in its listing of indirect selling expenses. For the reasons stated above for Bonanza, we have preliminarily determined that the "export promotion taxes" referred to by Chung Tai are quota fees. Therefore, we have calculated an amount for this expense based on the methodology provided in the TTF submission. For the reasons stated above for Bay/Joy Flower, we have preliminarily determined that these fees are more characteristic of direct selling expenses than indirect selling expenses. Where U.S. sales were based on purchase price transactions, we have made a circumstance of sale adjustment to FMV for these expenses. (See "Foreign Market Value" section of this notice, subsection E, for treatment of this expense.) Where U.S. sales were based on ESP transactions, we have made a deduction to U.S. price, as indicated above, for these expenses.

Where rematching was not possible as described in the "Best Information Available" section above, we based BIA on the highest rate calculated for a sale made by Chung Tai. We did not, however, include certain sales characterized as "stock lot" sales in our analysis. Respondent claimed that these sales consisted of samples and overproduced sweater styles sold as undifferentiated lots. Chung Tai claimed, and provided a sample invoice indicating, that it could not identify any style numbers for these sales and, therefore, could not match these sales to similar merchandise sold to third countries or report accurate costs for purposes of calculating constructed value (CV). Therefore, for purposes of the preliminary determination, we have not included them in our margin analysis, but will verify the accuracy of Chung Tai's claim.

For those sales which Chung Tai failed to report without specific instructions from the Department, we based BIA on the highest rate alleged in the petition.

F. Jai Farn

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for rebates.

Jai Farn claimed that it paid "export promotion fees" on U.S. sales. As stated for Bonanza, we have preliminarily determined that these "export promotion fees" are TTF quota fees that are characteristic of direct selling expenses. (*See* "Foreign Market Value" section of this notice, subsection F, for treatment of this expense.)

Jai Farn claimed that it paid commissions in its U.S. market. However, because it is the Department's practice to consider that an unrelated purchaser of a product cannot receive commissions (see, for example, *Final Determination of Sales at Less than Fair Value; Industrial Phosphoric Acid from Israel)* (52 FR 25440, July 7, 1987), we have considered this expense to be a rebate and have adjusted our analysis accordingly.

G. Modern

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act.

Modern Knitting reported TTF quota fees as part of movement charges incurred on U.S. sales. For the reasons stated above for Bay/Joy Flower, we have reclassified the portion of movement charges pertaining to quota fees as a direct selling expense, and have allowed it as a circumstance of sale adjustment to FMV. (See "Foreign Market Value" section of this notice, subsection G, for treatment of this expense.)

H. New Northern

Where United States price was based on purchase price, we calculated purchase price based on packed, f.o.b. Taiwan port prices to the first unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, air freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts.

Where U.S. sales were based on ESP transactions, we calculated ESP based on packed, delivered U.S. customer's warehouse prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, ocean freight, marine insurance, harbor maintenance fees, containerization fees, U.S. brokerage and handling, U.S. import duties, and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We made further deductions, where appropriate, for TTF quota fees, credit, and indirect selling expenses, pursuant to section 772(e) (1) and (2) of the Act.

New Northern reported TTF quota fees as part of movement charges incurred on U.S. sales. For the reasons stated above for Bay/Joy Flower, we have preliminarily determined that quota fees are more characteristic of direct selling expenses than of movement expenses. Where U.S. sales were based on purchase price transactions, we have made a circumstance of sale adjustment to FMV for these expenses. (See "Foreign Market Value" section of this notice, subsection H, for treatment of this expense.) Where U.S. sales were based on ESP transactions, we have made a deduction to U.S. price, as indicated above, for these expenses.

For those sales which New Northern failed to report without specific instructions from the Department, we based BIA on the highest margin alleged in the petition.

Where rematching was not possible as described in the "Best Information Available" section above, we based BIA on the highest weighted-average rate calculated for any other Taiwanese respondent.

I. Oriental

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, containerization fees, and harbor maintenance fees, in accordance with section 772(d)(2) of the Act. Since the price reported reflects what Oriental claimed as a quantity discount, no adjustment was made.

Oriental reported a contingent quota fee as part of its movement charges incurred on U.S. sales. For the reasons explained above for Bay/Joy Flower, we have preliminarily determined that quota fees are more characteristic of selling expenses than of movement charges. Therefore, we have reclassified the portion of movement charges pertaining to quota fees as a direct selling expense, and have allowed it as a circumstance of sale adjustment to FMV. (See "Foreign Market Value" section of this notice, subsection J, for treatment of this expense.)

We have excluded sample sales from our calculation of U.S. price because these sales comprised an insignificant portion of total reported U.S. sales.

J. Supertex

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, and harbor maintenance fees, in accordance with section 772(d)(2) of the Act.

Supertex claimed that it paid TTF quota fees on U.S. sales. For the reasons stated above for Bay/Joy Flower, we have preliminarily determined that quota fees are characteristic of direct selling expenses. (See "Foreign Market Value" section of this notice, subsection K, for treatment of this expense.)

We have excluded sample sales from our calculation of U.S. price because these sales comprised an insignificant portion of total reported U.S. sales.

K. Taih Yung

We calculated purchase price based on packed, f.o.b. Taiwan port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, air freight, harbor maintenance fees, and containerization fees, in accordance with section 772(d)(2) of the Act. We also made adjustments, where appropriate, for rebates. Taih Yung claimed that it paid commissions to buyers in the U.S. market. However, for the reasons described above for Jai Farn, we have considered this expense to be a rebate and have adjusted our analysis accordingly.

Taih Yung reported TTF quota fees as part of movement charges incurred on U.S. sales. For the reasons stated above for Bay/Joy Flower, we have reclassified the portion of movement charges pertaining to quota fees as a direct selling expense, and have allowed it as a circumstance of sale adjustment to FMV. (See "Foreign Market Value" section of this notice, subsection L, for treatment of this expense.)

We have included Taih Yung's stock sales in our analysis. According to Taih Yung, the original purchase orders for these sales, the dates of which were within the POI, were cancelled, and the subsequent date of sale (*i.e.*, the shipment date) was outside the POI. However, there is insufficient information on the record to support respondent's claim that these sales occurred outside the POI. Therefore, we have preliminarily determined that these sales were made within the POI and have included them in our analysis. Because an accurate date of sale could not be determined, as described in the "Best Information Available" section of this notice, we have used the highest exchange rate for the POI to convert charges and adjustments as BIA.

Foreign Market Value

In order to determine whether there were sufficient sales of MMF sweaters in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category (*i.e.*, all MMF sweaters) to the volume of third country sales, in accordance with section 773(a)(1) of the Act. Only one of the respondents had a viable home market. For the other 13 respondents, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, we determined that home market sales did not constitute a viable basis for calculating FMV, in accordance with § 353.48 of the Department's regulations. If the volume of sales of the such or similar category to one or more third countries was greater than or equal to five percent of the volume sold to the United States, we based FMV on sales to the largest third country market having a sales volume greater than or equal to five percent of the volume sold to the United States, in accordance with section 773(a)(1)(B) of the Act. If the aggregate volume of third country sales was less than five percent of the volume sold to the United States, we based FMV on CV, in accordance with section 773(a)(2) of the Act.

A. Bay/Joy Flower

We determined that sales to Canada were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Taiwan port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, air freight expenses, and harbor maintenance fees. Because Bay/Joy Flower did not report third country and U.S. packing costs, we based added packing reported in the public response of another respondent, and best information available, in accordance with section 776(c) of the Act.

Because all comparisons involved purchase price sales, we made circumstances of sale adjustments, where appropriate, for differences in credit expenses, royalties and TTF quota fees, in accordance with § 353.56 of the Department's regulations. Where commissions were paid in one market and not in the other, we allowed an adjustment for indirect selling expenses incurred in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

Although Bay/Joy Flower claimed quota fees paid on third country and U.S. sales as movement charges, we have reclassified them as direct selling expenses and, thus, have treated them as such in our analysis. (*See* "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.)

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

B. Bonanza

We determined that sales to Canada were the most appropriate basis for

calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Taiwan port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Because all comparisons involved purchase price sales, we made circumstances of sale adjustments, where appropriate, for differences in credit expenses, banking charges, and TTF quota fees, in accordance with § 353.56 of the Department's regulations. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in the Canadian market and not in U.S. market, we did not deduct the commission or make an adjustment for indirect selling expenses incurred in the U.S. market to offset the commission because we did not receive an itemized listing of the indirect selling expenses incurred by Bonanza. Where there was a commission on the U.S. sale, and none in the Canadian market, we added the U.S. commission, but did not offset it with indirect selling expenses in the Canadian market, because we did not receive an itemized listing of those selling expenses.

Although Bonanza claimed "export promotion fees" paid on third country and U.S. sales as movement expenses, we have reclassified them as TTF quota fees, as indicated above, and have treated them as such in our analysis. (See "United States Price" section of this notice, subsections A and B, for discussion of the treatment of quota fees and "export promotion fees," respectively.)

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

C. Chen Hwa

We determined that sales to Canada were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated foreign market value based on the packed, f.o.b. Taiwan port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(l)(B) of the Act.

Because all comparisons involved purchase price sales, we made circumstances of sale adjustments, where appropriate, for differences in credit expenses and quota fees, in accordance with section 353.56 of the Department's regulations. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in the market and not in Canada, we allowed an adjustment for indirect selling expenses incurred in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations. Where commissions were paid in Canada and not in the U.S. market, we did not deduct the Canadian commission because Chen Hwa did not report U.S. indirect selling expenses to be used as an offset to commissions.

Although Chen Hwa claimed quota fees paid on third country and U.S. sales as movement charges, we have reclassified them as direct selling expenses, and have treated them as such in our analysis. (See "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.)

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with section 353.57 of the Department's regulations.

D. Chung Ling

We determined that sales in the home market were the most appropriate basis for calculating FMV because the home market was viable.

We calculated FMV based on the packed, ex-factory prices to unrelated customers in Taiwan. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Because all comparisons involved purchase price sales, we made circumstances of sale adjustments, where appropriate, for differences in credit and banking expenses, and quota fees, in accordance with section 353.56 of the Department's regulations. We made further adjustments using home market indirect selling expenses to offset commissions paid in the United States, in accordance with § 353.56(b) of the Department's regulations. We reallocated reported home market indirect selling expenses over the months in which the reported expenses were incurred, rather than over the entire POI as claimed by Chung Ling, as BIA.

Although Chung Ling claimed quota fees paid on U.S. sales as movement charges, we have reclassified them as direct selling expenses, and have treated them as such in our analysis. (See, the "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.)

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the "merchandise, in accordance with section 353.57 of the Department's regulations.

E. Chung Tai

We determined that sales to Canada were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Taiwan port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

We adjusted for differences in circumstances of sale, where appropriate, for differences in credit, banking charges, and quota fees, in accordance with § 353.56 of the Department's regulations. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in one market and not in the other, we allowed an adjustment for indirect selling expenses incurred in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

When making comparisons involving ESP sales, we made a further deduction for third country indirect selling expenses capped by the sum of commissions paid and indirect selling expenses incurred on ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations.

Although Chung Tai claimed "export promotion fees" paid on third country and U.S. sales as indirect selling expenses, we have reclassified them as quota fees, as indicated above, and have treated them as such in our analysis. (See "United States Price" section of this notice, subsections A and B, for discussion of the treatment of quota fees and "export promotion fees," respectively.)

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

F. Jai Farn

We calculated the FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases: (1) we used the higher of the actual general expenses or the statutory ten percent minimum of the materials and fabrication, (2) since Jai Farn did not report profit, the statutory eight percent minimum profit was applied, and (3) imputed credit was included in selling expenses. We normally calculate an offset to interest expense as reflected on the company books in order to avoid double counting. Because the detailed information necessary to calculate this offset was not provided, no such offset was made.

As stated above in the "Foreign Market Value" section of this notice, neither the home market nor any third country markets were viable. Accordingly, we included in CV an amount equal to the product-specific weighted-average selling expenses based on reported U.S. experience.

We made an adjustment to CV in, accordance with § 353.56 of the Department's regulations for differences in circumstances of sale. This adjustment was made for differences in credit expenses and quota fees. We determined that the methodology reported by Jai Farn to calculate U.S. credit expense was inconsistent with the values reported for this expense. Therefore, we recalculated U.S. credit based on the information on the record.

Jai Farn claimed that it reported "export promotion fees" as part of general and administrative expenses for purposes of calculating CV. Because we have not received an itemization of the reported general and administrative expenses and have considered the "export promotion fee" as a direct selling expense, we have calculated an amount for this expense based on the methodology provided in the TTF submission. As indicated above, we have made a circumstance of sale adjustment to CV. (See "United States Price" section of this notice, subsection B, for discussion of the treatment of this expense.)

We have reclassified certain "commissions" included in selling expenses as rebates. Therefore, these amounts were excluded from the weighted-average selling expenses used in CV.

A single weighted-average CV was calculated for multiple sales of identical sweaters.

G. Modern

We calculated the FMV based on CV, in accordance with section 773(e)(I) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases: (1) Since the actual general expenses exceeded the statutory ten percent minimum of the materials and fabrication, the actual expenses were used, (2) since actual profit was less than the statutory minimum, the statutory eight percent minimum profit was applied, and (3) imputed credit was included in selling expenses. We normally calculate an offset to interest expense as reflected on the company books in order to avoid double counting. Because the detailed information necessary to calculate this offset was not provided, no such offset was made.

As stated above in the "Foreign Market Value" section of this notice, neither the home market nor any third country markets were viable. Accordingly, we included in CV an amount equal to the product-specific weighted-average selling expenses based on reported U.S. experience.

We made an adjustment to CV, in accordance with § 353.56 of the Department's regulations for differences in circumstances of sale. This adjustment was made for differences in credit expenses, banking charges, and quota fees. Although Modern Knitting claimed quota fees paid on U.S. sales as movement expenses, we have reclassified them as direct selling expenses, and have treated them as such in our analysis. (See "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.)

H. New Northern

We determined that sales to Canada were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Taiwan port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, harbor maintenance fees, and containerization fees. We also made deductions, where appropriate, for late shipment discounts. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

We adjusted for differences in circumstances of sale, where appropriate, for differences in credit, banking expenses, and quota fees, in accordance with § 353.56 of the Department's regulations. We made adjustments to FMV for third country indirect selling expenses to offset commissions paid in the United States, in accordance with § 353.56(b) of the Department's regulations.

When making comparisons involving ESP sales, we made a further deduction for third country indirect selling expenses capped by the indirect selling expenses incurred on ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations.

Although New Northern claimed quota fees paid on third country and U.S. sales as movement expenses, we have reclassified them as direct selling expenses, and have treated them as such in our analysis. (See, the "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.)

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

I. Oriental

We determined that sales to the United Kingdom were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b., f.o.b.c. (f.o.b. price plus commission), c.i.f. and c.& f. Taiwan port prices to unrelated customers in the United Kingdom. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, harbor maintenance fees, and containerization fees. Since the price reported reflects what Oriental claimed as a quantity discount, no adjustment was made. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Because all comparisons involved purchase price sales, we made circumstances of sale adjustments, where appropriate, for differences in credit expenses, banking charges, bank negotiation interest costs, contingent quota fees, and quota fees in accordance with § 353.56 of the Department's regulations. We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in the U.K. market and not in U.S. market, we did not deduct the commission or make an adjustment for indirect selling expenses incurred in the U.S. market to offset the commission because we did not receive an itemized listing of the indirect selling expenses incurred by Oriental. Where there was a commission on the U.S. sale, and none in the U.K. market, we added the U.S. commission, but did not offset it with indirect selling expenses in the U.K. market, because we did not receive an itemized listing of those selling expenses.

Although Oriental claimed quota fees paid on third country and U.S. sales as movement charges, we have reclassified them as direct selling expenses, and have treated them as such in our analysis. (See "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.)

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

We have excluded sample sales from our calculation of FMV because these sales comprised an insignificant portion of total reported third country sales.

J. Supertex

We determined that sales to Canada were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the f.o.b. port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, hanger packaging, and harbor maintenance fees. Because packing costs were reported as part of materials and labor costs included in the difference in merchandise adjustment and not separately identified, we did not make adjustments for packing, in accordance with section 773(a)(1)(B) of the Act.

Because all comparisons involved purchase price sales, we made circumstances of sale adjustments, where appropriate, for differences in banking charges and quota fees, in accordance with § 353.56 of the Department's regulations. (See "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.) We made further adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(b)(1) of the Department's regulations. Where commissions were paid in one market and not in the other, we did not allow an adjustment for indirect selling expenses incurred in the other market to offset commissions because we did not receive an itemized listing of the indirect selling expenses incurred by Supertex.

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

We have excluded sample sales from our calculation of FMV because these sales comprised an insignificant portion of total reported third country sales.

K. Taih Yung

We calculated the FMV based on CV, in accordance with section 773(e)(1) of the Act. CV includes materials, fabrication, general expenses, profit, and packing. In all cases: (1) We used the higher of the actual general expenses or the statutory ten percent minimum of the materials and fabrication, (2) since actual profit less than the statutory minimum, the statutory eight percent minimum profit was applied, and (3) imputed credit was included in selling expenses. We normally calculate an offset to interest expense as reflected on the company books in order to avoid double counting. Because the detailed information necessary to calculate this offset was not provided, no such offset was made.

As stated above in the "Foreign Market Value" section of this notice, neither the home market nor any third country markets were viable. Accordingly, we included in CV an amount equal to the product-specific weighted-average selling expenses based on reported U.S. experience.

We made an adjustment to CV, in accordance with § 353.56 of the Department's regulations for differences in circumstances of sale. This adjustment was made for differences in credit expense, banking charges, and quota fees. Although Taih Yung claimed quota fees paid on U.S. sales as movement charges, we have reclassified them as direct selling expenses, and have treated them as such in our analysis. (See "United States Price" section of this notice, subsection A, for discussion of the treatment of quota fees.)

A single weighted-average CV was calculated for multiple sales of identical sweaters.

Currency Conversion

We made currency conversions in accordance with § 353.60(a) of the Department's regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of MMF sweaters, except for those of Jai Farn, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the **Federal Register.**

The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of MMF sweaters exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Bay/Joy Flower	15.27
Bonanza	36.89
Chen Hwa	17.01
Chung Ling	12.76
Chung Tai	6.30
Goodman	36.89
Jai Farn	[1] 0.00
Knitwear	36.89
Modern Knitting	15.56
New Northern	33.91
Nicewear	36.89
Oriental	6.38
Supertex	1.39
Taih Yung	21.05
All Others	25.20

[1] Negative.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the latter of 120 days after the date of this determination, or 45 days after the final determination, if affirmative.

Public Comment

In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment. For the date of this hearing and the briefing schedule, please contact those persons listed under "For Further Information Contact" section of this notice. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue NW., Washington, DC 20230, within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary and five copies of the nonproprietary versions of the case briefs must be submitted to the Department at the address above in accordance with § 353.38 of the Department's regulations. In accordance with § 353.38(b) of the Department's regulations, oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act.

Dated: April 20, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-9801 Filed 4-26-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-806]

Preliminary Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that sweaters wholly or in chief weight of man-made fiber (MMF sweaters) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of MMF sweaters from Korea as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by July 5, 1990.

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp (Hanil Synthetic Fiber Ind. Co. Ltd. only) or James Terpstra (all other companies), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3965 and 377-8830, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that MMF sweaters from Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation (54 FR 42972, October 19, 1989), the following events have occurred. On November 6, 1989, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports of MMF sweaters from Korea (54 FR 47585, November 15, 1989).

Due to the extremely large number of potential respondents in this investigation, on October 30, 1989, the Department issued a letter to all parties to the proceeding proposing the use of sampling techniques, in accordance with section 777A(b) of the Act, to limit the number of respondents investigated. After considering all comments received, we determined that, due to the lack of industry-specific information on the record, we would be unable to develop a representative sample. Consequently, we decided not to limit our selection of respondents by sampling. Instead, we limited our analysis by investigating only those companies accounting for the top 30 percent of exports by volume to the United States during the period of investigation (POI), rather than the "normal" 60 percent of exports to the United States stated in § 353.42(b) of the Department's regulations (19 CFR 353.42(b) (I9B9)) (the Department's regulations). In this investigation, five companies accounted for at least 30 percent of exports by volume to the United States during the POI.

On November 14, 1989, petitioner, contending that seasonal pricing variations exist with respect to the sale of MMF sweaters, requested that the POI be expanded from the "normal" six months to a full year covering the period October 1, 1988 through September 30, 1989. On November 16, 1989, petitioner was asked to supply additional support for its contention. On November 21, 1989, another submission on this matter was made by petitioner in response to our request. In addition, comments were received from other interested parties on this issue. After reviewing all comments received, we determined that petitioner failed to provide adequate justification for changing the POI. Specifically, petitioner did not adequately explain the seasonal effects alleged nor did it adequately demonstrate that such effects exist. For example, petitioner argued that a low percentage of yearly sales occurs during the months covered by the "normal" six-month POI. However, our analysis of the data provided by respondents in their Section A responses reveals that the percentage of yearly sales made during the normal POI varies greatly among producers. Furthermore, even if the percentage of yearly sales during the POI had been uniformly low for all firms, petitioner did not explain why in this investigation the low percentage of sales would necessarily be indicative of unrepresentative prices. Accordingly, the POI was not changed.

On November 22, 1989, the Department presented sections A, B and C of its questionnaire to the following five companies: Chunji Industrial Co., Ltd. (Chunji), Hanil Synthetic Fiber Ind. Co., Ltd. (Hanil), Shinwon Tongsang (Shinwon), Young Woo & Co., Ltd. (Young Woo), and Yurim Company, Ltd.

(Yurim). Responses to section A of the questionnaire were due on December 6, 1989, and responses to the remaining sections were due on December 22, 1989. At the request of the respondents, the response deadline for section A of the questionnaire was extended to December 13, 1989, and for sections B and C to January 16, 1990. Responses to sections A, B and C were received on their respective extended due dates.

On January 10, 1990, Young Woo and Hanil requested that they be excused from reporting their exporter sales price (ESP) transactions made during the POI because they claimed that these transactions constituted an insignificant portion of sales to the United States. We agreed with Young Woo but not with Hanil. Consequently, on January 12, 1990, we informed Young Woo that it would not be required to report these sales and informed Hanil that it must report these sales. Based on that decision, Hanil requested an additional extension to report its ESP data. This additional extension was granted, and the ESP response from Hanil was received on January 23, 1990.

The Department issued deficiency letters to respondents for section A on December 22, 1989, and for Sections B and C on January 30 and 31, 1990 and February 8, 1990. Responses to these deficiency letters were received on January 4, and February 20, 21 and 22, 1990.

On February 2, 1990, petitioner requested that the Department extend the period for the preliminary determination until April 6, 1990. This request was granted, in accordance with section 733(c)(1)(A) of the Act, and the deadline for the preliminary determination was postponed to April 6, 1990 (55 FR 5641, February 16, 1990). On March 19, 1990, petitioner requested that the Department further extend the period for the preliminary determination until April 20, 1990. This request was also granted, in accordance with section 733(c)(1)(A) of the Act, and the deadline for the preliminary determination was further postponed to April 20, 1990 (55 FR 11419, March 28, 1990).

On February 20, 1990, petitioner alleged that all respondents were selling to third countries at prices below the cost of production (COP). On March 1, 1990, we sent a letter to petitioner noting areas where additional information was necessary before a COP investigation could be initiated. In particular, the Department noted that because respondents had submitted cost data on the record and such data was available to petitioner, petitioner should base its COP allegation to the extent possible on respondents' cost information, or explain its reasons for not using that information. We noted that this company-specific information standard is consistent with our final determinations in *Antifriction Bearings and Parts Thereof from the Federal Republic of Germany* (54 FR 19019, May 3, 1989) and *Certain Residential Door Locks and Parts Thereof from Taiwan* (54 FR 53153, December 27, 1989). *See also A1 Tech Specialty Steel Corp. v. United States*, 6 CIT 245 (1983). On March 7, 1990, petitioner responded to the Department's March 1, 1990 letter, defending the basis of its original allegations. On March 14, 1990, the Department met with petitioner's counsel to address additional questions regarding the company-specific cost information on the record. On March 19, 1990, petitioner supplemented its cost allegations using the company-specific cost information. Based on petitioner's allegations and supplemental submissions, we initiated COP investigations for all companies.

On March 26, 1990, we issued COP questionnaires to the affected companies. Responses to these questionnaires were due on April 16, 1990. On April 2, 1990, respondents requested that the Department extend the time in which to respond to the COP questionnaire until April 26, 1990. On April 6, 1990, we sent letters noting omissions and areas where additional clarification was needed. On April 10, 1990, respondents modified their extension requests asking for only four additional days to respond to the COP questionnaire. Furthermore, respondents requested that, should this determination be affirmative, the final determination be postponed for two weeks. Accordingly, on April 11, 1990, we granted an extension until April 20, 1990. Although we were unable to use the information contained in the responses to the COP questionnaires for purposes of the preliminary determination due to time constraints, we intend to verify and use this information for purposes of the final determination.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date is being classified solely according to the appropriate HTS item numbers.

The products covered by this investigation include sweaters wholly or in chief weight of man-made fiber. For purposes of this investigation, sweaters of man-made fiber are defined as garments for outerwear that are knitted or crocheted, in a variety of forms including jacket, vest, cardigan with button or zipper front, or pullover, usually having ribbing around the neck, bottom and cuffs on the sleeves (if any), encompassing garments of various lengths, wholly or in chief weight of man-made fiber. The term "in chief weight of man-made fiber" includes sweaters where the man-made fiber material predominates by weight over each other single textile material. This excludes sweaters 23 percent or more by weight of wool. It includes men's, women's, boys' or girls' sweaters, as defined above, but does not include sweaters for infants 24 months of age or younger. It includes all sweaters as defined above, regardless of the number of stitches per centimeter, provided that, with regard to sweaters having more than nine stitches per two linear centimeters horizontally, it includes only those with a knit-on rib at the bottom.

This merchandise is currently classifiable under HTS item numbers 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25, 6103.23.00.70, 6103.29.10.40, 6103.29.20.62, 6104.23.00.40, 6104.29.10.60, 6104.29.20.60, 6110.30.10.10, 6110.30.10.20, 6110.30.20.10 and 6110.30.20.20. This merchandise may also enter under HTS item numbers 6110.30.30.50 and 6110.30.30.55. Since the initiation of this investigation, we have clarified the scope of the investigation. We have deleted HTS item numbers 6110.90.00.14 and 6110.90.00.30 from the scope since the subject merchandise is not imported under these categories. We also clarified the scope by deleting the phrase "but most typically ending at the waist." The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

On April 12 and 16, 1990, petitioner stated that the petition was not intended to cover MMF sweaters assembled in Guam that are produced from knit-to-shape component parts imported from Korea and asked that such sweaters be excluded from the scope of this investigation. Given Guam's status as an unincorporated territory of the United States, and the current Customs' classification of sweaters assembled in Guam, we have decided to grant petitioner's request.

Period of Investigation

The POI is April 1, 1989 through September 30, 1989.

Such or Similar Comparisons

For all respondent companies, in accordance with section 771(16) of the Act, we established one such or similar category of merchandise, consisting of all MMF sweaters.

Product comparisons were made on the basis of the following criteria, which are ranked in the order of importance: (1) Style of sweater; (2) fiber content; (3) yarn weight; (4) yarn gauge; (5) weight per dozen; and (6) type of knit.

Where there were no sales of identical merchandise in the third country markets to compare to sales of merchandise in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above. In cases where there was equally similar third country merchandise, we calculated weighted-average prices and adjustments for differences in the merchandise for comparison purposes.

Where there were no comparison sweaters sold in the third country having a difference in merchandise adjustment less than 20 percent of the net foreign market price, we disregarded those U.S. sales transactions from our analysis for this determination because we determined that difference in merchandise adjustments of greater magnitude would be unreasonable in this case.

Fair Value Comparisons

To determine whether sales of MMF sweaters from Korea to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For Chunji, Shinwon, Young Woo and Yurim, we based the United States price on purchase price, in accordance with section 772(b) of the Act, because all sales were made directly to unrelated parties prior to importation into the United States. For Hanil, we based United States price on purchase price, and ESP, in accordance with section 772 (b) and (c) of the Act. ESP was used where the merchandise was sold to an unrelated purchaser prior to importation but was carried in the inventory of a U.S. subsidiary of Hanil prior to delivery in the United States. We will further consider the classification of these sales as ESP for the final determination.

A. Chunji

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, and wharfage fees, in accordance with section 772(d)(2) of the Act. In addition, we made deductions, where appropriate, for discounts. We added rebated duties in accordance with section 772(d)(1)(B) of the Act.

B. Hanil

Where United States price was based on purchase price, we calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States. We made deductions, where appropriate, for brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses, in accordance with section 772(d)(2) of the Act. We added rebated duties in accordance with section 772(d)(1)(B) of the Act.

Hanil's ESP sales to the first unrelated customer were made prior to importation and have been classified as ESP transactions because the merchandise entered the inventory of Hanil's U.S. subsidiary prior to delivery to the unrelated U.S. customer. This merchandise was subsequently resold bv Hanil's unrelated U.S. customer to a retailer after importation. The price reported by Hanil in its sales listing was the price charged by the first unrelated customer to the retailer. The difference between this price to the retailer and the price agreed to between Hanil and its U.S. customer was reported as a commission. However, since we consider the sale to the original purchaser to be the first sale to an unrelated purchaser in the United States, we have deducted the claimed commission from the reported price as a price adjustment in order to approximate the actual price on that sale as best information available.

Where United States price was based on ESP, we calculated ESP based on packed, f.o.b. U.S. warehouse or delivered prices to the first unrelated customer in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees, containerization expenses, ocean freight, marine insurance, U.S. import duties, U.S. brokerage fees and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts. We added rebated duties in accordance with section 772(d)(1)(B) of the Act. We made further deductions, where appropriate, for credit, bank charges, factor charges, labeling charges, warehouse handling charges, commissions, and indirect selling expenses, including "miscellaneous" expenses, and inventory carrying costs, in accordance with sections 772(e) (1) and (2) of the Act.

C. Shinwon

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses, in accordance with section 772(d)(2) of the Act. We added rebated duties in accordance with section 772(d)(1)(B) of the Act.

D. Young Woo

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, and wharfage fees, in accordance with section 772(d)(2) of the Act. We added rebated duties in accordance with section 772(d)(1)(B) of the Act.

E. Yurim

We calculated purchase price based on packed, f.o.b. Korean port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses, in accordance with section 772(d)(2) of the Act. We added rebated duties in accordance with section 772(d)(1)(B) of the Act.

Foreign Market Value

In order to determine whether there were sufficient sales of MMF sweaters in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category (*i.e.*, all MMF sweaters) to the volume of third country sales, in accordance with section 773(a)(1) of the Act. For each respondent, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, we determined that home market sales did not constitute a viable

basis for calculating FMV, in accordance with § 353.48 of the Department's regulations. If the volume of sales of the such or similar category to one or more third countries was greater than or equal to five percent of the volume sold to the United States, we based FMV on sales to the largest third country market having a sales volume greater than or equal to five percent of the volume sold to the United States, in accordance with section 773(a)(1)(B) of the Act.

A. Chunji

We determined that sales to Mexico were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Korean port prices to unrelated customers in Mexico. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, and wharfage fees. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties that were refunded by reason of exportation.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking and credit expenses, in accordance with § 353.56 of the Department's regulations. Because Chunji failed to report credit expenses for the period between shipment and payment, we calculated credit expenses for this period for sales to both Mexico and the United States.

We also made adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in the Mexican market and not in the U.S. market, we allowed an adjustment for indirect selling expenses in the U.S. market to offset commissions in the Mexican market, in accordance with § 353.56(b) of the Department's regulations.

Where appropriate, we made further adjustments to FMV to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

B. Hanil

We determined that sales to Australia were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Korean port prices to unrelated customers in Australia. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties that were refunded by reason of exportation.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in credit and banking expenses, in accordance with § 353.56 of the Department's regulations. Because Hanil failed to report credit expenses on purchase price and third country sales for the period between shipment and payment, we calculated credit expenses for this period for these sales. Furthermore, because Hanil did not report an interest rate, we used the highest interest rate reported by another Korean respondent in this calculation as best information available.

We also made an adjustment, where appropriate, using Australian indirect selling expenses to offset commissions paid in the United States, in accordance with § 353.56(b) of the Department's regulations.

When making comparisons involving ESP sales, we made a further deduction for third country indirect selling expenses capped by the sum of commissions paid and indirect selling expenses incurred on ESP sales, in accordance with § 353.56(b)(2) of the Department's regulations.

Where appropriate, we made further adjustments to FMV to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

C. Shinwon

We determined that sales to Canada were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Korean port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties that were refunded by reason of exportation.

Shinwon reported an amount for commission payments in both the U.S. and Canadian markets. However, in addition to commission payments, the reported amount also included certain non-commission payments which we have reclassified as quota payments. These quota payments have been treated as direct selling expenses which were not subject to the commission offset.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking expenses, credit expenses and quota payments, in accordance with § 353.56 of the Department's regulations.

We also made adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in one market and not in the other, we allowed an adjustment for indirect selling expenses in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

Where appropriate, we made further adjustments to FMV to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

D. Young Woo

We determined that sales to the United Kingdom were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Korean port or C&F U.K. port prices to unrelated customers in the United Kingdom. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees, and ocean freight. In addition, we made deductions, where appropriate, for discounts. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties that were refunded by reason of exportation.

Young Woo reported an amount for commission payments in both the U.S. and the U.K. markets. However, in addition to commission payments, the reported amount also included certain non-commission payments which we have reclassified as quota payments. These quota payments have been

treated as direct selling expenses which were not subject to the commission offset.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking and credit expenses, quota payments, and product liability premiums, in accordance with § 353.56 of the Department's regulations. Because Young Woo failed to report credit expenses for the period between shipment and payment, we calculated credit expenses for this period for sales to both the United Kingdom and the United States.

We also made adjustments, where appropriate, for differences in commissions when incurred in both markets, in accordance with § 353.56(a)(2) of the Department's regulations. Where commissions were paid in one market and not in the other, we allowed an adjustment for indirect selling expenses in the other market to offset commissions, in accordance with § 353.56(b) of the Department's regulations.

Where appropriate, we made further adjustments to FMV to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

E. Yurim

We determined that sales to Canada were the most appropriate basis for calculating FMV because the merchandise sold in that country was similar to that sold in the United States and was sold in sufficient quantities.

We calculated FMV based on the packed, f.o.b. Korean port prices to unrelated customers in Canada. We made deductions, where appropriate, for foreign brokerage and handling expenses, foreign inland freight, wharfage fees and containerization expenses. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act. We added import duties that were refunded by reason of exportation.

Yurim reported an amount for commission payments in the U.S. market. However, in addition to commission payments, the reported amount also included certain non-commission payments which we have reclassified as quota payments. These quota payments have been treated as direct selling expenses which were not subject to the commission offset.

We made adjustments for differences in circumstances of sale, where appropriate, for differences in banking expenses, credit expenses, price adjustment claims, and quota payments, in accordance with § 353.56 of the Department's regulations.

We also made an adjustment, where appropriate, using Canadian indirect selling expenses to offset commissions paid in the United States, in accordance with § 353.56(b) of the Department's regulations.

Where appropriate, we made further adjustments to FMV to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

Currency Conversion

We made currency conversions in accordance with § 353.60(a) of the Department's regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of MMF sweaters, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of MMF sweaters exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Chunji Industrial Co., Ltd	0.56
Hanil Synthetic Fiber Ind. Co. Ltd	2.81
Shinwon Tongsang	1.14
Young Woo & Co., Ltd	0.72
Yurim Company, Ltd	1.08
All others	1.17

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the latter of 120 days after the date of this determination, or 45 days after the final determination, if affirmative.

Public Comment

In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment. For the date of this hearing and the briefing schedule, please contact those persons listed under the **"FOR FURTHER INFORMATION CONTACT"** section of this notice. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, 14th Street and Constitution Avenue NW., Washington, DC 20230, within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary and five copies of the nonproprietary versions of the case briefs must be submitted to the Department at the address above in accordance with § 353.38 of the Department's regulations. In accordance with § 353.38(b) of the Department's regulations, oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act.

Dated: April 20, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–9802 Filed 4–26–90; 8:45 am]

BILLING CODE 3510–5–M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Richard W. Moreland or David P. Mueller, Office of Antidumping Compliance or Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–2104/2786.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22 (a)(1), (a)(2), (a)(3), and 355.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than March 31, 1991.

Antidumping duty proceedings and firms	Periods to be reviewed
Chile:	
Standard Carnations	3/1/89–2/28/90
A–337–602	
Coexflor	
Flores de Chile	
Sociedad Agricola Arizitia	
Agricola Comercial Florandina	
Fernando Massad Abud	
Italy:	
Brass Sheet and Strip	3/1/89–2/28/90
A–475–601	
LMI—La Metalli Industriale S.p.A.	
Israel:	
Oil Country Tubular Goods	3/1/89–2/28/90
A–508–602	
Middle East Tube Co.	
Italy:	
Brass Fire Protection Equipment	3/1/89–2/28/90
A–475–401	
Giacomini, S.p.A.	
Japan:	
Television Receiving Sets, Monochrome and Color	3/1/89–2/28/90
A–588–015	
Casio, Citizen Watch, Fujitsu General,	
Funai, Hitachi, Matsushita,	
Mitsubishi, NEC, Sanyo, Seiko Epson,	
Sharp, Toshiba, Victor	
Sweden:	
Brass Sheet and Strip	3/1/89–2/28/90
A–401–601	
Outokumpu Rolled Products AB	
Taiwan:	
Light-Walled Rectangular Carbon Steel Tubing	8/24/88–2/28/90
A–583–606	
Ornatube Enterprises	
Thailand:	
Certain Circular Welded Carbon Steel Pipes and Tube	3/01/89–2/28/90
A–549–502	
Thai Hong Kong Steel Pipe Co., Ltd.	
Thail Union Steel Pipe Co., Ltd.	
Japan:	
Stainless Steel Butt-Weld Pipe Fittings	3/1/89–2/28/90
A–588–702	
Nippon Benkan Corp.	

Countervailing duty proceedings	Periods to be reviewed
Argentina:	
Certain Apparel	1/1/89–12/31/89
C–357–404	
Mexico:	
Certain Iron-metal Construction Castings	1/1/89–12/31/89
C–201–009	
Certain Textile Mill Products	1/1/89–12/31/89
C–201–405	
Pakistan:	
Cotton Shop Towels	1/1/89–12/31/89
C–535–001	
South Africa:	
Ferrochrome	1/1/89–12/31/89
C–791–001	

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) or 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) (1989) and 355.22(c) (1988).

Dated: April 19, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–9750 Filed 4–26–90; 8:45 am]

BILLING CODE 3510–DS–M

Electrolytic Tin Plate; Notice of Short-Supply Determination

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Determination on Certain Electrolytic Tin Plate.

SHORT-SUPPLY REVIEW NUMBER: 14.

SUMMARY: The Secretary of Commerce ("Secretary") hereby denies a request for a short-supply allowance of 8,500 net tons during July–December 1990 of certain electrolytic tin plate ("ETP") used to manufacture aerosol, paint, turpentine, and solvent containers, under the U.S.-E.C. and U.S.-Japan steel arrangements.

EFFECTIVE DATE: April 19, 1990.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230 (202) 377–0159.

SUPPLEMENTARY INFORMATION: On March 22, 1990, the Secretary received an adequate short-supply petition from United States Can Company ("US Can") requesting a short-supply allowance for 8,500 net tons of certain ETP during the second half of 1990 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products. US Can's petition alleges that the combination of production interruptions at U.S. ETP mills, increased domestic demand in the second half of 1990, and insufficient foreign supplies through regular export licenses, has resulted in a shortfall of 8,500 net tons of ETP during July–December 1990. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Pub. L. No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and Section 357.102 of the Department of Commerce's Short-Supply Regulations, published in the **Federal Register** on January 12, 1990, 55 FR 1348 ("Commerce's Short-Supply Regulations").

The requested material meets the following specifications:

Cold Reduction and Thickness: single reduced—thickness range of 0.0077 inch

to 0.0149 inch; double reduced—thickness range of 0.0055 to 0.0099 inch.

Annealing and Hardness: single reduced—batch and continuous annealed, tempers T–1 to T–4; double reduced—batch annealed temper DR–8.

Basis Weight: single reduced—75 lbs. (0.0083 inch) to 128 lbs. (0.0141 inch); double reduced—65 lbs. (0.0072 inch) to 80 lbs. (0.0088 inch)

Coil Widths: 28.06 inches to 35.25 inches.

The quantity of single reduced ETP requested by US Can for the third and fourth quarters of 1990 totals 3,250 and 1,750 net tons, respectively, and the quantity of double reduced ETP requested by US Can for the third and fourth quarters of 1990 totals 2,000 and 1,500 net tons, respectively.

Action

On March 22, 1990, the Secretary established an official record on this short-supply request (Case Number 14) in the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce at the above address. On March 30, 1990, the Secretary published a notice in the **Federal Register** announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than April 6, 1990, and interested parties were invited to file replies to any comments no later than five days after that date. In order to determine whether this product could be supplied to US Can during the second half of 1990, the Secretary sent questionnaires to Weirton Steel Corporation, LTV Steel Company ("LTV"), Wheeling-Pittsburgh Steel Corporation, National Steel Corporation, Bethlehem Steel Corporation, USX Corporation, and USS-POSCO Industries ("UPI"). The Secretary received adequate questionnaire responses from all seven producers and no comments to the **Federal Register** notice.

Questionnaire Responses

All seven producers noted that they have the capability to produce some or all of the requested product and are regular suppliers to US Can. Questionnaire responses did indicate that the industry as a whole is expected to be operating at full capacity during the third quarter of 1990, but has available capacity during the fourth quarter. Each producer listed its commitments to supply US Can during the second half of 1990.

Questionnaire responses regarding current commitments to US Can by most domestic mills generally are consistent with the information provided by US Can. However, there is certain information provided by U.S. producers that indicates that sufficient supplies are presently available to meet US Can's total second half needs. Five companies noted they are willing to supply additional material in excess of the levels currently committed to US Can, in the fourth quarter. In fact, LTV and another U.S. company noted they specifically could meet all of US Can's short-supply needs during this period.

Regarding the third quarter, LTV noted that in addition to its regular commitments to US Can, it has a sizable inventory of the requested ETP that could be released to satisfy some of US Can's needs. In addition, UPI and another major supplier have significant additional material to meet some of US Can's needs. The additional supplies available from these three sources in the third quarter are sufficient to meet US Can's third quarter shortfall.

Conclusion

The potential domestic suppliers of ETP have demonstrated a willingness to offer the requested material during both the third and fourth quarters of 1990. Therefore, the Secretary determines that short supply does not exist with respect to the requested ETP. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Regulations, the Secretary denies US Can's request for a short-supply allowance of 8,500 net tons of ETP for the second half of 1990.

Lisa B. Barry,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 90–9803 Filed 4–26–90; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Availability for Loan of Fish and Wildlife Items

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability.

SUMMARY: This notice lists fish and wildlife items that have been abandoned or forfeited to the United States and are available for loan to qualified institutions, organizations, and individuals through each NOAA Regional Enforcement Office. The notice also describes the qualifications necessary to obtain loan of an item, the means of applying for a loan, and the general conditions under which a loan will be made.

ADDRESSES: For availability of items currently available, see Regional Enforcement Office addresses, below.

FOR FURTHER INFORMATION CONTACT: LT Craig McLean (Office of Enforcement) (301) 427–2300.

SUPPLEMENTARY INFORMATION: Under the Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 742*l*, NOAA may make loans of fish and wildlife items that have been seized and subsequently abandoned or forfeited to the United States. Regulations appearing at 15 CFR part 904, subpart F, govern the conditions under which loans of items are made and the procedures for making loans. Items available for loan are most commonly seized under the Marine Mammal Protection Act (16 U.S.C. 1361–1407) and the Endangered Species Act (16 U.S.C. 1531–1543). Loans will be made for educational, scientific, and public display purposes.

All loans of items will be by execution of a loan agreement, which will provide, among other matters, that title to the item remain with the United States, that the item may not be transferred without prior permission of the Under Secretary of Oceans and Atmosphere, NOAA, and that violation of the loan agreement may subject the violator to penalties under the applicable statute. In order to qualify for a loan, the applicant must intend to use the item only for non-commercial scientific, educational, or public display purposes and demonstrate the ability to provide adequate security for the item.

Loan recipients will be selected so as to ensure wide distribution through the scientific, educational, public display, and museum communities. Priority in granting applications will be given in the following order: NOAA and other Government agencies; educational, scientific, or other public or private institutions; and private individuals.

Those interested in applying for loan of an item should apply at the Regional Enforcement Office where the item is available, as listed below. In order to give those interested adequate opportunity to apply, no loans will be executed for 45 days from the date of this publication. Update lists will be published periodically.

A list of items currently available at each Enforcement Office follows.

Northeast Region

Apply to: Mr. John J. McCarthy, NMFS Law Enforcement Regional Office, 1 Blackburn Drive, room 206, Gloucester, MA 01930, (508) 281–9213 FTS 837–9214.

Control # Description

NE851315 (1) 6 FT Sperm Whale Jaw, Scrimshaw.
NE851314 (1) Azorean Whaleboat Model (2 in High).
NE841010 (1) Black Fur Seal Coat.
NE811039 (1) Hair Seal Coat.
NE851020 (1) Harbor Seal Coat, Full Length.
NE871013 (1) Pair Sealskin Boots.
NE801067 (1) Sea Lion Coat.
NE811013 (1) Sealskin Coat.
NE811011 (1) Sealskin Coat.
NE811010 (1) Sealskin Coat.
NE781108 (1) Sealskin Coat.
NE851026 (1) Sealskin Coat.
NE771007 (1) Sealskin Coat.
NE871001 (1) Sealskin Coat With Bag.
NE801028 (1) Sealskin Coat, Full Length.
NE761082 (1) Sealskin Coat, Jacket.
NE881037 (1) Sealskin Jacket.
NE811022 (1) Sealskin Jacket.
NE771071 (1) Sealskin Parka, Size 8.
NE881057 (1) Sealskin Pelt.
NE811018 (1) Sealskin Pocketbook.
NE851305 (1) Sperm Whale Tooth Figurine.
NE871012 (2) Sealskin Coats.
NE871030 (3) Sealskin Coats.
NE761082 (3) Sealskin Coats, Full Length.
NE821024 (4) Wallets/(1) Billfold (Alligator and Pinseal).

Southeast Region

Apply to: Ms. Suzanne Montero, NMFS Law Enforcement Regional Office, 9450 Koger Boulevard, suite 106, St. Petersburg, FL 33702, (813) 826–3145 FTS 826–3145.

Northwest Region

Apply to: Mr. Wayne C. Lewis, NMFS Law Enforcement Regional Office, 7600 Sand Point Way, NE C15700, Seattle, WA 98115, (206) 526–6133 FTS 392–6133.

Control # Description

NW820645 (1) Min Stuffed Seal on Key Chain.
NW780096 (1) Air Dried Sealskin.
NW780062 (1) Can Seal Meat.
NW800183 (1) Carved Sperm Whale Tooth.
NW780135 (1) Coat Crafted Cape Seal W/Blue Fox Collar.
NW740065 (1) Doll & 2 Min Stuffed Seals.
NW761018 (1) Dried Sealskin.
NW840658 (1) Eskimo Doll Ptly Mfg Sealskin.
NW830417 (1) Full Length Ladies Sealskin Coat.
NW771039 (1) Gallon Sperm Whale Oil.
NW760050 (1) Glass Case; 1 Coin Purse; 1 Comb.
NW840474 (1) Glasses Case; 1 Change Purse; 1 Key Case.
NW790302 (1) Hair Sealskin Belt.
NW790323 (1) Hair Sealskin Jacket.
NW770115 (1) Hair Sealskin Purse.
NW830411 (1) Hip Length Sealskin Coat.
NW760009 (1) Ivory Carving.
NW810273 (1) Jacket Ptly Mnfd from Hair Sealskin.
NW790260 (1) Key Chain W/Min Stuffed Sealskin Seal.
NW820469 (1) Key Holder, Sealskin.
NW810476 (1) Key Ring W/Min Stuffed Seal Attached.
NW800176 (1) Leather Pouch Ptly Sealskin.
NW830396 (1) Med Sealskin Seal Toy.
NW830444 (1) Med Size Sealskin Toy Seal.
NW840498 (1) Med Size Sealskin Toy Seal.
NW840635 (1) Medium Size Sealskin Toy Seal.
NW800372 (1) Min Doll Ptly Mnfd from Hair Sealskin.
NW760080 (1) Min Drawstring Pouch.
NW770198 (1) Min Drawstring Purse.
NW770206 (1) Min Eskimo Doll.
NW800214 (1) Min Eskimo Doll.
NW820600 (1) Min Seal.
NW820575 (1) Min Seal.
NW770166 (1) Min Sealskin Seal.
NW780123 (1) Min Sealskin Seal; 1 Sealskin Coin Purse.
NW760108 (1) Min Stuffed Hair Sealskin Seal.
NW770164 (1) Min Stuffed Hair Sealskin Seal.
NW790311 (1) Min Stuffed Hair Sealskin Seal.
NW810224 (1) Min Stuffed Hair Sealskin Seal.
NW810395 (1) Min Stuffed Hair Sealskin Seal.
NW810428 (1) Min Stuffed Hair Sealskin Seal.
NW810616 (1) Min Stuffed Hair Sealskin Seal.
NW810696 (1) Min Stuffed Hair Sealskin Seal.
NW760014 (1) Min Stuffed Seal.
NW770104 (1) Min Stuffed Seal.
NW770226 (1) Min Stuffed Seal.
NW800214 (1) MlN Stuffed Seal.
NW820159 (1) Min Stuffed Seal.
NW820193 (1) Min Stuffed Seal.
NW820300 (1) Min Stuffed Seal.
NW820211 (1) Min Stuffed Seal on Key Chain.
NW790234 (1) MlN Stuffed Sealskin Seal.
NW770154 (1) Min Stuffed Sealskin Seal.
NW770171 (1) Min Stuffed Sealskin Seal.
NW770228 (1) Min Stuffed Sealskin Seal.
NW780021 (1) Min Stuffed Sealskin Seal.
NW780057 (1) Min Stuffed Sealskin Seal.
NW780101 (1) Min Stuffed Sealskin Seal.
NW781023 (1) MlN Stuffed Sealskin Seal.
NW790098 (1) Min Stuffed Sealskin Seal.
NW790197 (1) Min Stuffed Sealskin Seal.
NW790236 (1) Min Stuffed Sealskin Seal.
NW800189 (1) Min Stuffed Sealskin Seal.
NW810150 (1) Min Stuffed Sealskin Seal on Key Ring.
NW782033 (1) Min Turtle Carved from Sperm Whale Ivory.
NW840395 (1) Mini Sealskin Key Chain.
NW830351 (1) Pair Baby Moccasins.
NW830388 (1) Pair Each: Ladies Boot, Slipper/Child Slipper.
NW830336 (1) Pair Sealskin Boots.
NW840006 (1) Pair Sealskin Slippers Size 9.
NW840662 (1) Pair Sealskin Slippers.
NW782036 (1) Pendant Carved Sperm Whale Ivory.
NW880313 (1) Pr Black, 1 Pr Brown Shoes, with Sealskin.
NW800369 (1) Pr Boots Ptly Mnfd from Sealskin.
NW800304 (1) Pr Boots Ptly Mnfd from Sealskin.
NW790013 (1) Pr Child Moccasins.
NW780130 (1) Pr Child Sealskin Moccasins.
NW770160 (1) Pr Hair Sealskin Boots.
NW771022 (1) Pr Hair Sealskin Boots.
NW760067 (1) Pr Hair Sealskin Gloves.
NW820046 (1) Pr Men's Sealskin Boots.
NW830460 (1) Pr Mini Sealskin Boots.
NW810697 (1) Pr Mittens Ptly Mnfd from Hair Sealskin.
NW770219 (1) Pr Moccasins.
NW810348 (1) Pr Moccasins Ptly Mnfd from Hair Sealskin.
NW790103 (1) Pr Moccasins w/Sealskin Trim.
NW790107 (1) Pr Moccasins W/Sealskin Trim.
NW790159 (1) Pr Moccasins W/Sealskin Trim.
NW810697 (1) Pr Mukluks Ptly Mnfd from Hair Sealskin.
NW741018 (1) Pr Sealskin Boots.
NW751002 (1) Pr Sealskin Boots.
NW760001 (1) Pr Sealskin Boots.
NW790228 (1) Pr Sealskin Boots.
NW820550 (1) Pr Sealskin Boots; 1 Min Sealskin Buffalo.
NW770124 (1) Pr Sealskin Moccasins.
NW770231 (1) Pr Sealskin Moccasins.
NW780131 (1) Pr Sealskin Moccasins.
NW740070 (1) Pr Sealskin Moccasins.
NW760079 (1) Pr Sealskin Slippers.
NW770121 (1) Pr Sealskin Slippers.
NW780051 (1) Pr Sealskin Slippers.
NW780066 (1) Pr Sealskin Slippers.
NW781110 (1) Pr Sealskin Slippers.
NW790285 (1) Pr Sealskin Slippers.
NW760119 (1) Pr Sm Moccasins w/ Sealskin Trim.
NW820046 (1) Pr Women Sealskin Boots.
NW790109 (1) Purse Ptly Mnfd Fr Sealskin.
NW800241 (1) Purse Ptly Mnfd Fr Sealskin.
NW770195 (1) Purse w/Hair Sealskin Trim.
NW781025 (1) Purse with Sealskin Trim.

NW760091 (1) Purse; 1 Pr Booties.
NW770037 (1) Raw Sperm Whale Tooth.
NW800108 (1) Raw Sperm Whale Tooth.
NW770207 (1) Rnd Zippered Sealskin Coin Purse.
NW771038 (1) Scrimshawed Sperm Whale Tooth.
NW840500 (1) Scrimshawed Sperm Whale Tooth.
NW820172 (1) Sea Lion Nose and Front Teeth.
NW820052 (1) Sealskin Belt.
NW830156 (1) Sealskin Belt, 1 Sealskin Stuffed Seal Key Chain.
NW830488 (1) Sealskin Coat/Silver-Gray Color.
NW830170 (1) Sealskin Coin Purse.
NW830394 (1) Sealskin Coin Purse.
NW820053 (1) Sealskin Doll.
NW840358 (1) Sealskin Eye Glass Case.
NW840501 (1) Sealskin Jacket.
NW830172 (1) Sealskin Key Holder.
NW840471 (1) Sealskin Key Chain, 1 Sealskin Toy.
NW830324 (1) Sealskin Purse.
NW840359 (1) Sealskin Purse.
NW860592 (1) Sealskin Purse.
NW880352 (1) Sealskin Purse.
NW820019 (1) Sealskin Seal.
NW840284 (1) Sealskin Seal.
NW830290 (1) Sealskin Seal Toy.
NW830382 (1) Sealskin Seal Toy.
NW830408 (1) Sealskin Seal Toy.
NW830395 (1) Sealskin Seal Toy.
NW830452 (1) Sealskin Seal Toy.
NW880357 (1) Sealskin Seal Toy.
NW771151 (1) Sealskin Toy.
NW840472 (1) Sealskin Toy Seal.
NW840531 (1) Sealskin Toy Seal.
NW880276 (1) Sealskin Toy Seal.
NW880277 (1) Sealskin Toy Seal Key Chain.
NW880355 (1) Sealskin Toy with Ivory Tusks.
NW840239 (1) Sealskin Toy, 1 Doll Clothed in Sealskin.
NW810618 (1) Sealskin.
NW740056 (1) Sealskin Belt.
NW751022 (1) Sealskin Belt.
NW760038 (1) Sealskin Belt.
NW761015 (1) Sealskin Belt.
NW770106 (1) Sealskin Belt.
NW770138 (1) Sealskin Belt.
NW770142 (1) Sealskin Belt.
NW770145 (1) Sealskin Belt.
NW770148 (1) Sealskin Belt.
NW770162 (1) Sealskin Belt.
NW770185 (1) Sealskin Belt.
NW770201 (1) Sealskin Belt.
NW770211 (1) Sealskin Belt.
NW770217 (1) Sealskin Belt.
NW780035 (1) Sealskin Belt.
NW790109 (1) Sealskin Belt.
NW790199 (1) Sealskin Belt.
NW800257 (1) Sealskin Belt.
NW840550 (1) Sealskin Belt.
NW850005 (1) Sealskin Belt.
NW770224 (1) Sealskin Bracelet & 1 Sealskin Pin.
NW770058 (1) Sealskin Coin Purse.
NW780079 (1) Sealskin Coin Purse.
NW781004 (1) Sealskin Coin Purse.
NW790070 (1) Sealskin Coin Purse.
NW770047 (1) Sealskin Drawstring Coin Purse.
NW770078 (1) Sealskin Drawstring Purse.
NW770126 (1) Sealskin Eyeglass Case; 1 Sealskin Key Holder.
NW820346 (1) Sealskin Glasses Case.
NW770173 (1) Sealskin Handbag.
NW770127 (1) Sealskin Hatband.
NW781083 (1) Sealskin Hatband.
NW780121 (1) Sealskin Key Case.
NW820424 (1) Sealskin Key Holder.
NW740071 (1) Sealskin Owl.
NW880370 (1) Sealskin Polar Bear Doll.
NW780017 (1) Sealskin Pouch.
NW781026 (1) Sealskin Purse.
NW810686 (1) Sealskin Purse.
NW740084 (1) Sealskin Purse; 2 Sealskin Coin Purses; 1 Sealskin Key Fob.
NW770109 (1) Sealskin Seal.
NW770143 (1) Sealskin Seal.
NW770144 (1) Sealskin Seal.
NW770150 (1) Sealskin Seal.
NW770170 (1) Sealskin Seal.
NW770172 (1) Sealskin Seal.
NW770174 (1) Sealskin Seal.
NW770180 (1) Sealskin Seal.
NW770200 (1) Sealskin Seal.
NW781018 (1) Sealskin Seal.
NW770221 (1) Sealskin Seal on Rock Base.
NW770202 (1) Sealskin Seal; 1 Min Kewpie Doll.
NW840646 (1) Sealskin Toy Seal.
NW840644 (1) Sealskin Toy Seal.
NW840643 (1) Sealskin Toy Seal.
NW840637 (1) Sealskin Toy Seal.
NW840633 (1) Sealskin Toy Seal.
NW840647 (1) Sealskin Toy Seal.
NW840634 (1) Sealskin Toy Seal.
NW840485 (1) Silver/Blue Sealskin Jacket.
NW840361 (1) Sm Sealskin Toy.
NW830412 (1) Sm Stuffed Sealskin Toy.
NW840298 (1) Sm Stuffed Sealskin Toy on Block.
NW830392 (1) Sm Stuffed Sealskin Seal Toy.
NW830291 (1) Sm Toy Sealskin Seal.
NW830173 (1) Small Ivory Carving-Partly Man Fm Sperm Whale.
NW870375 (1) Small Sealskin Toy Seal.
NW820549 (1) Small Sealskin Seal.
NW840642 (1) Small Sealskin Toy Seal.
NW870246 (1) Small Sealskin Toy Seal.
NW771034 (1) Sperm Whale Ivory Carving.
NW741009 (1) Sperm Whale Ivory Ring.
NW820203 (1) Sperm Whale Tooth.
NW761027 (1) Sperm Whale Tooth Carving—Ship.
NW782017 (1) Sperm Whale Tooth Cross Section.
NW800377 (1) Sporran Ptly Mnfd Fr Hair Sealskin.
NW760091 (1) Stuffed Seal.
NW800025 (1) Stuffed Seal Head.
NW830006 (1) Stuffed Seal on Wooden Plaque.
NW820392 (1) Stuffed Seal Ptly Mnfd Fr Hair Sealskin.
NW830420 (1) Stuffed Sealskin Seal.
NW830383 (1) Stuffed Sealskin Seal Doll.
NW830401 (1) Stuffed Sealskin Seal Toy
NW830399 (1) Stuffed Sealskin Seal Toy.
NW830171 (1) Stuffed Sealskin Toy.
NW830295 (1) Stuffed Sealskin Toy.
NW770178 (1) Stuffed Sealskin Seal.
NW790224 (1) Trinket Mnfd Fr Hair Sealskin.
NW830428 (1) Whalebone Carving of Narwhal.
NW741015 (1) Whalebone Sculpture.
NW810211 (2) Woman's Sealskin Jacket.
NW760057 (1) Zipper Pouch; 1 Drawstring Purse.
NW770085 (1) Zippered Sealskin Coin Purse.
NW760047 (10) Lbs Seal Fur.
NW780072 (11) Sea Lion Teeth.
NW840413 (13) Sm Sealskin Key Chains.
NW800020 (14) Hair Seal Pelts.
NW790018 (14) Lbs Seal Fur.
NW840657 (14) Pieces of Sealskin.
NW790354 (17) Sperm Whale Teeth; 3 Lbs Sperm Whale Ivory.
NW781030 (18) Boxes Pills Cont Os Penis.
NW780049 (19) Packets Seal Fur.
NW781030 (2) Boxes Pills Cont Os Penis.
NW810702 (2) Cans of Seasoned Whale Meat.
NW800134 (2) Carved Sperm Whale Teeth.
NW770222 (2) Dolls Dressed in Sealskin.
NW760005 (2) Fresh Sealskins.
NW830020 (2) Hair Seal Pelts.
NW790198 (2) Hair Sealskin Coin Purses.
NW790303 (2) Hair Sealskin Items—1 Coin Purse; 1 Key Bag.
NW780069 (2) Hair Sealskin Purses.
NW770092 (2) Hair Sealskin Seals.
NW771025 (2) Jars Moisturizers Ct Spermaceti.
NW840394 (2) Med Sealskin Toy Seals.
NW840141 (2) Med, 2 Sm Stuffed Sealskin Toys.
NW780103 (2) Min Coin Purses; 1 Sealskin Seal.
NW820158 (2) Min Seals on Wooden Base.
NW760078 (2) Min Sealskin Dolls.
NW740027 (2) Min Sealskin Seals.
NW770242 (2) Min Sealskin Seals.
NW770074 (2) Min Stuffed Hair Sealskin Seals.
NW810267 (2) Min Stuffed Hair Sealskin Seals.
NW810361 (2) Min Stuffed Hair Sealskin Seals.
NW770009 (2) Min Stuffed Seals.

NW820209 (2) Min Stuffed Seals.
NW820210 (2) Min Stuffed Seals.
NW820518 (2) Min Stuffed Seals.
NW780020 (2) Min Stuffed Seals Mounted on Wooden Base.
NW810384 (2) Min Stuffed Seals on Key Rings; 2 Min Coin Purses.
NW810354 (2) Min Stuffed Seals; 1 Min Seal on Key Ring.
NW780053 (2) Min Stuffed Sealskin Seals.
NW781022 (2) Min Stuffed Sealskin Seals.
NW840064 (2) Pieces Harbor Sealskin.
NW800217 (2) Pillows Ptly Mnfd Fr Sealskin.
NW800326 (2) Pr Moccasins Ptly Mnfd Fr Hair Sealskin.
NW740075 (2) Pr Sealskin Moccasins.
NW790116 (2) Pr Sealskin Moccasins.
NW790277 (2) Pr Sealskin Moccasins.
NW740059 (2) Pr Sealskin Slippers.
NW770244 (2) Pr Sealskin Slippers.
NW840029 (2) Raw Sperm Whale Teeth.
NW780059 (2) Seal Fur Hats.
NW840544 (2) Seal Hides; 2 Pr Min Sealskin Boots.
NW840356 (2) Sealskin Belts.
NW880024 (2) Sealskin Coats.
NW830292 (2) Sealskin Coin Purses.
NW820509 (2) Sealskin Items.
NW840360 (2) Sealskin Key Holders.
NW870484 (2) Sealskin Seal Toys; One Large, One Small.
NW840357 (2) Sealskin Seals.
NW751018 (2) Sealskin Belts.
NW770089 (2) Sealskin Belts.
NW770218 (2) Sealskin Belts.
NW840153 (2) Sealskin Belts.
NW770152 (2) Sealskin Belts; 2 Sealskin Key Holders.
NW770135 (2) Sealskin Clutch Purses.
NW780105 (2) Sealskin Purses.
NW880356 (2) Sealskin Seal Toys.
NW770028 (2) Sealskin Seals.
NW770122 (2) Sealskin Seals.
NW770182 (2) Sealskin Seals.
NW770189 (2) Sealskin Seals.
NW770192 (2) Sealskin Seals.
NW820471 (2) Sealskin Seals.
NW770149 (2) Sealskin Seals Mounted on Wood Base.
NW780099 (2) Sealskin Sporrans.
NW880424 (2) Sealskin Toy Seal; 1 Large, 1 Medium.
NW840639 (2) Sealskin Toy Seals.
NW840640 (2) Sealskin Toy Seals.
NW840636 (2) Sealskin Toy Seals.
NW840638 (2) Sealskin Toy Seals.
NW840677 (2) Sealskin Toy Seals.
NW840678 (2) Sealskin Toy Seals.
NW840369 (2) Sm Sealskin Purses.
NW830297 (2) Sm Stuffed Sealskin Animals.
NW840296 (2) Sm Stuffed Sealskin Key Chains.
NW850004 (2) Small Whale Teeth Polished.
NW830472 (2) Stuffed Fur Seal Toys.
NW830005 (2) Stuffed Seals on Wooden Plaque.
NW830387 (2–9) ½" Stuffed Sealskin Seals.
NW800020 (21) Hair Seal Hides/ Klappmyss.
NW750047 (22) Sealskin Purses.
NW760044 (3) Belts.
NW760122 (3) Eyeglass Cases Mnfd Fr Hair Sealskin.
NW770008 (3) Hand Carved Sperm Whale Teeth Figurines.
NW790200 (3) Key Chains w/Sealskin Trimmed Moccasins.
NW772009 (3) Letter Openers Carved from Sperm Whale Ivory.
NW770176 (3) Min Coin Purses.
NW800213 (3) Min Coin Purses.
NW820601 (3) Min Seals.
NW810397 (3) Min Stuffed Hair Sealskin Seals.
NW820470 (3) Min Stuffed Seals.
NW782002 (3) Min Stuffed Sealskin Seals.
NW800371 (3) Pr Moccasins Ptly Mnfd Fr Hair Sealskin.
NW770238 (3) PR Sealskin Slippers.
NW800134 (3) Raw Sperm Whale Teeth.
NW782038 (3) Scrimshawed Sperm Whale Teeth.
NW830110 (3) Scrimshawed Sperm Whale Teeth.
NW820018 (3) Seal Dolls.
NW830407 (3) Sealskin Seal Toys.
NW840487 (3) Sealskin Toy Key Chains.
NW770193 (3) Sealskin Belts.
NW770220 (3) Sealskin Belts.
NW840542 (3) Sealskin Owls.
NW840665 (3) Sealskin Toy Seals.
NW880408 (3) Small Sealskin Toy Seals on Mini Life Rings.
NW820519 (3) Stuffed Seals.
NW840616 (3) Stuffed Sealskin Articles.
NW840261 (3) Stuffed Toys Made w/Mm Products.
NW761008 (30) Sealskin Toys.
NW880358 (4) Bags of Edible Whale Product.
NW880046 (4) Ft Head Bone of Whale.
NW750017 (4) PR Sealskin Slippers.
NW820200 (4) Sealskin Coin Purses.
NW840645 (4) Sealskin Toy Seals.
NW770066 (4) Stuffed Sealskin Animals.
NW800182 (5) Assorted Pieces of Sperm Whale.
NW770213 (5) Min Stuffed Owls.
NW760081 (5) Sealskin Belts.
NW781019 (5) Sealskin Seals.
NW840413 (5) Sm Sealskin Seal Toys.
NW770064 (5) Stuffed Sealskin Animals.
NW800020 (50) Hair Seal Hides/Beaters.
NW760013 (51) Pcs Sperm Whale Ivory; 4 Walrus Ivory.
NW840461 (6) Sealskin "Mice."
NW780043 (65) Asst Sealskin Trinkets (Dolls, Key Chains).
NW760089 (7) Hairseal Hides.
NW800030 (763) Sperm Whale Teeth.
NW781015 (8) Pieces Sealskin Items.
NW780063 (80) Hairseal Sporrans.
NW770067 (9) Stuffed Sealskin Animals.
NW880012 Black Sea Lion Coat.
NW870163 Ivory Carving Sperm Whale Tooth.
NW860395 (1) Mother and Pup Sealskin Toy Seal.
NW850516 (1) Pair Sealskin Chuka Boots (Damaged).
NW850446 (1) Pair Sealskin Mittens.
NW850214 (1) Pr Sealskin Gloves/ Eyecase/Purse.
NW860223 (1) Sealskin Doll.
NW880075 (1) Sealskin Toy Seal.
NW850421 (1) Sealskin Key Chain.
NW850152 (1) Sealskin Belt.
NW860652 (1) Sealskin Belt.
NW850448 (1) Sealskin Bow Tie.
NW860440 (1) Sealskin Coin Purse.
NW850519 (1) Sealskin Eskimo and Sled.
NW850460 (1) Sealskin Jacket.
NW860289 (1) Sealskin Key Case.
NW860298 (1) Sealskin Key Chain.
NW870292 (1) Sealskin Seal Doll.
NW850113 (1) Sealskin Stuffed Seal Doll.
NW860399 (1) Sealskin Toy Mother and Pup.
NW860549 (1) Sealskin Toy Doll.
NW860579 (1) Sealskin Toy Doll.
NW840543 (1) Sealskin Toy Owl.
NW840539 (1) Sealskin Toy Seal.
NW850156 (1) Sealskin Toy Seal.
NW850219 (1) Sealskin Toy Seal.
NW850302 (1) Sealskin Toy Seal.
NW850275 (1) Sealskin Toy Seal.
NW850420 (1) Sealskin Toy Seal.
NW850449 (1) Sealskin Toy Seal.
NW860288 (1) Sealskin Toy Seal.
NW860297 (1) Sealskin Toy Seal.
NW860584 (1) Sealskin Toy Seal.
NW860548 (1) Sealskin Toy Seal.
NW860624 (1) Sealskin Toy Seal.
NW860699 (1) Sm Sealskin Purse/Sm Sealskin Seal.
NW850154 (1) Sm Sealskin Toy Seal.
NW850227 (1) Sm Sealskin Toy Seal.
NW850230 (1) Sm Sealskin Toy Seal.
NW850276 (1) Sm Sealskin Toy Seal Key Chain.
NW860689 (1) Small Sealskin Toy Seal.
NW850520 (1) Small Sealskin Doll.
NW850445 (1) Small Sealskin Toy Seal Key Chain.
NW850438 (1) Small Sperm Whale Tooth.
NW860439 (1) Wood Art Work With Three Sperm Whale Teeth Carvings.
NW890107 (1) Sealskin Vest in Very Poor Condition.
NW820379 Pieces of Sealskin.
NW830155 Sealskin Stuffed Toy.
NW860329 Sealskin Toy Seals.
NW880536 Sealskin Coat With Fox Trim.
NW860398 Sealskin Toys; 1 Penguin, 1 Seal.
NW860254 (3) Sealskin Toy Seals.

NW860325 (3) Sealskin Toy Seals; 20 Small Sealskin Toys.
NW840641 (3) Toy Sealskin Seals.
NW870334 (2) Sealskin Toy Seals.
NW860214 (2) Sealskin Toys (Seal, Bird).
NW850153 (2) Sealskin Belts.
NW850155 (2) Sealskin Toy Seals.
NW850191 (2) Sealskin Toy Seals.
NW860428 (2) Sealskin Toy Seals.
NW870504 (2) Sealskin Toy Seals.
NW850300 (2) Small Sealskin Toy Seals.
NW860330 (2) Small Sealskin Toy Seals.
NW850419 (2) Small Sealskin Key Chains.
NW840603 (2) Untanned Seal Hides.
NW890106 (2) Sealskin Seals, One With Key Ring.

Southwest Region

Apply to: Mr. George Marshall, NMFS Law Enforcement Regional Office, POB 3344, 300 S. Ferry, room 2022, Terminal Island, CA 90731, (213) 514–6690, FTS 795–6690.

Control # Description

SW760031 (1) Raw Sperm Whale Tooth.
SW830131 (1) Seal Fur Coat.
SW780027 (2) Sperm Whale Tooth Bird Carving.
SW781017 (3) Scrimshaw Whale Teeth.
SW780096 (3) Sealskin Toys.
SW780031 (40) Whale Tooth Pendants.
SW790059 (46) Baleen Tongue Scrapers.
SW800119 (1) Bottle of Canadian Oil.
SW890430 (1) Carved Eagle Head Sperm Whale Tooth.
SW790206 (1) Carved Sperm Whale Tooth Evidence Safe.
SW750011 (1) Carved Sperm Whale Tooth.
SW860355 (1) Etched Whale Bone Pendant Evidence Safe.
SW880200 (1) Fur Seal Coat.
SW810093 (1) Green Sea Turtle.
SW810094 (1) Green Sea Turtle.
SW810096 (1) Green Sea Turtle.
SW810090 (1) Green Sea Turtle.
SW810092 (1) Green Sea Turtle.
SW810087 (1) Green Turtle Mount.
SW850232 (1) Grey Seal & Leather Jacket.
SW880280 (1) Guitar Hawksbill Turtle Shell Back.
SW810090 (1) Hawksbill Sea Turtle.
SW810092 (1) Hawksbill Sea Turtle.
SW810097 (1) Hawksbill Sea Turtle.
SW810093 (1) Hawksbill Turtle.
SW810095 (1) Hawksbill Turtle.
SW810096 (1) Hawksbill Turtle.
SW790217 (1) Hawksbill Turtle (Stuffed).
SW800093 (1) Ivory Pendant.
SW800128 (1) Ivory Pendant.
SW771001 (1) Plastic Carved Lion & Stand.
SW810151 (1) Polished Sperm Whale Tooth.
SW820037 (1) Polished Sperm Whale Tooth.
SW820096 (1) Raw Sperm Whale Tooth.
SW840005 (1) Raw Sperm Whale Tooth.
SW810155 (1) Raw Whale Bone Carved Walrus.
SW860246 (1) Scrimshaw Pendant and Tooth.
SW860395 (1) Scrimshaw Sperm Whale Tooth.
SW860212 (1) Scrimshaw Sperm Whale Tooth Mermaid Design.
SW770001 (1) Scrimshaw Whale Tooth Pendant.
SW800113 (1) Scrimshawed Sperm Whale Tooth.
SW820009 (1) Scrimshawed Sperm Whale Tooth.
SW781009 (1) Scrimshawed Sperm Whale Tooth.
SW880052 (1) Scrimshawed Sperm Whale Tooth.
SW880317 (1) Scrimshawed Sperm Whale Tooth.
SW770030 (1) Scrimshawed Tooth.
SW800123 (1) Scrimshawed Tooth.
SW890423 (1) Sea Turtle Shell.
SW830131 (1) Seal Fur Boots.
SW860452 (1) Seal Fur Boots.
SW810083 (1) Seal Fur Coat.
SW780068 (1) Sealskin Coat.
SW830129 (1) Sealskin Coat.
SW880319 (1) Sealskin Jacket.
SW780095 (1) Sealskin Coat.
SW840118 (1) Sealskin Coat.
SW840177 (1) Sealskin Purse.
SW760026 (1) Sperm Whale Tooth.
SW761025 (1) Sperm Whale Tooth.
SW760021 (1) Sperm Whale Tooth.
SW800047 (1) Sperm Whale Tooth.
SW830124 (1) Sperm Whale Tooth.
SW750020 (1) Sperm Whale Tooth With Carved Evidence Lion.
SW870210 (1) Sperm Whale Tooth, 4".
SW890186 (1) Stuffed Green Sea Turtle.
SW790185 (1) Tan Carrying Case.
SW800085 (1) Tanned Sealskin.
SW880360 (1) Tanned Sealskin.
SW880170 (1) Tray Hawksbill Turtle Shell.
SW780071 (1) Whale Bone Pendant.
SW890429 (1) Whale Rib Bone.
SW770015 (1) Whale Tooth.
SW860302 (1) Whale Tooth.
SW800099 (1) Whale Tooth Pendant.
SW790185 (10) Whale Teeth; 3 Whale Bones.
SW760033 (100) Polished Sperm Whale Teeth.
SW870601 (12) Bracelets; 4 Rings; 1 Storyboard; 1 Hair Clip; 2 Earrings.
SW760029 (12) Pieces-Sperm Whale Jewelry.
SW890155 (16) Inch Green Sea Turtle Shell.
SW760023 (19) Raw Sperm Whale Teeth.
SW880586 (2) Shell Trays.
SW800119 (2) Bottles Canadian Healing Oil.
SW760006 (2) Carved Whale Teeth.
SW810089 (2) Green Sea Turtles.
SW810091 (2) Green Sea Turtles.
SW810085 (2) Hawksbill Sea Turtles.
SW810087 (2) Hawksbill Turtles.
SW810091 (2) Hawksbill Turtles.
SW810094 (2) Hawksbill Turtles.
SW810098 (2) Hawksbill Turtles.
SW790153 (2) Pr. Sealskin Muckluks.
SW790007 (2) Purses; 1 Comb Case; 1 Stuffed Seal.
SW790184 (2) Raw Sperm Whale Teeth.
SW810019 (2) Raw Sperm Whale Teeth; 1 Pendant.
SW820001 (2) Scrim Teeth.
SW800063 (2) Scrimshawed & Perm Whale Teeth.
SW810131 (2) Sealskins.
SW800102 (2) Sperm Whale Carvings; 1 Whale Tooth.
SW800091 (2) Sperm Whale Teeth.
SW800049 (2) Sperm Whale Teeth.
SW790020 (2) Sperm Whale Teeth (7 in.).
SW810143 (2) Sperm Whale Teeth Mounted on Stands.
SW800041 (2) Sperm Whale Teeth On Stands.
SW820095 (2) Sperm Whale Teeth On Stands.
SW750026 (2) Sperm Whale Tooth Pendants.
SW870224 (2) Whale Teeth Scrimshaw.
SW790081 (21) Sperm Whale Teeth Pendant Jewelry.
SW750015 (25) Raw Sperm Whale Teeth.
SW761008 (26) Sperm Whale Teeth.
SW790185 (27) Wood Boxes; 24 Scrim Teeth; 1 Polished Tooth.
SW810041 (3) Cans Roast Whale Meat.
SW750024 (3) Cello and 1 Violin Bow Part Hawksbill Tortoise Shell.
SW810089 (3) Hawksbill Turtles.
SW790200 (3) Pieces Sperm Whale Pendants.
SW790198 (3) Raw Sperm Whale Teeth.
SW820156 (3) Raw Sperm Whale Teeth.
SW790185 (3) Scrimshawed Whales Teeth.
SW790072 (3) Sperm Whale Teeth.
SW810069 (3) Sperm Whale Teeth Tabusas.
SW781026 (3) Teeth (1 Polished) 2 Scrimshawed.
SW880198 (3) Trays Hawksbill Turtle Shell.
SW780002 (30) Assorted Whale Ivory Carvings.
SW750010 (37) Polished Sperm Whale Teeth.
SW860046 (4) Cans Whale Meat.
SW810156 (4) Raw Sperm Whale Teeth.
SW790217 (4) Sea Turtle Shells.
SW790094 (4) Sperm Whale Teeth (2 Etched, 2 Smooth).
SW860361 (4) Whale Teeth.
SW760033 (5) Polished Sperm Whale Teeth.
SW890424 (5) Sperm Whale Bone Carvings.

SW890314 (5) Trays 3 Bracelets Hawksbill Turtle Shell Prod.
SW860395 (55) Sperm Whale Ivory Netsukes.
SW771037 (6) Raw Sperm Whale Teeth.
SW761004 (6) Sperm Whale Teeth.
SW790085 (6) Sperm Whale Teeth (3 Worked, 3 Unworked).
SW850020 (6) Whale Teeth; 2 Carvings.
SW780096 (63) Sealskin Toys.
SW870007 (66) Sperm Whale Ivory Netsukes.
SW790185 (67) Raw Whale Teeth & Bones; 2 Ear Bones; 3 Scrim Teeth.
SW770010 (7) Assorted Pieces of Ivory.
SW790170 (7) Sperm Whale Teeth.
SW830123 (77) PCS Hawksbill Turtle Jewelry.
SW770010 (80) Pieces Scrimshaw Whale Ivory.
SW870006 (85) Sperm Whale Ivory Netsukes.
SW800046 (9) Sperm Whale Teeth.
SW770001 (9) Whale Teeth Pendants/2 Rings.
SW770032 (92) Whale Teeth.
SW890214 (1) 17" Hawksbill Turtle Shell.
SW890261 (1) 20" Hawksbill Turtle Shell.
SW890260 (1) Green Turtle Shell 22".
SW890158 (1) Hawksbill Turtle Shell 18 Inches Long.
SW800023 Whale Bone Pendant.

Alaska Region

Apply to: Mr. John C. Hammond, NMFS Law Enforcement Regional Office, P.O. Box 021668, Juneau, AK 99802–1668, (907) 586–7225.

Control # Description

AK890162 (1) Eskimo Doll W/Sealskin.
AK850244 (2) Sealskins.
AK890208 (3) Gray Whale Baleen Fronds.

Dated: April 19, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90–9770 Filed 04–26–90; 8:45 am]
BILLING CODE 3510-22-M

[Docket No. 900404–0104]

Public Review of Task Force Findings Regarding U.S. Whale Policy

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice for public review and comment.

SUMMARY: NOAA announces the findings of an Interagency Task Force on U.S. Whale Policy (Task Force). The Task Force was charged with reviewing U.S. policy options concerning whales and whaling activities and making recommendations on key issues that will be addressed at the 1990 Annual Meeting of the International Whaling Commission (IWC). The Task Force findings are as follows: (1) The United States should continue its support for the current IWC moratorium on commercial whaling and continue to oppose commercial whaling, whether pelagic or coastal, (2) the United States should oppose the establishment of a new category for "small-type coastal whaling" as it pertains to whaling considered commercial whaling, and (3) the United States should participate in discussions during the annual IWC meeting concerning critical issues, including those pertaining to management procedures, on an *ad hoc* basis, reserving the right for further domestic consultations prior to committing the U.S. Government to any course of action. By this notice, NOAA seeks public comment on these findings.

DATES: Comments on the Task Force Findings are requested by May 11, 1990.

ADDRESSES: Comments should be sent to the Chairman of the Whale Policy Task Force, Carmen J. Blondin, Deputy Assistant Secretary for International Interests, NOAA, room 5811, Department of Commerce, 14th and Constitution Avenue, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, Office of International Affairs, National Marine Fisheries Service, NOAA, (301) 427–2276.

SUPPLEMENTARY INFORMATION: In 1972, at the United Nations Conference on the Human Environment at Stockholm, the United States supported and the Conference adopted a resolution recommending that the contracting parties to the IWC agree to implement a 10 year moratorim on commercial whaling. That same year, the IWC adopted commercial whaling quotas allowing for the harvest of over 38,000 whales world-wide and failed to call for a moratorium. The United States continued to work toward the establishment of a moratorium on commercial whaling and, in 1982, 10 years after the Stockholm Conference, the IWC adopted an indefinite moratorium on commercial whaling to begin with the 1985/86 pelagic and 1986 coastal whaling seasons.

Today fewer than 700 of the great whales are killed annually, with approximately half of those taken for aboriginal and subsistence purposes and the other half for research purposes. The United States has continued to support the moratorium on commercial whaling now embodied in the IWC Schedule as an indefinite moratorium subject to review and modification based upon results of a comprehensive assessment of the effects of the moratorium. In September 1989, U.S. Commissioner to the IWC, Dr. William E. Evans, wrote to the Secretaries of State and Commerce requesting that U.S. policy concerning the IWC moratorium on commercial whaling, and the future role of the United States in the IWC, be examined and endorsed or modified by the current Administration. An Interagency Task Force was convened by the Department of Commerce with participation by the Federal agencies responsible for and involved in the development of U.S. whale policy.

The Task Force examined the legal framework in which policy options concering whales and whaling activities must be considered. It reviewed international treaties, U.S. law and other policy pronouncements which constrain, direct or relate to the development of U.S. policy concerning international whaling matters. Specifically, the following authorities were examined: The International Convention for the Regulation of Whaling, 1946; the Whaling Convention Act of 1949; section 8 of the Fishermen's Protective Act of 1967, as amended; Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act; the Marine Mammal Protection Act of 1972, as amended; the Convention on International Trade in Endangered Species Act of 1973, as amended; the Whale Conservation and Protection Study Act; the Endangered Species Act, National Environmental Policy Act; and Presidential messages and Congressional resolutions.

The Task Force reviewed policy options relating to three specific issues that will be before the IWC at the 1990 meeting. The three issues were: (1) The commercial whaling moratorium, (2) the proposed establishment of a new category of whaling called "small-type coastal whaling," and (3) participation in discussions concerning the development of new management procedures undertaken as part of the comprehensive assessment of whale stocks. The policy options were presented in an "options paper" and comments were solicited from the U.S. IWC Interagency Committee. The following findings took into account the comments received from the U.S. IWC Interagency Committee: (1) The United States should continue its support for the current indefinite IWC moratorium

on commercial whaling and predicate any reconsideration of the moratorium upon (a) the adoption of acceptable management procedures, (b) the presence of adequate assessments of the whale stocks, (c) the development of data reporting systems, monitoring and enforcement regimes, and (d) the assurances of member country participation in such data reporting systems, monitoring, and enforcement regimes; (2) the United States should oppose the proposed establishment of a new category for "small-type coastal whaling" as it pertains to whaling considered commercial whaling, whether pelagic or coastal; and (3) the United States should participate on an *ad hoc* basis in discussions regarding the development of revised management procedures and insist that the greatest feasible level of certainty be required of status of stock considerations and that those considerations be built into the management procedures regarding the implications of permissible management measures. Additionally, the United States should participate on an *ad hoc* basis in any discussion of critical issues, reserving the right for further domestic consultations prior to committing the United States to any new course of action. These findings were determined to be consistent with the purposes and policies of U.S. domestic law.

The Task Force was of the opinion that a continuation of the moratorium under the conditions described in its findings would make it unlikely that commercial whaling would be authorized by the IWC before the year 2000.

Following the public review and comment period, the Task Force findings, as modified, will be finalized and forwarded to the Secretaries of State and Commerce for use in providing guidance to the U.S. Commissioner to the IWC.

Dated: April 2, 1990.

Carmen J. Blondin,

Deputy Assistant Secretary for International Interests.

[FR Doc. 90-9842 Filed 4-27-90; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. 900490-0090]

Information Relating to Bowhead Whales; U.S. Implementation of Bowhead Whale Strike Quota for 1990

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of information and request for public comment.

SUMMARY: Information is published by NOAA for use in the development of the U.S. position before the International Whaling Commission (IWC) on the aboriginal/subsistence take of bowhead whales and in the domestic allocation of the existing IWC quota for bowhead whales to U.S. natives. By this notice, NOAA is soliciting public comment on the proposed allocation of the IWC bowhead whale catch limit in 1990.

DATES: Comments must be submitted on or before May 29, 1990.

ADDRESSES: Written comments may be mailed to the Office of International Affairs, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. A list of documents reviewed for this action may be obtained on request, and the documents examined during business hours (9 a.m. to 5 p.m.) at this address.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, (301) 427-2276.

SUPPLEMENTARY INFORMATION: NOAA is responsible for implementation and enforcement of the Marine Mammal Protection Act (16 U.S.C. 1361-1407), the Endangered Species Act (16 U.S.C. 1531-1543) and the Whaling Convention Act 16 U.S.C. 916-916l). In addition, it provides staff support to the U.S. Commissioner to the IWC and to the IWC Industry Committee. Consistent with these responsibilities, the Agency develops positions for implementation of the aboriginal/subsistence harvest of bowhead whales under paragraph 13 of the Schedule to the International Convention on the Regulation of Whaling, December 2, 1946, 62 Stat. 1716, T.I.A.S. No. 1849 (entered into force, November 10, 1948). In order to provide for review and comment by the public of the data upon which the U.S. positions are based, the folowing information is provided: (1) The IWC catch level available for the U.S. aboriginal/subsistence bowhead whale harvest for 1989; (2) a summary of available bowhead scientific information including estimates of current population level and annual recruitment rates; (3) a summary of information on the nature and extent of aboriginal/subsistence need; (4) the level of aboriginal/subsistence harvest limits which could be implemented domestically; and (5) notice of the availability of those documents reviewed by NOAA and relied on by the Administrator of NOAA in making his finding on the range of harvest limits. By this notice, NOAA is soliciting public comment on the proposed domestic implementation of the IWC bowhead whale catch limit for 1990.

1. Catch Level

At the 40th Annual Meeting of the IWC, Auckland, New Zealand, May 30-June 3, 1988, the following catch limit was established for aboriginal/subsistence whaling: "the taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock by aborigines is permitted, by only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that: . . . For each of the years 1989, 1990, and 1991, the total number of whales struck shall not exceed 44 and the total number of whales landed shall not exceed 41, except that in 1988, 1989, and 1990, any unused strikes up to a maximum of 3 shall be transferred to the following year." (Schedule to the Convention, paragraph 13(b)(1)(i).)

2. Scientific Information

The IWC Scientific Committee agreed at the 1988 IWC meeting on an estimate of 7,800 (with a 95 percent confidence interval of 5,700 to 10,600) as the current size of the bowhead whale population. Based on simulation analysis conducted by scientists at the 1988 IWC meeting, estimates were made of the number of animals that can be removed which will keep the population at its current level. This is known as the replacement yield (RY) which defines the number of whales annually recruited into the population that balances the number of deaths that occur. RY values of 43 to 196 animals were estimated for the range of population estimates of 5,700 and 10,000. The view of the IWC Scientific Committee was that estimates of RY would be most appropriate for the population size of 7,800 resulting in a RY of 56 to 192 bowheads.

3. Aboriginal/Subsistence Need

The Department of the Interior (DOI) conducted the last major analysis of the nature and extent of aboriginal/subsistence need for bowhead whales and whaling in 1983 and the IWC adopted this method for quantifying need in 1986. The Department of the Interior contracted a new study on the quantification of subsistence and cultural need for bowhead whales in 1987 which was presented at the 1988 meeting. The new study presented the cultural and subsistence need of the nine Alaska Eskimo whaling villages to take 41 landed bowhead whales. This quantification of need used the same method of calculation accepted by the

IWC in 1986. This method derives the mean annual number of bowhead whales landed per capita during a specified historical period and multiplies this mean by the current Eskimo population of nine Alaska Eskimo whaling villages. The result of this calculation is the total number of bowhead whales the nine Eskimo whaling villages need to land each year in order to meet their cultural and subsistence need.

When the IWC adopted this method of quantifying need, members of the IWC Aboriginal Subsistence Subcommittee noted that the quantification was based on a large but incomplete series of data on historical bowhead landings. It was also noted that the quantification used an inconsistent data base period. The Department of the Interior Study was initiated to correct these deficiencies. To complete the series of data on historical bowhead whale landings to the extent possible, the study undertook a comprehensive review of available published and unpublished sources of bowhead landings. Remaining gaps are unlikely to be significantly reduced with further searches for historic data on bowhead landings. The data resulting from this study also permitted the use of a consistent historical base period for the calculation of need. In the prior analysis, the base periods varied from 1940 to 1970 and 1950 to 1970. The base period now begins in 1910, the year following the cessation of commercial whaling in the arctic, and ends in 1969, prior to the period of unusually high bowhead harvests in the unique economic circumstances of the 1970s. Therefore, applying the additional landed bowhead data and the longer period to the accepted method of quantifying need, results in a current cultural and subsistence need of 41 landed whales.

4. Domestic Harvest Range

The IWC managemrent scheme for aboriginal/subsistence whaling provides (in Schedule paragraph 13(a) (2)): "For stocks below the maximum sustainable yield (MSY) level but above a certain minimum level, aboriginal/subsistence catches shall be permitted so long as they are set at levels which allow whale stocks to move to the MSY level." Given the above stated estimates of 56–192 whales recruited into the population annually, the aboriginal/subsistence catch can be permitted so long as it is set at a level that allows the whale stock to move to the MSY level.

The catch limit for bowhead whales for 1990, established by the IWC, is 44 strikes or 41 landed with up to 3 unused strikes from 1989 available in 1990. The 1989 quota of 47 strikes was not met. Only 26 strikes were used in 1989 which allows 3 strikes to be transferred forward to 1990. The number under consideration for the 1990 catch limit is 47 strikes or 41 landed.

5. Documents Reviewed

A list of the documents reviewed for this action may be obtained on request from the address above. The documents are available for public inspection during the 30-day public comment period at the same address.

Authority: 16 U.S.C. 1361–1407, 1531–43, 916.

Dated: April 19, 1990.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 90–9776 Filed 4–26–90; 8:45 am]

BILLING CODE 3510–22–M

Technology Administration

[Docket No. 900120–0020]

Boehlert-Rockefeller Technology Extension Program

AGENCY: Technology Administration, Department of Commerce.

ACTION: Notice of availability of funds for state government technical extension services.

SUMMARY: The Under Secretary for Technology, pursuant to the authority delegated to him by section 2.02 of Department Organization Order 10–17, dated January 6, 1989, invites proposals for funding from state government technical extension services for projects that will: (1) Demonstrate methods by which the states can, in cooperation with federal agencies, increase the use of federal technology by businesses within their states to improve industrial competitiveness; or (2) help businesses in their states take advantage of the services and information offered by the National Institute of Standards and Technology (NIST) Regional Centers for Transfer of Manufacturing Technology.

CLOSING DATE FOR PROPOSALS: Proposals will be accepted until June 11, 1990.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with Standard Form 424 to: National Institute of Standards and Technology, Physics Building, room A–343, Gathersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: For questions or comments, telephone: Mr. Joseph Berke at (301) 975–5017.

SUPPLEMENTARY INFORMATION: The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418) directs the Secretary of Commerce to provide technical assistance to state technology programs to help businesses, particularly small and medium-sized businesses, to enhance their competitiveness through the application of science and technology. The Act directs that such assistance include, but not be limited to, entering into cooperative agreements with state technical extension services to:

(1) Demonstrate methods by which the states can, in cooperation with federal agencies, increase the use of federal technology by businesses within their states to improve industrial competitiveness, productivity, and quality of products and services; and

(2) Help businesses in their states take advantage of the services and information offered by the NIST Regional Centers for Transfer of Manufacturing Technology.

The Act also requires that a state provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of federal assistance in order to qualify for a cooperative agreement under this program.

Invitation for Proposals: Proposals are invited from state government technology extension services for funding of either or both of the purposes listed above. Proposals must clearly identify the specific effort(s) to be undertaken. For applicants proposing to do both, separate proposals must be submitted for each activity.

Funding Available: Approximately $900,000 will be available to support cooperative agreements as authorized under the Act. The maximum amount to be awarded to any applicant is $300,000. Cooperative agreements for these efforts shall be terminated no later than September 30, 1991.

Proposal Qualifications

Qualified Organizations: Eligible applicants under the program are any state government, either for itself or for a consortium of states. The word applicant used in this notice means any state either for itself or for a consortium of states. Applicants that are party to a cooperative agreement may provide services directly or may arrange for the provision of any or all such services by institutions of higher education or other non-profit institutions or organizations.

Proposal Format: In order to be considered for an award, the proposals

must be presented in the format specified below:

(1) Be submitted, on a Standard Form 424, to the National Institute of Standards and Technology, Physics Building, room A–343, Gaithersburg, MD 20899;

(2) The Basic Proposal must not exceed 25 typewritten pages in length; and

(3) The applicant's Financial Information must be submitted as a separate document from the Basic Proposal; this document may contain appendices, or other relevant information, in support of the Basic Proposal.

Content of the Basic Proposal: The Basic Proposal must include a description of the planned project sufficient to permit the Technology Administration to evaluate the proposal in accordance with the Proposal Evaluation and Selection Criteria section of this notice. If any of the items listed below do not apply to the Basic Proposal, then a statement citing the reasons must be provided.

(1) Provide a management plan that fully describes the staff necessary to implement this new effort in technology extension activities. Include identification of the top management team and their qualifications and past performance on projects of the type proposed. Identify those services to be provided directly and those to be provided through a third party. For third party services, provide a description of the management team, their qualifications and past performance on projects of this type as well as the qualifications and past performance of the organization(s).

(2) If the proposal focuses on demonstrating the increased use of federal technology by businesses, identify specific and realistic benefits to be accomplished; discuss the extent to which methods, mechanisms, and/or programs will be developed and used to increase the use of federal technology to help businesses enhance their competitiveness. If new methods will utilize existing programs, provide a rationale for the innovativeness of the new method(s) versus what is currently being accomplished by the applicant. For applicants that propose to develop *new* programs, provide a rationale describing why the new programs will be able to increase the use of federal technology.

(3) If the proposal focuses on the use of the NIST Regional Centers for the Transfer of Manufacturing Technology (MTC), provide a plan for their effective and innovative utilization. Describe how MTC technology will be identified, how businesses will be identified and encouraged to use the technology, what mechanisms of technology transfer will be used and what ancillary areas (e.g. education, training, financing, management) will be part of the transfer process that ensures business acceptance and use of the technology. The MTCs identified under this item must already be in existence.

(4) Identify criteria for evaluation of the effectiveness of the proposed program; and describe the planned mechanism to insure timely and effective program evaluation.

Financial Information

(1) The applicant shall provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of federal assistance.

(2) Provide a discussion of the applicant's ability to continue and maintain the program after the cooperative agreement has expired.

(3) Provide budget/cost estimates for the program, showing all federal support ending no later than September 30, 1991; as well as a conceptual financial plan for state funding only, of the program, to begin in October 1991.

Proposal Evaluation and Selection Criteria

Proposals from applicants will be evaluated and rated on the basis of the following criteria by an impartial competitive review process. Criteria items 1, 2, 4 and 5 are required by the enabling legislation. In addition, the Technology Administration will also consider criteria items 3, and 6 through 9 in its evaluation and selection of proposals. (For example, an applicant proposing a demonstration project will answer criteria 1 through 8. An applicant proposing transferring MTC technology will answer criteria 1 through 7 and 9.)

1. The commitment of the applicant to spend an amount at least equal to the level of the federal assistance for technology extension services. Consideration will be given to the total dollar amount and firmness of the applicant's commitment. (25 points)

2. The ability of the applicant to maintain the extension service after the cooperative agreement has expired. (35 points)

3. The applicant's plan for interacting or networking with the currently existing or newly formed regional, state or local technology transfer/technology outreach services to achieve economies of scale, avoid duplication of outreach efforts and present a unified program of assistance to small and medium-sized businesses in the area covered by the proposal. (25 points)

4. The extent to which the applicant's proposed program will demonstrate innovative methods to increase the use of federal technology. (30 points)

5. Geographical diversity of the proposed program. Geographical diversity is defined as the regional area(s) to be served and the number and types of additional businesses in the area that will be assisted under the cooperative agreement. (25 points)

6. Qualifications and experience of principal investigator(s), the project team and, where appropriate, the performing organization(s) in technology transfer/technology outreach projects. (10 points)

7. The applicant's plans and criteria for evaluating the effectiveness of its program to transfer federal technology to businesses. (10 points)

8. For proposals focusing on demonstration projects, the extent to which the proposed activity will improve the capability of state and local governments, educational institutions, nonprofit development groups, and businesses to undertake and promote effective federal technology transfer and cooperate with federal agency efforts to increase the use of federal technology. (40 points)

9. For proposals focusing on the transfer of MTC technology, the extent to which the proposed activity will: (a) Identify the businesses and their technical manufacturing needs; (b) match those needs with the MTC technology; (c) enhance the role of education and training to encourage the application of the identified MTC technology; and (d) stimulate the participation of private financial institutions in assisting the business to apply the identified MTC technology. (40 points)

Additional Requirements

Awards under this program shall be subject to all Federal and Departmental regulations, policies and procedures applicable to financial assistance awards. All applicants must submit a certificate ensuring that employees of the applicant are prohibited from engaging in the unlawful manufacturing, distribution, dispensing, possession or use of a controlled substance at the work site, as required by the regulations implementing the Drug-Free Workplace of 1988, 15 CFR part 26, subpart F. Applicants are subject to the Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part

26. Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required to be submitted with the application.

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment. Except where declared by law or approved by the head of agency, no award of federal funds shall be made to an applicant who is delinquent on a federal debt until the delinquent account is made current or satisfactory arrangements are made between affected agencies and the debtor. The grantee will administer the cooperative agreement in accordance with title 15, part 24, of the Code of Federal Regulations.

Classification

The Boehlert-Rockefeller Technology Extension Program is being carried out under the authority of the Omnibus Trade and Competitiveness Act of 1988. This document is consistent with Executive Order 12291. This notice relating to public property, loans, grants, benefits, or contracts is exempt from all requirements of the Administrative Procedures Act (5 U.S.C. (a)(2)), including notice and opportunity for comment. Therefore, a Regulatory Flexibility Analysis is not required and was not prepared for this notice for purposes of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). The program is not a major federal action requiring an environmental assessment under the National Environment Policy Act. This notice does not contain policies with Federalism implications sufficient to warrant preparation of a Federalsim assessment under Executive Order 12612. This notice contains collection of information requirements subject to the Paperwork Reduction Act which have been approved by the Office of Management and Budget (OMB Control Number 0693–0010). Public reporting burden for the collections of information contained in this notice is estimated to average 40 hours per response. This estimate includes the time for reviewing instructions, search existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, should be sent to Mr. Joseph Berke, National Institute of Standards and Technology, Physics Building, room A343, Gaithersburg, MD 20899; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Dated: April 20, 1990.

Lee Mercer,

Deputy Under Secretary for Technology.

[FR Doc. 90–9754 Filed 4–26–90; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; 1990 Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1990 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 29, 1990.

ADDRESSES: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On March 2, 1990, the Committee for Purchase From the Blind and Other Severely Handicapped published notice (55 FR 7526) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

Comments were received from a prior year contractor for this general purpose disinfectant-detergent. The commenter indicated that his firm had produced three items of this type for the Government, which permitted it to master bill its freight to the various destinations and, therefore, remain competitive. He stated that the loss of one of the items would result in his firm's inability to remain competitive on the other two items.

The commenter's firm is not the current contractor for any of the three disinfectant-detergents mentioned in his letter. Consequently, the addition of this disinfectant-detergent to the Procurement List would not cause severe adverse impact on the commenter's firm.

After consideration of the material presented to it concerning the capability of a qualified workshop to produce this commodity at a fair market price and the impact of the addition on the current or most recent contractor, the Committee has determined that this commodity is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1990:

Disinfectant-Detergent, General Purpose
6840–00–926–1686

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–9820 Filed 4–26–90; 8:45 am]

BILLING CODE 6820–33–M

Procurement List; 1990 Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1990 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 29, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 16, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (55 FR 5646) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

Comments were received from the current contractor. The information submitted by the contractor indicated that addition of these items to the Committee's Program might result in the

loss of one or two jobs for relatively unskilled minority workers in a depressed rural area and would reduce volume and profits.

The Committee has determined that the employment that will be provided for blind individuals as a result of this addition outweighs the possible loss of employment by persons who do not have severe disabilities. Moreover, based on information provided by the contractor and other sources, the Committee determined that addition of these items would not cause severe adverse impact to the firm currently supplying the items. After consideration of the material presented to it concerning the capability of a qualified workshop to produce these commodities at a fair market price and the impact of the addition on the current or most recent contractor, the Committee has determined that these commodities are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6. I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1990:

Pad, Floor Polishing Machine
7910–00–985–6800
7910–00–985–6851
7910–00–985–6853
7910–00–985–6855
7910–00–985–6856
7910–00–985–6857
7910–00–985–6858
7910–00–985–6859
7910–00–985–6860
7910–00–985–6861
7910–00–985–6862
7910–00–985–6863
7910–00–985–6864
7910–00–985–6866
7910–00–985–6868
7910–00–985–6869
7910–00–985–6870
7910–00–985–6871
7910–00–985–6872
7910–00–985–6873
7910–00–985–6874
7910–00–985–6875
7910–00–985–6876

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–9821 Filed 4–26–90; 8:45 am]

BILLING CODE 6820–33–M

Procurement List; 1990 Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1990 a commodity to be produced and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 29, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 2 and 9, 1990 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 3635 and 4653) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540). After consideration of the material presented to it concerning capability of qualified workshops to produce the commodity and provide the service at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodity and service listed.

c. The actions will result in authorizing small entities to produce the commodity and provide the service procured by the Government.

Accordingly, the following commodity and service are hereby added to Procurement List 1990:

Commodity

Fiber Rope Assembly
4020–00–908–6416

Service

Janitorial/Custodial, Agriculture Main Auditors Building, 14th & Independence Avenue SW., Washington, DC.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–9822 Filed 4–26–90; 8:45 am]

BILLING CODE 6820–33–M

Procurement List; 1990 Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 29, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Commodities

Starter Rope, Engine
2990–00–961–3692
Strap, Webbing
5340–00–479–2947
Cloth, Wiping, Cotton
7930–00–NSH–0005 27" x 27"
(Requirements of Charleston Naval Supply Center, Charleston, SC only)
Tray, Fiberboard, Three-Sided
P.S. Item 136

Service

Janitorial/Custodial, Barnes Building, 495 Summer Street, Boston, Massachusetts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–9823 Filed 4–26–90; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before May 29, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George P. Sotos (202) 732–2174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: April 23, 1990.

George P. Sotos,

Acting Director, for Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title: State Annual Report (chapter 2 Federal, State, and Local Partnership for Educational Improvement).

Frequency: Annually.

Affected Public: State or local governments.

Reporting Burden:

Responses: 16,052.

Burden Hours: 49,560.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: The LEA's are required to report annually to the SEA on the use of funds and make that report available to the public. The SEA's submit data to the Secretary on the use of Chapter 2 funds by SEA and LEA's. The Department will use this information to report to Congress on the effectiveness of the program.

[FR Doc. 90–9786 Filed 4–26–90; 8:45 am]

BILLING CODE 4000–01–M

Indian Nations at Risk Task Force; Meeting

AGENCY: Indian Nations at Risk Task Force, DOE.

ACTION: Notice of meeting and public hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting and public hearing of the Indian Nations At Risk Task Force. This notice also describes the functions of the Task Force. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend the meeting and/or to testify at the public hearing.

DATES AND TIMES:

May 14, 1990, 10 to 6 p.m.
May 15, 1990 8:30 a.m. to 6 p.m.
May 16, 1990 8:30 a.m. to noon.

ADDRESSES: Dupont Plaza Hotel, At Dupont Circle, 1500 New Hampshire Avenue NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Alan Ginsburg, Executive Director, Indian Nations At Risk Task Force, room 3127, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–4244, Telephone: (202) 732–3132.

SUPPLEMENTARY INFORMATION: The Indian Nations At Risk Task Force was established by the Secretary of Education on March 8, 1990. Its purpose is to advise and make recommendations to the Secretary of Education on the condition of education of Indians in the United States. The Task Force will hold a number of public hearings around the country during its existence, and public notice will be given of all future meetings and hearings. The hearings will provide interested individuals and organizations with the opportunity to present oral and/or written testimony to the Task Force. Such testimony should focus on (1) educational problems and barriers of Indian youth to attaining higher levels of performance and attainment in education, and/or (2) efforts that can be taken to foster higher levels of quality and academic excellence in the nation's schools, colleges and universities that servesignificant numbers of Indians.

The meetings and hearings of the Task Force are open to the public. The agenda includes:

Monday May 14, 1990, 10 a.m.: Task Force Business Meeting, including swearing-in ceremony, followed by public hearings starting at 1:30 p.m. that day.

Tuesday May 15, 1990, 8:30 a.m.: Task Force Business Meeting resumes, to discuss the Task Force's activities, papers and analyses to be commissioned, future meeting dates and sites, and other topics to be determined at the discretion of the Task Force Chairpersons.

Wednesday May 16, 1990, 8:30 a.m.: Task Force Business Meeting continues, concluding at noon.

Anyone wishing to present oral testimony should call the Task Force staff at (202) 732–4039, no later than May 7, 1990, and provide the following information:

(1) Name, address and telephone number;

(2) Affiliation (if any); and

(3) A brief statement of the issues that will be addressed.

All speakers are asked to bring with them 25 copies of their testimony. Individuals who do not register in advance will be permitted to register and speak at the hearing in order of registration, if time permits. If necessary, the hearings will be extended, at the discretion of the Task Force Chairpersons. Speakers should plan to limit their total remarks to ten minutes. While it is anticipated that all persons desiring to do so will have an opportunity to speak, time limits may

not allow this to occur. The Task Force will make the final determination on selection and scheduling of speakers. All written statements presented at the hearing or sent to the Task Force prior to the hearing will be incorporated into the public record.

Records are kept of the proceedings of the Task Force and are available for public inspection at the staff offices of the Task Force, from 9 a.m. to 4:30 p.m., on weekdays, excluding Federal holidays, room 4010, FOB–6, 400 Maryland Avenue SW., Washington, DC. 20202.

Dated: April 23, 1990.

Charles E.M. Kolb,

Deputy Under Secretary for Planning, Budget and Evaluation, U.S. Department of Education.

[FR Doc. 90–9790 Filed 4–26–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Defense Nuclear Facilities Safety Board Recommendation 90–2; DOE High Priority Defense Nuclear Facilities; Design, Construction, Operation and Decommissioning Standards; Request for and Approval of Extension of Time

AGENCY: Office of Nuclear Safety, Energy.

ACTION: Notice of extension of time to respond to Defense Nuclear Facilities Safety Board recommendations.

SUMMARY: On March 8, 1990, the Defense Nuclear Facilities Safety Board (Defense Board), in accordance with section 312(5) of Public Law 100–456, approved a number of recommendations regarding Department of Energy (DOE) standards used in the design, construction, operation, and decommissioning of facilities at four DOE defense sites. Those recommendations were published in the **Federal Register** on March 14, 1990 at pp. 9487–88.

The DOE is in the process of developing a response to the Defense Board's recommendations; however, because of the magnitude and complexity of the task, DOE on April 18, 1990, requested a 45-day extension, as provided for in section 315(b) of Public Law 101–456. On April 23, the Defense Board approved DOE's request.

FOR FURTHER INFORMATION CONTACT: Steven M. Blush, Director, Office of Nuclear Safety, U.S. Department of Energy, Washington, DC 20585. Phone (202) 586–2407.

Issued in Washington, DC on April 23, 1990.

Steven M. Blush,

Director, Office of Nuclear Safety.

[FR Doc. 90–9840 Filed 4–26–90; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Remedial Investigation/Feasibility Study-Environmental Impact Statement

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of intent.

SUMMARY: BPA intends to prepare and consider a Remedial Investigation/Feasibility Study-Environmental Impact Statement evaluating environmental problems at its Ross Complex in Vancouver, Washington, which has been listed on the National Priorities List (NPL). This evaluation will determine the nature, extent, and environmental impacts of releases of hazardous substances at the site and will evaluate alternative responses with their potential impacts.

This environmental review and analysis process will follow the requirements of the National Environmental Policy Act (NEPA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA). To the extent possible, the Environmental Impact Statement (EIS) requirements under NEPA will be integrated with the Remedial Investigation/Feasibility Study (RI/FS) documents of CERCLA.

This evaluation is being conducted pursuant to CERCLA, otherwise known as Superfund. The action taken at this site may involve either a short-term removal action or a long-term remedial response action that may include but is not limited to the following activities: (1) No action; (2) removal of hazardous materials off-site; (3) safe containment of waste on-site; (4) destruction or treatment of the waste on-site; (5) remove the source of groundwater contamination and halt further movement of contamination.

This Notice of Intent (NOI) presents pertinent background information to the public on the proposed scope and content of the RI/FS–EIS. Comments and suggestions for consideration in its preparation are invited. A public scoping meeting will be held.

Upon completion of the draft RI/FS–EIS addressing environmental concerns at the Ross Complex, the availability of the document will be announced in the **Federal Register.** Comments from the public will again be solicited during a comment period and will be addressed in the final RI/FS–EIS.

SCOPING: The scoping process will involve all interested agencies (Federal, State, and local), groups, and members of the public. Currently under CERCLA, interviews and briefings with citizens in the community are already underway. A Community Relation Plan is being developed to facilitate communication with interested people and incorporate public input into the decision-making process.

DATES: A public scoping meeting will be held at the Ross Complex DOB–1 Building, 5411 NE. Highway 99, Vancouver, Washington at 7 p.m., on May 22, 1990. The specific time and location will be mailed to interested parties and published in local newspapers or can be obtained by calling the phone numbers listed below. Written comments or suggestions postmarked by May 31, 1990, will be considered in the course of implementing the CERCLA/NEPA process and its documentation. Comments or suggestions postmarked after that date will be considered to the maximum extend practicable.

ADDRESSES: Written comments should be submitted through The Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Mr. John Straub, Ross Complex Facilities Manager, Bonneville Power Administration, P.O. Box 491, Vancouver, Washington, 98666, 206–690–2070 or Ms. Jo Ann C. Scott, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97222, telephone 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland; 800–547–6048 for Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California.

Information regarding the Ross Compex RI/FS–EISA may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. John Lebens, Area, State and Local Government Coordinator, suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4558.

Mr. Anthony R. Morrell. Assistant to the Administrator, Environment, Bonneville Power Administration (AJ), P.O. Box 3621, Portland, Oregon 97208, 503–230–5137.

Ms. Gloria J. Lenz, Ross Complex Project Manager, Bonneville Power

Administration, P.O. Box 491, Vancouver, Washington 98666, 206–690–2464.

Information regarding DOE policies for compliance with NEPA may be obtained from:

Ms. Carol M. Borgstrom, Director, Office of NEPA Project Assistance, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–4600.

Information regarding DOE policies for compliance with CERCLA may be obtained from:

Mr. John C. Tseng, Director, Office of Environmental Guidance and Complicance, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–5680.

SUPPLEMENTARY INFORMATION:

I. Site Description

The Ross Complex is located on Highway 99 within the city limits of Vancouver, Washington. The Complex is an active facility owned and operated by BPA since 1939. Ross serves as the control center for the transmission of electricity throughout the Pacific Northwest. Since its construction, the Ross Complex has provided research and testing facilities, as well as maintenance, construction, operations, and waste handling and storage for EPA.

Studies conducted (Preliminary Assessment and Site Investigation) indicate potential soil contamination hazards resulting from polychlorinated biphenyls, organic and inorganic compounds, and heavy metals and potential groundwater contamination by solvents.

As part of its statutory responsibilities under CERCLA, and in accordance with NEPA requirements, BPA plans to conduct a comprehensive public and agency review of any proposed federal actions significantly affecting the environment at the Ross Complex. The Record of Decision (ROD) compiled for the Ross Complex will be presented to assure that all impacts of the response action are properly assessed.

II. Proposed Action and Alternatives

The planned investigation will consist of two major parts: A Remedial Investigation (RI) and a Feasibility Study (FS), which will incorporate the EIS obligations imposed by NEPA.

The RI will explore and characterize the nature and extent of contamination at the Ross Complex. Bench or pilot tests of potential waste treatment technologies will be conducted as appropriate. Also, a baseline risk assessment will be conducted to identify the primary health and environmental threats at the Complex.

During the FS, waste treatment technologies will be screened, remedial alternatives will be identified and screened, general performance criteria for each alternative will be developed, and a detailed evaluation and comparison of reasonable alternatives will be performed. The results of the environmental process will be presented in a series of reports. BPA expects to issue a draft RI/FS–EIS addressing the Ross Complex in March 1992 for a 45-day public comment period. Also, at this time there will be public meetings so that oral as well as written comments can be obtained on the draft documents. In September 1992, BPA expects to issue the final RI/FS–EIS, which will include the responses to public comments received on the draft reports. BPA will select a remedial action alternative for the Complex in a NEPA/CERCLA Record of Decision. Since the Ross Complex has been placed on the National Priorities List, the final remedial action will be selected by the Administrator of BPA and the Administrator of EPA Region X, in consultation with the Washington State Department of Ecology.

Public participation in the environmental review and analysis process at Ross is encouraged. In addition to the scoping meeting, public information meetings will be held when significant new phases of the work are planned, when important new information becomes available, or when community concern warrants a meeting. Fact sheets, technical reports, and other information relating to the activities at the Ross Complex will be available from BPA, or can be reviewed at the Ross Complex. A formal record will be placed in the Vancouver Public Library at: 1007 East Mill Plain Boulevard, Vancouver, WA 98663.

Issued in Portland, Oregon, on April 9, 1990.

Steven G. Hickok,

Executive Assistant Administrator, Bonneville Power Administration.

[FR Doc. 90–9835 Filed 4–26–90; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et. seq.) The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–11.
3. 1902–0032.
4. Natural Gas Pipeline Company Monthly Statement.
5. Extension.
6. Monthly reporting.
7. Mandatory.
8. Businesses or other for profit.
9. 46 respondents.
10. 552 responses.
11. 8 hours per response.
12. 4416 hours (total).
13. The purpose of this monthly statement is to develop statistics and studies investigating the reasonableness of the various revenue and cost of service items claimed in section 7 certificates and section 4 and 5 rate filings. (FERC Form No. 11).

Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. Subsections 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, April 23, 1990.

Yvonne Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90–9836 Filed 4–26–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF84–455–001]

General Electric Co.—Erie Plant; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

April 20, 1990.

On April 12, 1990, General Electric Company (Applicant), Transportation Systems Business Operations, 2901 East Lake Road, Erie, Pennsylvania 16531, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Building 4E of Applicant's Transportation System Business Operation Plant at 2901 East Lake Road, Erie, Pennsylvania. The facility consists of three No. 2 fuel oil fired diesel engine generator sets and a waste heat recovery boiler. Thermal energy recovered from the facility will be used for various manufacturing processes and for space heating at the Erie Plant. The facility was originally certified on November 16, 1984; 29 FERC ¶ 62,154. The instant recertification is due to a change in design and an increase in net electric power production capacity from 7.95 MW to 8.10 MW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–9756 Filed 4–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF90–132–000]

Giant Refining Co., a Division of Giant Industries Arizona, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 20, 1990.

On April 9, 1990, Giant Refining Co., a division of Giant Industries Arizona, Inc. (Applicant), of 23733 North Scottsdale Road, Scottsdale, Arizona 85255, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Giant's Ciniza Refinery, Ciniza, New Mexico. The facility will consist of two combustion turbine generating units and two heat recovery boilers. Steam produced from the facility will be used at Giant's Ciniza Refinery. The net electric power production capacity of the facility will be 3,366 kW. The primary energy source will be natural gas. The installation of the facility will begin in April, 1990.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–9757 Filed 4–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER89–652–000 et al.]

Wisconsin Power and Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 19, 1990.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Power and Light Company

[Docket No. ER89–652–000]

Take notice that on April 12, 1990 Wisconsin Power and Light Company (WPL) tendered for filing an amendment in the above referenced docket.

Comment date: May 4, 1990, in accordance with Standard paragraph E at the end of this notice.

2. Portland General Electric Company

[Docket No. ER90–322–000]

Take notice that on April 16, 1990, Portland General Electric Company (PGE) tendered for filing its General Transfer Agreement with the Bonneville Power Administration (BPA).

Copies of these agreements have been served on the Distribution List, as included in the filing.

Comment date: May 4, 1990, in accordance with Standard paragraph E at the end of this notice.

3. Orange and Rockland Utilities, Inc.

[Docket No. ER90–64–000]

Take notice that Orange and Rockland Utilities, Inc. (Orange and Rockland) on April 6, 1990 amended its rate filing to revise the energy reservation charge set forth 5a, page 3, of an executed system Power Agreement dated October 1, 1989, between Orange and Rockland and Central Hudson Gas and Electric Corporation (Central Hudson) for the sole of interruptible power and energy by and between Orange and Rockland and Central

Hudson. The revised rate schedule provides for an economy reservation charge not to exceed $13.00/MWH scheduled and an energy charge equal; to the seller's marginal system cost.

Orange and Rockland states that a copy of its amended was served on Central Hudson.

Comment date: May 4, 1990, in accordance with Standard paragraph E at the end of this notice.

4. Central Vermont Public Service Corporation

[Docket No. ER90–151–000]

Take notice that Central Vermont Public Service Corporation (CVPS) and Green Mountain Power Company (GMP) on April 9, 1990 tendered for filing supplements to two Option Power Agreements under which they will sell wholesale power to the Vermont Department of Public Service (the VDPS) and additional information related to the Agreements.

CVPS and GMP requests the Commission to waive its notice of filing requirements to permit the Option Power Agreements to become effective as of July 1, 1989.

Comment date: May 4, 1990, in accordance with Standard paragraph E end of this notice.

5. Central Power and Light Company

[Docket No. ER90–289–000]

Take notice that on April 12, 1990, Central Power and Light Company (CP&L) tendered for filing revised copies of the testimony of Mary E. Sullivan, correcting minor errors. CP&L also tendered Period I and Period II demand studies which were inadvertently omitted from the workpapers accompanying the March 28, 1990 filing in this docket. CP&L also tendered a final depreciation study with regard to the non-nuclear plant, in place of the draft study which was a part of the workpapers in the original filing.

Comment date: May 4, 1990, in accordance with Standard paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–9758 Filed 4–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP90–1199–000, et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

April 20, 1990.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP90–1199–000]

Take notice that on April 17, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–5390, filed in Docket No. CP90–1199–000 a request pursuant to § 157.205 of the Commission's regulations for authorization to construct and operate a two-inch sales tap for the delivery of natural gas to Mississippi Valley Gas Company (Mississippi Valley), a local supply company, for resale to residential customers in its Jackson, Mississippi Billing Area under the blanket certificate issued in Docket No. CP82–430–000, and pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it will supply Mississippi Valley with an estimated average of 87 Mcf per day of natural gas. United proposes to install a two-inch tap on its Jackson-Magnolia six-inch Line located in section 12, T4N, R1W, Hinds County, Mississippi. United states that Mississippi Valley will reimburse it for all costs resulting from the tap installation.

United submits that it is authorized in Docket No. G–232 to provide all of Mississippi Valley's natural gas requirements for resale and distribution through Mississippi Valley's Billing Area and the adjoining area. It is further stated that the effective service agreement for such service is dated February 7, 1980, and provides for sales to Mississippi Valley under United's Rate Schedule DG–N.

According to United, the new sales tap will not result in an increase in Mississippi Valley's aggregate base requirements or contractual MDQ. United states that the total certificated entitlement for Mississippi Valley's Jackson Billing Area is 118,542 Mcf. United submits that the proposed sale is within the limitations set for this particular billing location. United states that the following chart illustrates the impact of its proposal on the Mississippi Valley Jackson Billing Area.

PEAK DAY AND ANNUAL VOLUMES

	Actual Mcf [1]	Proposed additional Mcf [2]	Total Mcf
Peak Day	82,183	600	82,783
Annual	4,855,699	300,000	8,155,699

[1] Data published in United's 1988 FERC Form No. 2.

[2] Data supplied by Mississippi Valley.

United states that it will construct and operate the proposed sales tap in compliance with part 157, subpart F, Appendices I and II of the Commission's Regulations; that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers; and that its tariff does not prohibit the addition of new points.

Comment date: June 4, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Florida Gas Transmission Company

[Docket No. CP90–1178–000]

Take notice that on April 11, 1990, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP90–1178–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service on behalf of Southern Natural Gas Company (Southern), all as more fully detailed in the application which is on file with the Commission and open to public inspection.

FGT proposes to abandon an interruptible transportation service which FGT was performing for Southern pursuant to an agreement filed as Rate Schedule X–6 in FGT's FERC Gas Tariff, Original Volume Number 3, Sheet Nos. 114 through 144. It is stated that the transportation service was authorized by the Commission in Docket No. CP77–349. It is explained that FGT was authorized to transport, on an interruptible basis, up to 100,000 MMBtu equivalent of natural gas per day for Southern from Vermilion Parish, Louisiana, to Washington Parish, Louisiana. It is asserted that FGT is requesting the abandonment in response to Southern's request to terminate its agreement with FGT, because Southern's gas purchase obligations at

Vermilion Block 22 and East Cameron Block 38, offshore Louisiana, have been terminated. It is further asserted that no existing customers of FGT would lose service as a result of the proposed abandonment. FGT states that it will file a request to abandon Rate Schedule X–6 on receipt of abandonment authorization. It is explained that no facilities would be abandoned in connection with the abandonment of the transportation service.

Comment date: May 11, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Company

[Docket Nos. CP90–1207–000, CP90–1208–000, and CP90–1209–000]

Take notice on April 18, 1990, that ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in the referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificate issued in Docket no. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by ANR and is summarized in the attached appendix.

ANR states that each of the proposed services would be provided under an executed transportation agreement, and that ANR would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 4, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper	Peak day [2] average annual	Points of receipt	Points of delivery	Start up date (rate schedule)	Related [3] dockets
CP90–1207–000 (4–18–90)	ANR Pipeline Company.	Fina Oil and Chemical Company.	100,000 100,000 36,500,000	Systemwide	LA, OH, IN, KY	2–23–90 (ITS)	ST90–2321.
CP90–1208–000 (4–18–90)	ANR Pipeline Company.	Phibro Distributors Corp.	250,000 250,000 91,250,000	Systemwide	LA	2–22–90 (ITS)	ST90–2319.
CP90–1209–000 (4–18–90)	ANR Pipeline Company.	Fuel Services Group.	2,000 2,000 730,000	Systemwide	OH, IN, KY	2–21–90 (ITS)	ST90–2244.

[2] Quantities are shown in dth unless otherwise indicated.
[3] If an ST docket is shown, 120-day transportation was reported in it.

United Gas Pipe Line Company

[Docket Nos. CP90–1210–000, CP90–1211–000, and Docket No. CP90–1212–000]

Take notice that United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251–1478, (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 4, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (dated filed)	Shipper name (type)	Peak day average day Annual MMBtu	Receipt [2] points	Delivery points	Start up date, rate schedule, service type	Related docket, contract date
CP90–1210–000 (4–18–90)	Laser Marketing Company (marketer).	618,000 618,000 225,570,000	Various	Various	3–3–90 ITS Interruptible.	ST90–2325–000, 10–1–88.[3]
CP90–1211–000 (4–18–90)	Houston Gas Exchange Corporation (marketer).	103,000 103,000 37,595,000	LA, TX, AL, OTX, MS, OLA.	LA, TX, AL, MS, OTX, FL.	3–12–90 ITS Interruptible.	ST90–2323–000, 10–1–88.[4]
CP90–1212–000 (4–18–90)	Kogas, Inc. (marketer)	206,000 206,000 75,190,000	LA, TX, MS, OLA	LA, TX, MS	2–28–90 ITS Interruptible.	ST90–2322–000, 10–4–88.[5]

[2] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[3] As amended February 21, 1990, (Amendment Number 47).
[4] As amended March 1, 1990 (Amendment Number 10).
[5] As amended February 9, 1990 (Amendment Number 3).

Equitrans, Inc., Equitrans, Inc., and Equitrans, Inc.

[Docket Nos. CP90–1190–000, CP90–1191–000, and CP90–1192–000]

Take notice that Equitrans, Inc., 4955 Steubenville Pike, Pittsburgh, Pennsylvania 15205, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86–553–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[3]

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under § 284.223 of the Commission's Regulations is provided in the attached appendix.

Comment date: June 4, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP90–1190–000 (4–12–90)	Equitrans, Inc	Aston Energy Company	24,500 2,712 325,475	PA, WV	PA, WV	2–28–90, ITS	CP86–553–000, ST90–2495–000.
CP90–1191–000 (4–12–90)	Equitrans, Inc	Paragon Gas Corporation	9,800 2,413 289,653	PA	PA	3–1–90, ITS	CP90–553–000, ST90–2494–000.
CP90–1192–000 (4–12–90)	Equitrans, Inc	Texas-Ohio Gas, Inc	7,840 2,275 1,092,000	PA, WV	PA	3–2–90, ITS	CP86–553–000, ST90–2492–000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Panhandle Eastern Pipe Line Company

[Docket No. CP89–917–003]

Take notice that on April 16, 1990, Panhandle Eastern Pipe Line Company (Panhandle), Post Office Box 1642, Houston, Texas 77251–1642 filed in Docket No. CP89–917–003 pursuant to sections 7(b) and 7(c) of the Natural Gas Act an amendment to an application to amend the types and levels of service provided to small volume customers on the Panhandle system who have historically been served in accordance with the provisions of Panhandle's Rate Schedule SG. Panhandle states that the amendment proposes service for the small volume customers under new Rate Schedules SSS and SCT and represents the results of a negotiated settlement among the parties to the consolidated proceedings in Docket Nos. RP88–262–000 and CP89–917–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that the original application in Docket No. CP89–917–000 was prompted by certain changes in the rate structure and tariff provisions applicable to Panhandle's small volume customers included in another proceeding, Docket No. RP88–262–000. In that docket, Panhandle states that it filed a general rate change which, among other things, created new opportunities for Panhandle's SG customers to transport gas on the Panhandle system. It is stated that this was accomplished by the elimination of the previously applicable sole supplier provisions in Rate Schedule SG, and by a change from a one-part commodity rate to a three-part demand/commodity type rate structure as is applicable to other sales customers on the Panhandle system. Panhandle avers that by order dated October 31, 1988, 45 FERC ¶ 61,145, the Commission suspended Panhandle's rate filing to be effective April 1, 1989, subject to refund. In conjunction with that filing, Panhandle states that it met with its SG customers to discuss the implementation of the Commission's order and their desired type and level of service.

According to Panhandle, it became evident that numerous customers were interested in reducing their current contract demand levels under Rate Schedule SG as well as obtaining some level of transportation services on the Panhandle system. Panhandle states that subsequently, the Commission recognized the relationship between Panhandle's application in this proceeding and the underlying rate and tariff matters. As a result, it is stated that the Commission consolidated the two proceedings, 46 FERC ¶ 61,420 (1989).

Panhandle states that over the past several weeks, all of the parties to the consolidated proceedings entered into extensive settlement discussions which resulted in the submission of a Stipulation and Agreement which is intended to settle all matters relating to Docket No. CP89–917–000. Panhandle submits that the parties have agreed that Panhandle should file the instant amendment to its pending application and that the application, as amended, should be approved in conjunction with the approval of the Stipulation and Agreement. Specifically, Panhandle requests authorization to provide jurisdictional services to its customers as specified by the provisions of new Rate Schedules SSS and SCT. It is stated that Rate Schedule SSS pertains to year-round sales service which shall be available to any customer (1) served under Rate Schedule SG on March 31, 1989; (2) with a contract demand that does not exceed 10,000 Mcf per day (Mcfd); and (3) who agrees that Panhandle shall be its sole supplier of natural gas. Panhandle avers that each customer seeking service under Rate

Schedule SSS shall enter into a new service agreement for that service.

It is further stated that Rate Schedule SCT pertains to firm transportation service and is available to customers who were served under Rate Schedule SG on March 31, 1989, and who do not seek service under Rate Schedule SSS. According to Panhandle, firm transportation service under Rate Schedule SCT cannot exceed 10,000 Mcfd and rates shall be designed on a one part volumetric basis. Additionally, Panhandle states that customers seeking service under Rate Schedule SCT must enter into a new service agreement for that service.

Panhandle states that this amendment represents the results of a negotiated settlement among the parties to the consolidated proceedings in Docket Nos. RP88–262–000 and CP89–917–000. Panhandle further states that implementation of service under the proposed new rate schedules will enable small volume customers to obtain a agreat deal of flexibility. Also, Panhandle states it will permit a continuation of the historic type of sale service that small volume customers have obtained in the past, if that is desired, and in addition will permit customers the option of obtaining a combination of sales and transportation services in a manner which recognizes the unique needs of small volume customers on the Panhandle system.

Comment date: May 11, 1990, in accordance with Standard Paragraph F at the end of this notice.

Northern Natural Gas Company, Division of Enron Corporation

[Docket No. CP90–1180–000]

Take notice that on April 11, 1990, Northern Natural Gas Company, Division of Enron Corporation (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP90–1180–000 a request pursuant to §§ 157.205 and 284.223(b) of the Federal Energy Regulatory Commission's (Commission) Regulations under the Natural Gas Act for authorization to provide transportation service on behalf of Mobil Natural Gas Inc. (Mobil), a marketer of natural gas, under Northern's blanket certificate issued in Docket No. CP86–435–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Northern proposes to transport up to 100,000 MMBtu equivalent of natural gas on a peak day, 75,000 MMBtu equivalent of natural gas on an average day, and 36,500,000 MMBtu equivalent of natural gas annually for Mobil. The transportation would be from various receipt points on Northern's system for redelivery at various other points on its system as provided for in the transportation service agreement between the parties. It is explained that no new facilities would be required to effect such service.

Northern states that the filing required for the transportation service on behalf of Mobil was made on February 28, 1990, under the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations, as reported with the Commission in Docket No. ST90–2120–000.

Comment date: June 4, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90–9755 Filed 4–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA90–36–000]

Green Mountain Power Corp.; Filing

April 20, 1990.

Take notice that on March 27, 1990 Green Mountain Power Corporation ("the Company") tendered for filing an Offer of Settlement directed to the four conditions specified in *Iowa-Illinois Gas and Electric Company*, 39 FERC ¶ 61,055 (1987) for retention of amounts collected through the wholesale fuel adjustment clause prior to April 1983 for Spent Nuclear Fuel Disposal Costs ("SNFDC"). The Company states that its Offer of Settlement shows (1) that it concedes the impropriety of the collection of those amounts through the fuel clause without prior authorization by the Commission, (2) that there has been no "double recovery" of SNFDC, (3) that all amounts refunded to the Company for SNFDC related to fuel burned before April 7, 1983 have been flowed through to the customers and (4) that the Company "Held" no funds and therefore no deduction from rate base was required.

The Company states that this filing has been posted as required by the Commission's regulations and that it has served copies of this filing upon the affected wholesale customers, the New Hampshire Public Utilities Commission, and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214

or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 4, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-9759 Filed 4-26-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-26-NG]

Cherhill Resources Inc.; Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Deparment of Energy (DOE) gives notice of receipt on April 11, 1990, of an application filed by Cherhill Resources Inc. (Cherhill) for blanket authorization to import up to 137 MMcf of Canadian natural gas per day and up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date of the first delivery. Cherhill intends to use existing pipeline facilities for transportation of the volumes imported and proposes to submit quarterly reports giving details of individual transactions.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., May 29, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H-055B, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1789.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Cherhill, a Nevada corporation with its principal place of business in Reno, Nevada, is a wholly owned subsidiary of Cherhill Resources Limited. Cherhill proposes to purchase natural gas from its Canadian affiliate and from various other Canadian producers on a short-term basis, for its own account and for the account of others, for resale to pipelines, local distribution companies, electric utilities and commercial and industrial end-users. The specific terms of each import transaction would be negotiated on an individual basis in response to prevailing gas market conditions.

The specific location where the gas would enter the U.S. may vary for different transactions with delivery points to be established during sales contract negotiations. In support of its application, Cherhill asserts that its transactions would be premised upon the imported gas being competitive with other supply alternatives, and that, if it is not, there would be no imports.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the requested import authority. The applicant asserts that imports made under this requested arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion. All parties should be aware that if this blanket import authorization is granted the authorization may permit the import of gas at any existing point of pipeline interconnecting facilities on the U.S.-Canadian border. Additionally, all parties should be aware that if this authorization is granted a total authorized volume for the two-year term may be designated, rather than a daily or annual limit, to provide the applicant with maximum flexibility of operation.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices on intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official

record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Cherhill's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 23, 1990.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–9838 Filed 4–26–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–15–NG]

Development Associates, Inc.; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 8, 1990, of a request by Development Associates, Inc. (DA), to amend and extend its blanket authorization to import natural gas from Canada. DA, a Washington corporation, is currently authorized by DOE/ERA Opinion and Order No. 231 (Order 231) (1 ERA Para. 70, 765), issued March 22, 1988, and filed in ERA Docket No. 87–69–NG, to import up to 30 Bcf of natural gas from Canada for a two-year term ending March 30, 1990. DA is requesting that its authorization be (1) Amended to allow it to import up to 40 Bcf from Canada, and (2) extended for a period of two years beyond March 30, 1990, when its present authorization expires. The DOE intends to process DA's request as a filing for a new blanket authorization to import up to 40 Bcf from Canada during a two-year term beginning on the date of first delivery.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than 4:30 p.m., e.d.t., May 29, 1990.

ADDRESSES:

Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

John S. Boyd, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–4523

Michael T. Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667

SUPPLEMENTARY INFORMATION: DA is a wholly owned subsidiary of The Washington Water Power Company. DA acts as agent on behalf of several large industrial and institutional end-users, as well as local distribution companies, procuring gas supplies and arranging their importation, transportation, and delivery. The gas will be obtained from individual producers, producer groups and associations, and pipeline companies on a short-term basis. DA asserts that the terms and conditions of each supply contract will be determined as a result of negotiations between itself and Canadian suppliers and would be responsive to competitive market forces in the U.S. domestic gas market.

The company requests that it be permitted to import up to 40 Bcf over a two-year term. It maintains that the increase in volume is necessary to supply the needs of end-use customers and local distribution companies who want to purchase natural gas in the spot market on competitive terms.

DA states that proposed importation of gas will use the existing pipeline facilities of either Northwest Pipeline Corporation or Pacific Gas Transmission Company and that it will submit quarterly reports giving the details of individual transactions.

In its latest quarterly report filed with FE, DA states that its records indicate that 27.02 Bcf of natural gas was imported under Order 231 through December 1989.

DA has not requested expedited treatment of its application and is aware there will be a gap between the time its present import authorization ends and its proposed import authorization, if approved, would begin.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement will be competitive and thus in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), (42 U.S.C. 4321 *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any

request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties under this notice, in accordance with 10 CFR 590.316.

A copy of DA's application is available for inspection and copying in the Office of Fuels Programs Docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 23, 1990.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–9837 Filed 4–26–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–27–NG]

Transco Energy Marketing Co.; Application to Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on April 11, 1990, of an application filed by Transco Energy Marketing Company (TEMCO), requesting blanket authorization to export up to 150,000 dekatherms of natural gas per day, a cumulative maximum of 109 Bcf over a two-year period, from the United States to Mexico beginning on the date of first delivery. TEMCO states that it intends to use existing pipeline facilities within the U.S. for the proposed gas exports and that it will submit quarterly reports giving the details of individual transactions

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t, May 29, 1990.

ADDRESSES:

Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

John S. Boyd, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4523.

Diane J. Stubbs, Natural Gas and Mines Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: TEMCO is a Delaware corporation with its principal place of business in Houston, Texas. TEMCO is a wholly-owned subsidiary of Transco Energy Services Company, which is a subsidiary of Transco Energy Company. TEMCO purchases and resells natural gas in the spot market. The company obtains gas from a variety of sources and resells it. It also acts as an agent on behalf of both producers and purchasers in securing transportation for such gas when necessary. TEMCO intends to participate in short-term or spot market sales of such gas to Mexican customers. The company requests authorization to export for its own account, as well as the account of its U.S. suppliers and Mexican purchasers.

TEMPO states that it expects most transactions to be for terms of 30 days but that they could possibly extend for the term of the authorization. Contracts will be the product of arms-length negotiations with emphasis on competitive prices and flexibility. The company expects that market conditions will cause the price of the exported gas to be adjusted on a monthly basis.

This export authorization will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested authority. The applicant asserts that the proposed exports would be over and above U.S. regional and national needs and that producers and the States where the gas would be produced would benefit from the incremental sales. Parties opposing this arrangement bear the burden of overcoming these assertions. All parties should be aware that if this blanket export authorization is granted, the authorization may permit the export of the gas at any point of exit on the international border between the United States and Mexico where existing pipeline facilities are located. Additionally, all parties should be aware that if this authorization is approved, a total amount of authorized volumes may be designated for the two-year term rather than a daily or annual limit, to provide the applicant with maximum flexibility of operation.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in

determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additonal written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to the decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, a notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of TEMCO's application is available for inspection and copying in the Office of Fuels Programs Docket room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 23, 1990.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-9839 Filed 4-26-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3759-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 9, 1990 through April 13, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EIS's

ERP No. D-AFS-K61102-CA, Rating EO2, Sierra Ski Ranch Area Project, Expansion, Eldorado National Forest, Special Use Permit and section 404 Permit, Eldorado County, CA.

Summary: EPA expressed environmental objections due to potential project impacts to water quality and wetlands. The project may not comply with section 404(B)(1) of the Clean Water Act and additional information on feasible and practicable means to avoid and/or reduce adverse wetlands impacts is needed. EPA also expressed concerns regarding the project's potential to degrade the American River's water quality.

ERP No. D-FHW-K40175-CA, Rating EO2, CA-125 Construction, Fletcher Parkway to CA-52, Funding, San Diego County, CA.

Summary: EPA expressed environmental objections because of an insufficient alternatives analysis, an insufficient air quality analysis and an apparent lack of coordination with the Army Corps of Engineers to determine the need for a Clean Water Act section 404 permit.

ERP No. D-IBR-K34007-CA, Rating EC2, Lake Berryessa Reservoir Area Management Plan, Land and Water Management, Implementation, Napa County, CA.

Summary: EPA expressed environmental concerns due to potential adverse impacts to water quality, beneficial uses and wetlands from a variety of land, water surface and concession management actions.

ERP No. D-USA-B11010-00, Rating EC2, Fort Huachuca, Fort Devens and Fort Monmouth Base Realignment Transfer of Missions and Functions, Implementation, Cochise County, AZ, Worcester and Middlesex Counties, MA and Monmouth County, NJ.

Summary: EPA recommended that the Army coordinate with EPA during site specific realignment moves and construction/renovation activities to avoid potential impacts to hazardous waste cleanups, hazardous waste management, wetlands and sensitive/unique resources. EPA requested that the Army continue coordination regarding consistency of Fort Devens' activities relative to the Base IRP Plan and CERCLA as amended by SARA. Finally, EPA requested that the final EIS and ultimately the Record of Decision (ROD) identify the Armys' commitments to conduct additional studies and mitigation measures which are identified in the draft EIS.

Final EIS's

ERP No. F-AFS-J61071-UT, Seven Peaks All Season Ski Resort, Development and Management, Special Use Permit, Provo Peak Basin Area, Uinta National Forest, Utah County, UT.

Summary: EPA has environmental objections to the proposed Seven Peaks Resort Based on its potential to delay attainment of national air quality standards. EPA believes that additional analysis and information regarding air quality and wetlands is needed.

ERP No. F1-BLM-J70005-WY, Whiskey Mountain and Dubois Badlands WSA, Wilderness Recommendations, Designation or Nondesignation, Lander Resource Area, Rawlins District, Fremont County, WY.

Summary: EPA finds that there are no significant impacts associated with this proposal to reassign 2 small Wilderness Study Areas (WSAs) to nonwilderness status.

ERP No. FS-FHW-K40078-CA, US 101 Bypass Construction, Mae Bridge to Humboldt and Del Norte County Line, Gravel Extraction for the completion of State III of the Redwood National Park Bypass Project, Funding and section 10 and 404 Permits, Redwood National Park and Prairie Creek Redwood State Park, Humboldt and Del Norte Counties, CA

Summary: Review of the final supplemental EIS was not deemed necessary. No formal letter was sent to the agency.

ERP No. FS-IBR-J05016-UT, Diamond Fork Power System Project, Original Plan Reduction, Bonnerville Unit, Central Utah Project, Approval and Funding, Utah and Wasatch Counties, UT.

Summary: EPA feels the Bureau of Reclamation has made a number of

program commitments to insure acceptable levels of impact and to insure water quality and water flows. Assuring that monitoring and evaluation procedures are implemented as planned, EPA has no objections to this project.

Dated: April 24, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-9857 Filed 4-26-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3759-6]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed April 16, 1990 Through April 20, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900125, Final, BLM, WY, Lander Resource Area Wilderness Recommendations, Lankin Dome, Split Rock, Savage Peak, Miller Springs, Copper Mountain and Sweetwater Canyon Wilderness Study Areas (WSA's) Designation or Nondesignation, Rawlins District, Fremont, Natrona, Carbon, Sweetwater and Hot Springs Counties, WY, Due: May 29, 1990, Contact: Rick Colvin (307) 324-1717.

EIS No. 900126, Final, AFS, ID, Boise National Forest, Land and Resource Management Plan, Implementation, Ada, Boise, Gem, Elmore, Valley and Washington, ID, Due: May 29, 1990, Contact: Dave Rittersbacher (208) 364-4161.

EIS No. 900127, Draft, HUD, TX, Stonebridge Ranch Development Project, Mortgage Insurance, Section 404 Permit, City of McKinney, Collin County, TX, Due: June 11, 1990, Contact: I.J. Ramsbottom (817) 885-3488.

EIS No. 900128, Draft, UAF, CA, Beale Air Force Base Realignment Relocation of 323rd Flying Training Wing out of Mather AFB, Implementation, Yuba County, CA, Due: June 11, 1990, Contact: Kevin Marek (402) 294-5854.

EIS No. 900129, Final, COE, WY, Jackson Hole Flood Protection/Levee Maintenance Plan, Operation and Maintenance (O&M), Snake and Gros Ventre Rivers, Funding, Teton County, WY, Due: May 29, 1990, Contact: William MacDonald (509) 522-6625.

EIS No. 900130, Draft, AFS, CA, Plumas National Forest Prototype Project, Augmenting Snow Pack by Cloud Seeding Using Ground Based Dispensers, Implementation, Plumas and Sierra Counties, CA, Due: June 15, 1990, Contact: R.C. Bennett (916) 283-1367.

Amended Notices

EIS No. 900045, Draft, AFS, CA, Sierra Ski Ranch Area Project, Expansion, Eldorado National Forest, Special Use Permit and Section 404 Permit, Eldorado County, CA, Due: May 17, 1990, Contact: Brian Morris (916) 622-5061. Published FR 2-16-90—Review period extended.

EIS No. 900095, FSuppl, AFS, OK, AR, Ouachita National Forest, Amended Land and Resource Management Plan, Updated and Additional Information with emphasis on the Issue of Even-Age and Uneven-Age Management, Implementation, LeFlore and McCurtain Counties, OK and Several, AR, Due: May 29, 1990, Contact: R. Gary Pierson (501) 321-5202. Published FR 3-23-90—Refiled due to noncompliance of distribution. The 30 day NEPA wait period is calculated from 4-27-90.

EIS No. 900117, Draft, FHW, WI, MN, Stillwater-Houlton Transportation System, MN-Trunk Highway-36 and WI-Trunk-Highway-64 Improvements, MN-Trunk-Highway-36 and Washington County State-Aid-Highway-15 to WI-Trunk Highway-64 near the Croix River Bridge, Funding, US Coast Guard Bridge Permit, COE section 10 and 404 Permits, St. Croix, WI and Washington County, MN., Due: June 8, 1990, Contact: Alan Friesen (612) 290-3236. Published FR-4-20-90—Title correction.

Dated: April 24, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-9856 Filed 4-26-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL No. 3759-2]

Three Regional Public Meetings To Discuss Design of National Program of Ecological Research, Including Potential Establishment of National Ecological Research Institute

A. Background

In late 1988 the EPA Science Advisory Board (SAB) recommended that EPA provide Federal leadership in establishing an enlarged, better coordinated program of national ecological research. The SAB further recommended that an "institute" be established to implement such an expanded program.

EPA, following the guidelines of the SAB, has formulated a framework for a significantly expanded program of ecological research. The specific elements of the research program and the appropriate institutional arrangements to accomplish the program have not yet been determined.

B. Meetings

The EPA Office of Research and Development, in cooperation with selected EPA Regional offices, will conduct three public discussions of the proposed national program of ecological research and major institutional arrangement options for support of such a program at the following dates, times and location:

Location: Chicago, Illinois.

Site: Ramada Hotel O'Hare, 6600 N. Mannheim Rd., Rosemont, Illinois 60018.

Date/Time: Tuesday, May 22, 1990, 9:30 a.m.-5:00 p.m.

Local Contact: Louis J. Blume, U.S. EPA Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-2910.

Location: Seattle, Washington.

Site: Seattle Hilton Hotel, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1295.

Date/Time: Wednesday, May 30, 1990, 9:30 a.m.-5:00 p.m.

Local Contact: Patricia Dooley, U.S. EPA—Region X, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1295.

Location: Philadelphia, Pennsylvania.

Site: Holiday Inn Independence Mall, 400 Arch Street, Philadelphia, Pennsylvania 19106.

Date/Time: Thursday, June 7, 1990, 9:30 a.m.-5:00 p.m.

Local Contact: Jayne Dahm, U.S. EPA Region III, Mail Code 3E541, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-7828.

Individuals or organizational representatives planning to attend any of the meetings are requested to inform the listed local contact person 10 days prior to the designated date to assure that adequate space is available for all interested participants.

Substantial time will be provided for questions and answers and public comment. Written statements for the record will be accepted and are preferred in order to assure full opportunity for all to participate. Written statements may also be submitted to the contact person within 14 days following each meeting for those not able to attend in person.

Erich W. Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 90-9795 Filed 4-26-90; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59888; FRL 3741-9]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13,1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 9 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 90-186, 90-187, 90-188, 90-189, April 29, 1990.

Y 90-190, April 30, 1990.

Y 90-191, 90-192, May 1, 1990.

Y 90-193, 90-194, May 2, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 90-186

Manufacturer. Dianal America, Inc.

Chemical. (S) 2-Propenoic acid, 2-methyl-, potassium salt; 2-propenoic acid, 2-methyl-.

Use/Production. (S) Suspension stabilizer of polymerization. Prod. range: 1,000-1,400 kg/yr.

Y 90-187

Manufacturer. Dianal America, Inc.

Chemical. (S) 2-Propenoic acid, 2-methyl-, 2-methylpropyl ester; 2-propenoic acid, 2-methyl-, 2-(diethylamino-)ethyl water.

Use/Production. (S) Binder for printing inks and vehicle for paints. Prod. range: 175,000-525,000 kg/yr.

Y 90-188

Manufacturer. Dianal America, Inc.

Chemical. (S) 2-Propenoic acid, 2-methyl-, potassium salt; 2-propenoic acid, 2-methyl-; 2-propenoic acid, 2-methyl-, 2-sulfoethyl ester, sodium salt.

Use/Production. (S) Suspension stabilizer of polymerization. Prod. range: 1,100-2,500 kg/yr.

Y 90-189

Manufacturer. Dianal America, Inc.

Chemical. (S) 2-Propenoic acid, ethyl; 2-propenoic acid, methyl; 2- propenoic acid, 2-methyl-; 2-propenoic acid, 2-methyl-, ethyl.

Use/Production. (S) Binder for printing inks and vehicle for paints. Prod. range: 150,000-450,000 kg/yr.

Y 90-190

Manufacturer. Brewer Science Inc.

Chemical. (G) Aromatic polyamic acid.

Use/Production. (S) Polyimide coating for use in electronic and optoelectronic devices and associated packaging. Prod. range: Confidential.

Y 90-191

Manufacturer. Confidential.

Chemical. (G) Starch graft copolymer latex.

Use/Production. (G) Open, nondispersive use as a binder for paper coatings. Prod. range: Confidential.

Y 90-192

Manufacturer. Amoco Chemical Company.

Chemical. (G) Polyalkylarylether.

Use/Production. (G) Additive used in energy production. Prod. range: Confidential.

Y 90-193

Manufacturer. Confidential.

Chemical. (G) Polymerized olefin polyester.

Use/Production. (S) Additive used in energy production. Prod. range: Confidential.

Y 90-194

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Additive used in the plastic industry. Prod. range: Confidential.

Dated: April 19, 1990.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-9859 Filed 4-26-90; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 20, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW, Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: None.

Title: 800 MHz Construction Letter.

Form Number: FCC Form 800A.

Action: New collection.

Respondents: Individuals or households, businesses or other for-profit (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 4,000 Responses; 4,000 Hours.

Needs and Uses: In accordance with FCC Rules, licensees are required to complete FCC Form 800A to verify a station has been placed in operation. The data is used by Commission staff to determine whether the licensee is entitled to their authorization to operate. It also ensures efficient spectrum utilization.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-9761 Filed 4-26-90; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1815]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

April 23, 1990.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202–857–3800). Oppositions to these petitions must be filed on or before May 14, 1990. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.606(b) Table of Allotments TV Broadcast Stations. (London, Kentucky). Number of Petitions filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Cottonwood, Wickenburg and Winslow, Arizona). Number of Petitions filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Warrenton, Georgia). Number of Petitions filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Punxsutawney and Brookville, Pennsylvania). Number of Petitions filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Glasgow, Kentucky) (RM–6750). Number of Petitions filed: 1.

Subject: Implementation of BC Docket No. 80–90 to Increase the Availabilty of FM Broadcast Assignments. (MM Docket No. 84–231). Number of Petitions filed: 2.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Rapid City, South Dakota) (MM Docket No. 88–540 RM–6546). Number of Petitions filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Salem and Sioux Falls, South Dakota) (MM Docket No. 89–53 RM–6614). Number of Petitions filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Churchville and Luray, Virginia) (MM Docket No. 89–95 RM–6569). Number of Petitions filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Marlin and Dublin, Texas) (MM Docket No. 89–128 RM–6996). Number of Petitions filed: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–9762 Filed 4–26–90; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011233–002.

Title: USA-East African Discussion Agreement.

Parties:

The Bank Line, Ltd.
Lykes Bros. Steamship Co., Inc.
P&O Containers, Ltd.

Independent Carrier Parties

A.P. Moller-Maersk Line.
Compagnie Generale Maritime.
Mediterranean Shipping Company S.A.

Synopsis: The proposed amendment would delete P&O Containers, Ltd. as a Conference carrier and would add P&O Containers Ltd. and P&O Containers (TFL) Ltd. as Independent Carrier Parties.

By Order of the Federal Maritime Commission.

Dated: April 23, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–9844 Filed 4–26–90; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200347.

Title: Jacksonville Port Authority/ Ivaran Rederi Terminal Agreement.

Parties:

Jacksonville Port Authority (JPA).
Ivaran Rederi (IR).

Synopsis: The Agreement provides for JPA to grant IR discounts from JPA's tariff for wharfage (10 percent) and receiving and delivering of containers and chassis (30 percent). IR will guarantee 24 vessel calls per year at the Port of Jacksonville.

Agreement No.: 224–200060–015.

Title: Port of New Orleans/Coastal Cargo Company Terminal Agreement.

Parties:

Port of New Orleans.
Coastal Cargo Company (Coastal).

Synopsis: The Agreement amends the basic agreement. It provides for Coastal to exercise an option to re-let 10 sections of the leased premises and have its rent increased proportionately.

Agreement No.: 224–200348.

Title: Alabama State Docks Dept./ Golden Stevedoring Company, Inc. Terminal Service Agreement.

Parties:

Alabama State Docks Department (Department).
Golden Stevedoring Company, Inc. (Permittee).

Synopsis: The Agreement provides for cargo and freight handling services at the Department's facilities located at the Port of Mobile, Alabama. Permittee shall perform its services under the terms of this agreement and the Department's Tariff No. 1–C. The primary term of the Agreement shall expire December 31, 1990. Thereafter, the term of the agreement shall be automatically renewed from year-to-year for additional one-year terms unless the Department or the Permittee has reasonable cause not to continue this agreement and gives written notice to the other at least six months prior to the

expiration of the primary term or any renewal term that it will not renew.

Agreement No.: 224–200165–001.

Title: Maryland Port Administration/ Ceres Corporation, Inc. Terminal Agreement.

Parties:

Maryland Port Administration.

Ceres Corporation, Inc. (Ceres).

Synopsis: The Agreement amends the basic agreement to eliminate portions of land and improvements used by Ceres at the Dundalk Marine Terminal. All other terms of the basic agreement remain in full force and effect.

By Order of the Federal Maritime Commission.

Dated: April 23, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–9845 Filed 4–26–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Harris Trust and Savings Bank; Establishment of U.S. Branch of Corporation Organized Under Section 25(a) of Federal Reserve Act

An application has been submitted by a corporation organized under § 211.4(f) of the Board's Regulation K (12 CFR 211.4(f)), for the Board's approval of the etablishment of an Agreement Corporation. The factors that are to be considered in acting on the application are set forth in section 211.4(f) of the Board's Regulation K (12 CFR 211.4(f)).

The application may be inspected at the offices of the Federal Reserve Bank listed. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than May 16, 1990.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, DC 20551.

1. *Harris Trust and Savings Bank,* Chicago, Illinois; to establish an Agreement Corporation, and for that Agreement Corporation to establish a wholly-owned trust and investment subsidiary in the Channel Islands pursuant to § 211.5(c) (3) of Regulation K.

Board of Governors of the Federal Reserve System, April 23, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–9792 Filed 4–26–90; 8:45 am]

BILLING CODE 6210–01–M

William Beverly Middleton, Jr., et al; Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 11, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 100 Marietta Street NW., Atlanta, Georgia 30303:

1. *William Beverly Middleton. Jr.,* Plaquemine, Louisiana; to acquire an additional 0.05 percent of the voting shares of Citizens Bancorporation, Inc., Plaquemine, Louisiana, and thereby indirectly acquire Citizens Bank and Trust Company, Plaquemine, Louisiana. Applicant has also applied to acquire up to 15 percent of the voting shares of Citizens Bancorporation, Inc., as part of a stock redemption.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Oren Lee Benton,* Denver, Colorado; to acquire an additional 91.67 percent of the voting shares of Belcaro Bank, Glendale, Colorado, for a total of 100 percent.

2. *Charles Boepple,* Goltry, Oklahoma; to acquire an additional 3.0 percent of the voting shares of Goltry Bancshares, Inc., Goltry, Oklahoma, for a total of 25.5 percent, and thereby indirectly acquire First State Bank of Goltry, Goltry, Oklahoma.

3. *C.B. Graft,* Clinton, Oklahoma; to acquire an additional 15.0 percent of the voting shares of Thomas Bancshares, Inc., Thomas, Oklahoma, for a total of 39.96 percent, and thereby indirectly acquire The Bank of the West, Thomas, Oklahoma.

Board of Governors of the Federal Reserve System, April 23, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–9793 Filed 4–26–90; 8:45 am]

BILLING CODE 6210–01–M

Stamford Bank Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 16, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Stamford Bank Corp.,* Stamford, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Stamford, Stamford, New York.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 100 Marietta Street, NW., Atlanta, Georgia 30303:

1. *AmSouth Bancorporation,* Birmingham, Alabama; to acquire 100 percent of the voting shares of First Bank of Maury County, Columbia, Tennessee.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. *Midlothian State Bank Employee Stock Ownership Trust*, Midlothian, Illinois; to acquire an additional 12 percent of the voting shares of Midlothian State Bank, Midlothian, Illinois.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First of Fort Morgan, Inc.*, Fort Morgan, Colorado; to acquire 5.63 percent of the voting shares of First Community Bankshares, Inc., Fort Morgan, Colorado, and thereby indirectly acquire First National Bank of Holyoke, Holyoke, Colorado.

Board of Governors of the Federal Reserve System, April 23, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-9794 Filed 4-26-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Mental Health Statistics: Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the NCVHS Subcommittee on Mental Health Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following Subcommittee meeting.

Name: NCVHS Subcommittee on Mental Health Statistics.

Time and Date: 9:30 a.m.-4:30 p.m., May 24, 1990.

Place: Room 337A-339A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee will discuss the mission statement of the Subcommittee and will begin the initial identification of a statistical survey that will require attention by the Subcommittee.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Center Building, Room 2-12, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7050.

Dated: April 20, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90-9807 Filed 4-26-90; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 90E-0107]

Determination of Regulatory Review Period for Purposes of Patent Extension; Equestrolin ™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Equestrolin ™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA recently approved for marketing the animal drug product Equestrolin ™ (luprostiol). Equestrolin ™ is indicated for mares for estrus control and termination of pregnancy. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Equestrolin ™ (U.S. Patent No. 4,080,458) from Merck Patent Gesellschaft mit Beschrankter Haftung and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated March 26, 1990, advised the Patent and Trademark Office that the animal drug product had undergone a regulatory review period. The letter also stated that the approval of the active ingredient, luprostiol, represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Equestrolin ™ is 1,825 days. Of this time, 905 days occurred during the testing phase of the regulatory review period, while 920 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective:* January 8, 1985. The applicant claims February 5, 1985, as the date the investigational new animal drug (INAD) application became effective. However, FDA records indicate that the date of FDA's official acknowledgment letter assigning a number to the INAD was January 8, 1985, which is considered to be the effective date for the INAD.

2. *The date the application was initially submitted with respect to the animal drug product under section 512(b) of the Federal Food, Drug, and Cosmetic Act:* July 1, 1987. The applicant claims June 30, 1987, as the date the new

animal drug application (NADA) was filed. However, a review of FDA records reveals that the date of FDA's official acknowledgment letter assigning a number to the NADA was July 1, 1987, which is considered to be the submission date for the NADA.

3. *The date the application was approved:* January 5, 1990. FDA has verified the applicant's claim that NADA 140–857 was approved on January 5, 1990.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,096 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 26, 1990, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 29, 1990, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1990.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 90–9850 Filed 4–26–90; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Institute; Meeting; Cancer Biology-Immunology Contracts Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, National Institutes of Health, May 14, 1990, Executive Plaza North, Conference Room H, 6130 Executive Boulevard, Rockville, Maryland 20852.

This meeting will be open to the public on May 14 from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec 10(d) of Public Law 92–463, the meeting will be closed to the public on May 14 from 10 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Lalita D. Palekar, Executive Secretary, Cancer Biology-Immunology Contracts Review Committee, 5333 Westbard Avenue, Room 805, Bethesda, Maryland 20892 (301/496–7575) will furnish substantive program information.

Dated: April 20, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9814 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Frederick Cancer Research Facility (FCRF) Advisory Committe, National Cancer Institute, May 31—June 1, 1990, Building 549, Executive Board Room, at the NCI Frederick Cancer Research Facility, Frederick, Maryland 21701–1013.

The meeting will be open to the public on May 31 from 8:30 a.m. to approximately 9 a.m. to discus administrative matters and future meetings. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on May 31 from approximately 9 a.m. to recess and on June 1 from 8:30 a.m. to adjournment for site visit of research being conducted by the Basic Research Program's Laboratory of Eukaryotic Gene Expression and the Laboratory of Molecular Virology and Carcinogenesis. These discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contractor, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301–496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Cedric W. Long, Executive Secretary, Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, Frederick Cancer Research Facility, Building 427, Frederick, Maryland 21701–1013 (Tel. 301–698–1108; effective June 1 301–846–1108) will provide substantive program information upon request.

Dated: April 20, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9815 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, May 14–15, 1990, Building 31C, Conference Room 10, 6th Floor, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. Meetings of the Subcommittees of the Board will be held at the times and places listed below. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board meeting will be closed to the public in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred J. Lumsden, Committee Management Officer, National Cancer Institute, 9000 Rockville Pike, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and rosters of the Board members, upon request.

Name of Committee: National Cancer Advisory Board.

Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 10A03 Bethesda, MD 20892 (301) 496–5147.

Date of Meeting: May 14–15.

Place of Meeting: Building 31C, Conference Room 10.

Open: May 14—8 a.m. to recess. May 15—approximately 1 p.m. to adjournment.

Agenda: Reports on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; Subcommittee Reports; and New Business.

Name of Committee: AIDS Subcommittee.

Executive Secretary: Dr. Joyce O'Shaughnessy, Building 31, room 11A25, Bethesda, MD 20892 (301) 496–3505.

Date of Meeting: May 14.

Place of Meeting: Building 31C, Conference Room 7.

Open: Immediately following the recess of NCAB meeting until adjournment.

Agenda: To discuss the NCI AIDS program.

Name of Committee: Subcommittee on Cancer Centers.

Executive Secretary: Dr. Brian Kimes, Executive Plaza North, Suite 300, Bethesda, MD 20892 (301) 496–8537.

Date of Meeting: May 14.

Place of Meeting: Building 31C, Conference Room 8.

Open: Immediately following the recess of the NCAB meeting to adjournment.

Agenda: To discuss the Cancer Centers Program and the 5-year Plan.

Name of Committee: Subcommittee on Planning and Budget.

Executive Secretary: Ms. Judith Whalen, Building 31, Room 11A23, Bethesda, MD 20892 (301) 496–5515.

Date of Meeting: May 14.

Place of Meeting: Building 31C, Conference Room 8.

Open: 6:00 p.m. to adjournment.

Agenda: To discuss 1992 by-pass budget assumptions.

Name of Committee: Subcommittee on Information and Cancer Control for Year 2000.

Executive Secretary: Mr. Paul Van Nevel, Building 31, Room 10A31, Bethesda, MD 20892 (301) 496–6631.

Date of Meeting: May 15.

Place of Meeting: Building 31C, Conference Room 7.

Open: 7 a.m. to adjournment.

Agenda: To discuss information activities.

Name of Committee: Subcommittee on Special Actions for Grants.

Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 10A03, Bethesda, MD 20892 (301) 496–5147.

Date of Meeting: May 15.

Place of Meeting: Building 31C, Conference Room 10.

Closed: 8 a.m. to adjournment.

Agenda: Review and discussion of individual grant applications.

Catalog of Federal Domestic Assistance Program Numbers: (13.392, Project grants in cancer construction; 13.393, Project grants in cancer cause and prevention; 13.394, Project grants in cancer detection and diagnosis; 13.395, Project grants in cancer treatment; 13.396, Project grants in cancer biology; 13.397, Project grants in cancer centers support; 13.398, Project grants in cancer research manpower; and 13.399, Project grants and contracts in cancer control.)

Dated: April 20, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9816 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of Biometry and Epidemiology Contract Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, May 3, 1990, Executive Plaza North, conference room G, 6130 Executive Boulevard, Rockville, Maryland 20852.

This meeting will be open to the public on May 3 from 1 p.m. to 2 p.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on May 3 from 2 p.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal provacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Harvey P. Stein, Executive Secretary, Biometry and Epidemiology Contract Review Committee, 5333 Westbard Avenue, room 807, Bethesda, Maryland 20892 (301/496–7030) will furnish substantive program information.

Dated: April 20, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9817 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and its Research Subcommittee and Training Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, May 24–25, 1990, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Training Subcommittee of the above Council will meet together on May 23, in Building 31, Conference room 9.

The Council meeting will be open to the public on May 24 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. sec. 10(d) of Pub. L. 92.463, the Council meeting will be closed to the public from approximately 3:30 p.m. on May 24 to adjournment on May 25 for the review, discussion and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Training Subcommittee of the above Council on May 23, will be closed from 1 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information

concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Council members.

Dr. Ronald G. Geller, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Westwood Building, room 7A–17, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7416, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: April 13, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9810 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of Pulmonary Diseases Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, May 18, 1990, at Boston University Hospital, Evans Building, Wilkins Board room, 80 East Concord Street, Boston, Massachusetts 02118.

The entire meeting, from 1:30 p.m. on Friday, May 18 to adjournment will be open to the public. The Committee will discuss the current status of the Division of Lung Diseases' programs and Committee plans for fiscal year 1991. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, room 6A16, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health.)

Dated: April 16, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9818 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Meeting of the National Advisory Council on Aging

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging (NIA), on May 24–25, 1990. On May 24 the Council will meet in Building 31, Conference room 6, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. until 2 p.m. for a status report by the Director, National Institute on Aging; reports on the Neuroscience and Neurospsychology of Aging Program; the Working Group on Program; and for discussions of program policies and issues, recent legislation, and other items of interst.

The Council will meet on Friday, May 25, in Conference room 1–1117 at the Gerontology Research Center in Baltimore, Maryland. This meeting will be open to the public from 9 a.m. to adjournment for a report on the NIA Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and sec. 10(d) of Public Law 92–463, the meeting of the Council will be closed to the public on May 24 from 2 p.m. to recess for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Council Secretary for the National Institute on Aging, National Institutes of Health, Building 31, room 5C02, Bethesda, Maryland 20892, (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Dated: April 13, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9811 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders, National Deafness and Other Communication Disorders Advisory Council; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council to provide advice to the National Institute on Deafness and Other Communication Disorders on May 14 and 15, 1990, Conference room 6, Building 31, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public May 14 from 8:30 a.m. to recess to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

The meeting of the Advisory Council will be closed to the public on May 15 from 8:30 a.m. to adjournment at approximately 5 p.m. in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Further information concerning the Council meeting may be obtained from Dr. Earleen F. Elkins, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, NIDCD, Federal Building, room 1C09, Bethesda, Maryland 20892, (301) 496–1806. A summary of the meeting and roster of the members may also be obtained from her office.

(Catalog of Federal Domestic Assistance Program No. 13.173 Biological Research Related to Deafness and Communicative Disorders)

Dated: April 20, 1990.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 9819 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Environmental

Health Sciences Council, May 21–22, 1990, in Building 31C, Conference room 9, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on May 21 from 9 a.m. to approximately 3 p.m. for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public May 21, from approximately 3 p.m. to adjournment on May 22, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Winona Herrell, Committee Management Officer, NIEHS, Bldg. 31, Rm. 2B55, NIH, Bethesda, Md. 20892 (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Anne Sassaman, Director, Division of Extramural Research and Training, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, FTS 629–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: April 13, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9812 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

John E. Fogarty International Center for Advanced Study in the Health Sciences; Meeting of the Fogarty International Center Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the fifteenth meeting of the Fogarty International Center (FIC) Advisory Board, May 22, 1990, in the Stone House (Building 16), at the National Institutes of Health.

The meeting will be open to the public from 8:30 a.m. to 3 p.m. The morning agenda will include a report by the Director of the FIC; a report of FIC's congressional appropriations hearings; a status report on FIC program planning working group meeting; and a presentation on FIC's role in the management of NIH's foreign scientists programs.

The afternoon agenda will include a discussion of the Board's 1989 and 1990 Biennial Report to Congress; and a report of the FIC Scholar's conference on "Cellular Mechanisms in Malaria Immunity."

In accordance with the provisions of Secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 3:15 p.m. to adjournment for the review of applications, nominations, and concept proposals for Scholars' conferences.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 38A, room 609, National Institutes of Health, Bethesda, Maryland 20892 (301–496–1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center (Executive Secretary), Building 38A, room 609, telephone 301–496–1491, will provide substantive program information.

Dated: April 13, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–9813 Filed 4–26–90; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, April 13, 1990.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package.)

1. International Collaborative Study of Oral Health Outcomes: USA Replication—0925–0306—This study is to conduct the U.S. portion of an international collaborative study of oral health, designed to provide critical information on contrasting and comparing the effectiveness and efficiency of various national strategies for enhancing oral health. Clinical and social survey data will be collected from consumers, providers, and administrators involved in oral health delivery systems in the Baltimore, Maryland, metropolitan statistical area. An extension, no change of the current OMB approval for the study is necessary in order to complete data collection. *Respondents:* Federal agencies or employees, small businesses or organizations.

	No. of respondents	No. of hours per response	No. of responses per respondent
Individuals/households	7,411	.25 hrs.	1.54
Providers	220	.33 hrs.	1.83

Estimated annual burden, 2,971 hours.

2. National Ambulatory Medical Care Survey (1991/1992)—0920–0234—Data collected by the National Ambulatory Medical Care Survey (NAMCS) from office-based physicians concerning patient visits are aggregated to national statistics. The data are used by the public and private sectors for public health planning, medical education, health manpower assessment, epidemiologic studies, and other medical care utilization research. *Respondents:* Businesses or other for-profit, small businesses or organizations (physicians); *Number of Respondents:* 2,500; *Number of Responses per Respondent:* 31; *Average Burden per Response:* .0457 hours; *Estimated Annual Burden:* 3,542 hours.

3. National Drug and Alcoholism Treatment Unit Survey (NDATUS) (1990/1991)—0930–0106—Information collected by NDATUS on the location, scope, and characteristics of all known drug abuse and alcoholism treatment and prevention programs in the United States is needed to assess the nature and extent of these resources, identify gaps in service, and provide a data base for treatment referrals. *Respondents:* State or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.

	No. of respondents	No. of hours per response	No. of responses per respondent
States	56	12 hrs.	1
Providers:			
Treatment	7,200	.6667 hrs.	1
Nontreatment	3,200	.05 hrs.	1

Estimated annual burden, 5,632 hours.

4. Tuberculosis Statistics and Program Evaluation Activity—0920–0026—Data collected from State and local health departments are disseminated to State and big city TB control officers, hospital infection control officers, and others concerned with TB control. The data provide a basis for the development and implementation of national TB control program policy. *Respondents:* State or local governments; *Number of Respondents:* 116; *Number of Responses per Respondent:* 204.2; *Average Burden per Response:* .133 hours; *Estimated Annual Burden:* 3,161 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address:

Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: April 23, 1990.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 90–9805 Filed 4–26–90; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–90–1917; FR–2606–N–69]

Federal Property Suitable as Facilities To Assist Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: April 27, 1990.

ADDRESSES: For further information, contact James Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755–6300; TDD number for the hearing- and speech-impaired (202) 755–5965. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) reguires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Bob Swieconek, HQ–US Army Corps of Engineers, Attn: CERE–MN, 20 Massachusetts Avenue NW., Washington, DC 20415–1000; (202) 475–2133; G.S.Navy: John Carr, Code 2041C, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332; (202) 325–0474; GSA: James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 535–7067. (These are not toll-free numbers.)

Dated: April 19, 1990.

Paul Roitman Bardack,

Deputy Assistant Secretary for Program Policy Development and Evaluation.

Suitable Land (by State)

California

Receiver Site
Dixon Relay Station
7514 Radio Station Road
Dixon, CA
Location: Approximately .16 mile southeast of Dixon, CA.

Landholding Agency: GSA
Property Number: 549010042
Status: Excess
Comment: 80 acres; 1560 sq. ft.; radio receiver bldg on site; subject to grazing lease; limited utilities.
GSA NO. 9–Z–CA–1162–A

Receiver Site
Delano Relay Station
Route 1, Box 1350
Delano, CA, Co: Tulare
Location: 5 miles west of Pixley, 17 miles north of Delano.
Landholding Agency: GSA
Property Number: 549010044
Status: Excess
Comment: 81 acres; 1560 sq. ft.; radio receiver bldg on site; subject to grazing lease; potential utilities.
GSA NO. 9–Z–CA–1308

Ohio

Receiver Site
Bethany Relay Station
Tolbert Road, Wayne Township
Jacksonburg, OH, Co: Butler
Landholding Agency: GSA
Property Number: 549010046
Status: Excess
Comment: 29 acres; 7560 sq. ft.; concrete bldg. on site; radio antenna towers; potential utilities.
GSA NO. 2–Z–OH–726–A

Suitable Buildings (by State)

California

Bldg 100
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010259
Status: Unutilized
Comment: 2628 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—office.

Bldg. 102
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010260
Status: Unutilized
Comment: 580 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—office.

Bldg. 103
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010261
Status: Unutilized
Comment: 3675 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—dining hall.

Bldg. 109
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010262
Status: Unutilized
Comment: 1045 sq. ft.; 2 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—barracks.

Bldg. 110
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010263
Status: Unutilized
Comment: 4439 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—shop.

Bldg. 113
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010264
Status: Unutilized
Comment: 100 sq. ft.; 1 story permanent bldg; secured facilities with alternate access; most recent use—storage.

Bldg. 138
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010265
Status: Unutilized
Comment: 110 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—filling station.

Bldg. 144
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010266
Status: Unutilized
Comment: 4320 sq. ft.; 1 story semi-permanent bldg; possible asbestos secure facility with alternate access; most recent use—bowling alley.

Bldg. 145
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010267
Status: Unutilized
Comment: 4000 sq. ft.; 1 story semi-permanent bldg; possible asbestos; secure facility with alternate access; most recent use—recreation building.

Bldg. 148
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010269
Status: Unutilized
Comment: 456 sq. ft.; 1 story semi-permanent bldg; possible asbestos; secure facility with alternate access; most recent use—storage.

Illinois

Bldg. 800B
Naval Training Center
Tool Storage Shed
Great Lakes, IL, Co: Lake
Landholding Agency: Navy
Property Number: 779010274
Status: Excess
Comment: 444 sq. ft.; 1 story; needs major rehab; most recent use—storage.

William L. Springer Fed. Bldg.
301 N. Randolph Street
Champaign, IL, Co: Champaign
Landholding Agency: GSA
Property Number: 549010043
Status: Excess
Comment: 19116 sq. ft.; 1 story brick bldg; expiration date of existing lease 9/1/90.
GSA NO. 2–G–IL–686

Unsuitable Land (by State)

Colorado

Railroad Spur Right-of-Way
Denver Federal Center
Lakewood, CO, Co: Jefferson
Landholding Agency: GSA
Property Number: 549010047
Status: Excess
Reason: Other
Comment: property not accessible
GSA NO. 7–G–CO–441–P

Pennsylvania

Portion of Tract 406C
Cowanesque Lake Project
Nelson Cemetary
Nelson, PA, Co: Tioga
Landholding Agency: COE
Property Number: 319011620
Status: Excess
Reason: Other
Comment: cemetery

Unsuitable Buildings (by State)

California

Bldg. 146
Naval Facilities Point Sur
CVB Detachment
Monterey, CA, Co: Monterey
Landholding Agency: Navy
Property Number: 779010268
Status: Unutilized
Reason: Other
Comment: sewer treatment facility

New Mexico

Fort Wingate Trading Post
State Road 400
Fort Wingate, NM, Co: McKinley
Location: 12 miles east of Gallup on I–40, 3 miles south of State Road 400.
Landholding Agency: GSA
Property Number: 549010045
Status: Excess
Reason: Other
Comment: occupied by permit from BIA
GSA NO. 7–I–NM–432–D

New York

Bldg. 204
Naval Underwater Systems Center
Fisher's Island Annex Detachment
Fisher's Island, NY, Co: Suffolk
Landholding Agency: Navy
Property Number: 779010270
Status: Excess
Reason: Secured Area

Bldg. 255
Naval Underwater Systems Center
Fisher's Island Annex Detachment
Fisher's Island, NY, Co: Suffolk
Landholding Agency: Navy
Property Number: 779010271
Status: Excess
Reason: Secured Area

Bldg. T-370
Naval Underwater Systems Center
Fisher's Island Annex Detachment
Fisher's Island, NY, Co: Suffolk
Landholding Agency: Navy
Property Number: 779010272
Status: Excess
Reason: Secured Area

Rhode Island

Bldg. 32
Naval Underwater Systems Center
Gould Island Annex
Middletown, RI, Co: Newport
Landholding Agency: Navy
Property Number: 779010273
Status: Excess
Reason: Secured Area

Tennessee

Silviculture Lab
Southern Forest Experiment Station
University of the South Alabama Avenue
Sewanee, TN, Co: Franklin
Landholding Agency: Agriculture
Property Number: 159010001
Status: Excess
Reason: Other
Comment: property not owned by government.

Universe of Properties:
Total=24
Suitable=15
Suitable Buildings=12
Suitable Land=3
Unsuitable=9
Unsuitable Buildings=7
Unsuitable Land=2
Number of Resubmissions=0

[FR Doc. 90-9626 Filed 4-26-90; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-964-4230-15]

Alaska Native Claims Selections; Doyon, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(8), will be issued to Doyon, Limited for approximately 5,852.00 acres. The lands involved are in the vicinity of Sithylemenkat Lake, Alaska.

Serial number	Land description	Approximate acreage
Fairbanks Meridian, Alaska (Unsurveyed)		
F-40277	T. 14 N., R. 18W.	640
F-40278	T. 14 N., R. 18W.	5,052
F-40279	T. 14 N., R. 18W.	160

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5060).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government or regional corporation, shall have until May 29, 1990, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Mary M. Bone,

Supervisor, Fairbanks Section Branch of Doyon/Northwest Adjudication.

[FR Doc. 90-9808 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-JA-M

[WY-030-00-4332-09; FES 90-11]

Availability of Final Wilderness Environmental Impact Statement (EIS) for the Lander Resource Area, Rawlins District, WY

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Lander Final Wilderness Environmental Impact Statement, Wyoming.

SUMMARY: The Lander Final Wilderness Environmental Impact Statement assesses the environmental consequences of managing six wilderness study areas as wilderness or nonwilderness. The alternatives assessed include: (1) A "No Wilderness Alternative" for each wilderness area; (2) An "All Wilderness Alternative" for each wilderness study area; and (3) A "Partial Wilderness Alternative" for one wilderness study area.

The names of the wilderness study areas, their total acreage and the acreage recommended suitable and nonsuitable under the Proposed Action are as follows:

Sweetwater Canyon—9,056 acres; 5,538 acres suitable; 3,518 acres nonsuitable
Lankin Dome—6,316 acres; 6,316 acres nonsuitable
Split Rock—12,789 acres; 12,789 acres nonsuitable
Savage Peak—7,041 acres, 7,041 acres nonsuitable
Miller Springs—6,429 acres; 6,429 acres nonsuitable
Copper Mountain—6,858 acres; 6,858 acres nonsuitable.

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior to the President and by the President to Congress. The final decision on wilderness designation rests with Congress.

In any case, no action on these proposals can be taken by the Secretary of the Interior during the 30 days following the filing of this EIS. This complies with the Council of Environmental Quality Regulations, 40 CFR 1506.10b(2).

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Bureau of Land Management, Rawlins District, P.O. Box 670, Rawlins, Wyoming 82301.

Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, Office of Public Affairs, 18th and C Streets NW., Washington, DC 20240.
Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001.
Bureau of Land Management, Rawlins District Office, 1300 N. 3rd. Street, Rawlins, Wyoming 82301.
Bureau of Land Management, Lander Resource Area Office, 125 Sunflower, Lander, Wyoming 82530.

FOR FURTHER INFORMATION CONTACT: Rick Colvin, EIS Team Leader, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301, (307) 324-7171.

Dated: April 13, 1990.

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 90-9292 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-22-M

[CO-930-09-4212-20; C-47110, C-47124]

Notice of Proposed Issuance of Disclaimer of Interest, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Issuance of Recordable Disclaimer of Interest for Lands in Garfield County, Colorado.

SUMMARY: Notice is hereby given pursuant to section 315 of the Act of October 21, 1976 (43 U.S.C. 1745), that Grant A. Knight, 1845 309 Road, and Edward Hoaglund, 4064 309 Road, both of Parachute, Colorado 81635, have filed applications Colorado 47110 and 47124, respectively, for recordable disclaimers of interest for low lying areas contiguous to the Colorado River in unlotted portions within the S½SW¼ of section 35, T. 6 S., R. 95 W., and unlotted portions within lots 3 and 4 of section 2, of the original survey of T. 7 S., R. 95 W., and in the northwest portion of section 4 and the northeast portion of section 5, T. 7 S., R. 95 W., all in the Sixth Principal Meridian, Colorado.

The Bureau of Land Management has reviewed the official records and has determined that the United States has no claim to or interest in the above-described lands and that issuing recordable disclaimers of interest will help to remove a cloud on the title to the lands. Accordingly, the recordable disclaimers of interest will be issued no sooner than ninety days after the date of this publication.

Information concerning the proposed disclaimers may be obtained from the State Director, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Dated: April 13, 1990.

Robert S. Schmidt,

Chief, Branch of Realty Programs, Colorado State Office.

[FR Doc. 90-9737 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-84-M

[NV-930-00-4212-14;N-50109]

Realty Action; Non-Competitive Sale of Public Lands in Clark County, NV

The following described public land in Jean, Clark County, Nevada has been determined to be suitable for sale utilizing non-competitive procedures, at not less than the fair market value. Authority for the sale is section 203 of Public Law 94-579, the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 25 S., R. 59 E.,
Sec. 14, S½SE¼SE¼SW¼
Aggregating 5.00 acres (gross)

This parcel of land, situated in Jean is being offered as a direct sale to Ewing Brothers, Inc.

This land is not required for any federal purposes. The sale is consistent with the Bureau's planning system. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 non-returnable filing fee for conveyance of the available mineral interests.

The patent, when issued, 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, 26 Stat. 391, 43 U.S.C. 945.

2. Oil, gas, sodium, potassium and saleable minerals.

and will be subject to:

1. An easement for streets, roads and public utilities in favor of Clark County as follows: the west 30 feet and the south 50 feet. That certain spandrel area bounded on the west by the east line of the west 30 feet, on the south by the north line of the south 50 feet and on the northeast by a 25 feet radius arc concave northeasterly tangent to said east line and north line.

2. Those rights for powerline purposes which have been granted to Nevada Power Company by Permit No. N-6864 under the Act of February 15, 1901.

3. Those rights for highway purposes which have been granted to Nevada Department of Transportation by Permit No. CC-020095A under the Act of November 9, 1921.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Public Law 94-579, or other applicable laws.

Dated: April 23, 1990.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 90-9809 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-HC-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information, related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029-0038), Washington, DC 20503, telephone 202-395-7340.

Title: Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources 30 CFR 783.

OMB Number: 1029-0038.

Abstract: Applicants for underground coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed underground coal mining activities.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Underground Coal Mining Operators.

Estimated Completion Time: 73 hours.

Annual Responses: 387.

Annual Burden Hours: 28,091.

Bureau clearance officer: Andrew F. DeVito, (202) 343-5150.

Dated: March 28, 1990.

Dennis Hunter,

Acting Chief, Division of Technical Services.

[FR Doc. 90-9828 Filed 4-26-90; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Date: April 24, 1990.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC

(1) Farmland Foods, Inc.
(2) 6910 North Holmes, Kansas City, MO 64116
(3) P.O. Box 403, Denison, IA 51442
(4) Mr. William J. Wait, P.O. Box 403, Denison, IA 51442

Noreta R. McGee,

Secretary.

[FR Doc. 90-9831 Filed 4-26-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31647]

American Railway Corp. of Texas; Control Exemption, Floydada and Plainview Railroad Co. and Seagraves, Whiteface and Lubbock Railroad Co.

American Railway Corporation of Texas (ARCT) filed a notice of exemption to control Floydada and Plainview Railroad Co. (F&P) and Seagraves, Whiteface and Lubbock Railroad Co. (SW&L). In Finance Docket No. 31644, filed simultaneously with this notice, ARCT and F&P have filed a notice of exemption to acquire and operate approximately 27 miles of rail line owned by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) extending between Plainview Junction, TX (milepost 0.0) and Floydada, TX (milepost 27.0). ARCT will acquire the rail line from Santa Fe and immediately transfer the assets to F&P, which will operate the line. ARCT will retain control of F&P. In Finance Docket No. 31645, also filed simultaneously with this notice, ARCT and SW&L have filed a notice of exemption to acquire and operate another, nonconnecting line, from Santa Fe, also in Texas. In that transaction the line will also be acquired by ARCT and immediately transferred to SW&L, which will operate the line. ARCT will also retain control of SW&L. Since it will be in control of two nonconnecting carriers, ARCT filed the instant notice of exemption.

This is a transaction involving the acquisition or continuance in control of nonconnecting carriers where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a class I carrier, and is, therefore, exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

This is also a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: (a) Thomas J. Kelly, Pedersen & Houpt, P.C., 180 North LaSalle Street, Suite 3400, Chicago, IL 60601; and (b) Dennis W. Wilson, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

Decided: April 20, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-9832 Filed 4-26-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31645]

American Railway Corp. of Texas and Seagraves, Whiteface and Lubbock Railroad Co.; Acquisition and Operation Exemption, Lines of the Atchison, Topeka and Santa Fe Railway Co.

American Railway Corporation of Texas (ARCT) and Seagraves, Whiteface and Lubbock Railroad Co. (SW&L), noncarriers, have filed a notice of exemption to acquire and operate approximately 114.1 miles of rail line owned by The Atchison, Topeka and Santa Fe Railway Company extending between Seagraves, TX (milepost 0.0) and Lubbock, TX (milepost 63.4), and between Doud, TX (milepost 0.0) and Whiteface, TX (milepost 39.8), TX, including operation of the "Pan American Spur" located between Whiteface and Coble, TX (approximately 4.3 miles). ARCT will acquire the rail line from Santa Fe and immediately transfer the assets to SW&L, which will operate the line. ARCT will retain control of SW&L. In Finance Docket No. 31644, filed simultaneously with this notice, ARCT and Floydada and Plainview Railroad Co. (F&P) have filed a notice of exemption to acquire and operate another, nonconnecting line, from Santa Fe, also in Texas. In that transaction the line will also be acquired by ARCT and immediately transferred to F&P, which will operate the line. ARCT will also retain control of F&P. Since it will be in control of two nonconnecting carriers, ARCT has also filed simultaneously in Finance Docket No. 31647 a notice of exemption under 49 CFR 1180.2(d)(2).

Any comments must be filed with the Commission and served on: (a) Thomas J. Kelly, Pedersen & Houpt, P.C., 180 North LaSalle Street, Suite 3400, Chicago, IL 60601; and (b) Dennis W. Wilson, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

Applicants shall retain their interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.[1]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may

[1] Applicants certify that they have identified to the appropriate State Historic Preservation Officer all sites and structures 50 years old and older that will be transferred as a result of this transaction.

be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 20, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–9833 Filed 4–26–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31621]

Wabash & Grand River Railway Co.; Lease and Operation Exemption, Green Hills Rural Development, Inc.

Wabash & Grand River Railway Co. (WGR) has filed a notice of exemption to lease and operate 37.6 miles of rail line owned by Green Hills Rural Development, Inc. (Green Hills). The line extends between Kelly, MO (milepost 188.56) and Chillicothe, MO (milepost 226.2). Green Hills also will assign to WGR, for the purpose of interchange, 2.86 miles of incidental trackage rights between Kelly and Brunswick, MO (milepost 185.7) that it acquired from the Norfolk and Western Railway Company.

This transaction is related to a notice of exemption filed concurrently in Finance Docket No. 31622, *Pioneer Railroad Company, Inc.—Continuance in Control Exemption—Wabash & Grand River Railway Co.*, under 49 CFR 1180.2(d)(2), for the continued control by WGR's parent, Pioneer Railroad Company, Inc. (Pioneer), of WGR and the West Jersey Railroad Division, which operates a rail line in New Jersey.

Any comments must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., Suite 1107, Washington, DC 20006.

Applicant shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.[1]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 20, 1990.

[1] WGR certifies that it has identified to the appropriate State Historic Preservation Officer all sites and structures 50 years old or older that will be transferred as a result of this transaction.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–9834 Filed 4–26–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31639]

Soo Line Railroad Co.—Trackage Rights Exemption—Belt Railway Company of Chicago; Exemption

The Belt Railway Company of Chicago (Belt) has agreed to grant overhead trackage rights to Soo Line Railroad Company over Belt's entire line between Grand Avenue and 112th Street, in Chicago, Cook County, IL. The trackage rights became effective on April 9, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Larry O. Starns, 1000 Soo Line Building, 105 South Fifth Street, Minneapolis, MN 55402.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western RY. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: April 20, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–9704 Filed 4–26–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–303 (Sub-No. 4X)]

Wisconsin Central Ltd.—Abandonment Exemption—In Barron and Polk Counties, WI; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 17.8-mile line of railroad between milepost 80.88, near Almena, and milepost 63.08, near Amery, in Barron and Polk Counties, WI.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 27, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by May 7, 1990.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by May 17, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Janet H. Gilbert, Wisconsin Central Ltd., 6250 N. River Road, Suite 9000, Rosemont, IL 60018.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by May 2, 1990. Interested persons may obtain a copy of

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party, or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 17, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–9705 Filed 4–26–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

William E. Brown, D.O.; Denial of Application for Registration

On February 26, 1990, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William E. Brown, D.O., of 802 South Jackson, Tulsa, Oklahoma, proposing to deny his pending application for registration as a practitioner under 21 U.S.C. 823(f), which was executed on January 21, 1989. The Order to Show Cause alleged that Dr. Brown's application should be denied on the ground that his registration would be inconsistent with the public interest, as the term is used in 21 U.S.C. 823(f) and 824(a)(4).

Dr. Brown timely filed a waiver of hearing and submitted a written statement on his behalf in accordance with the provisions of 21 CFR 1301.54(c). Consequently, the Acting Administrator concludes that Dr. Brown has waived his opportunity for a hearing on the issues raised in the Order to Show Cause and enters this final order based upon the evidence contained in the DEA investigative file and Dr. Brown's written statement. 21 CFR 1301.54(d) and 1301.54(e).

After carefully reviewing the entire record in this matter, including the DEA investigative file and Dr. Brown's written statement, the Acting Administrator concludes that the grant of a DEA Certificate of Registration to Dr. Brown would be inconsistent with the public interest.

The Acting Administrator finds that on October 12, 1984, in the District Court in and for Rogers County, Oklahoma, Dr. Brown was convicted, after entering pleas of guilty, of fifteen counts of obtaining controlled substances by fraud, in violation of 63 O.S. 2–408, a felony offense relating to controlled substances. The court sentenced Dr. Brown to a period of five years incarceration, all but 90 days of which were suspended. He was also placed on probation and was ordered to pay a fine of $20,000.00.

Dr. Brown's conviction resulted from an Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDDC) investigation into his controlled substances handling activities. In April 1982, OBNDDC agents conducted a prescription survey in Claremore, Oklahoma and discovered a number of Schedule II controlled substance prescriptions issued by Dr. Brown. The agents seized 16 prescriptions issued by Dr. Brown from Wal-Mart Pharmacy in Claremore. Dr. Brown issued the prescriptions for Eskatrol spansules, Demerol and Percodan. Of those prescriptions, 12 were issued to a "Sue Carroll," three were issued to an "Ann Carroll," and two were issued to a "Mildred Carroll." The agents were aware that "Carroll" was the maiden name of Dr. Brown's wife.

In September 1983, a subject known as "Sue Carroll" had a prescription for Demerol issued by Dr. Brown filled at Wal-Mart Pharmacy. The pharmacy clerk observed the woman get into a vehicle driven by and registered to Dr. Brown. The OBNDDC agents later showed the Wal-Mart pharmacist and pharmacy clerk an album of photographs, one of which was of "Vicki Brown," the wife of Dr. Brown. Both the pharmacist and the pharmacy clerk identified Vicki Brown as the woman presenting prescriptions in the name of "Sue Carroll."

On January 9, 1984, OBNDDC agents seized four additional Schedule II controlled substance prescriptions issued by Dr. Brown in the name of "Sue Carroll." In an interview with OBNDDC agents on January 10, 1984, Dr. Brown admitted that he issued 15 of the "Sue Carroll" prescriptions and claimed that one of the prescriptions was a forgery. The prescription he claimed was a forgery was the one filled by his wife in September 1983, described above. All of the prescriptions found were issued between March 1981 and September 1983. He also admitted that the drugs were not intended for "Sue Carroll," but rather for use by him and his wife. He stated that he considered himself to be the best doctor in the State of Oklahoma and that he had a good practice seeing numerous patients each day. He further claimed that he needed the drugs to keep up with his practice and to keep him going for long hours. He also stated that he suffered from numerous fractured bones over the past few years and explained that no other doctor knew the needs of his body; nor would any other doctor prescribe the "proper medication" for him. He admitted that he knew he violated the law by issuing prescriptions to his wife and himself and explained that he issued the prescriptions in the names of others to avoid detection. He further stated that he used most of the drugs himself, but that his wife had used some of the drugs as well.

On September 15, 1986, the court revoked Dr. Brown's suspended sentences after it found that he had violated the terms of his probation by being intoxicated at his workplace. He was sentenced to one year incarceration based on the violation of probation.

The Drug Enforcement Administration has received information concerning Dr. Brown since 1978. In February 1978, Dr. Brown reported a theft of 350,000 dosage units of phentermine. He advised OBNDDC agents that he obtained the drugs for use in his weight control program and claimed that he purchased the drugs from R.J. Legere Company and stockpiled them because the company was going out of business. The theft occurred at Dr. Brown's office where an intruder entered the office through a small window. No one was charged with the theft. The "theft" raises questions regarding the adequacy of security at the office in light of the large quantity of controlled substances stored there.

Dr. Brown was also listed as an excessive purchaser of controlled substances on at least three occasions since 1977. The excessive purchases were documented by DEA on August 1977, March 1978 and December 1981.

On July 27, 1979, in the District Court in and for Rogers County, Oklahoma, Dr. Brown was charged with conspiracy to procure controlled substances by fraud. The investigative file in that case revealed that controlled substance prescriptions bearing Dr. Brown's name had not been fully completed by him. In many instances, he pre-signed the prescriptions and allowed a physician's assistant to issue the prescriptions although the patients were never seen or examined by Dr. Brown. A total of five prescriptions were pre-signed by Dr. Brown, but issued by his physician's assistant. In addition, the physician's assistant or Dr. Brown's nurses issued six call-in prescriptions while Dr. Brown was out of town. Dr. Brown's medical assistant also advised OBNDDC agents that Dr. Brown's weight control patients did not see the doctor until the third

office visit and that she started the patients on the weight control program before they were ever seen by Dr. Brown. The criminal charges in this case were later dismissed after Dr. Brown's physician's assistant failed to appear at the trial.

The DEA investigative file reveals that Dr. Brown's previous DEA Certificate of Registration expired in February 1983, after he failed to file a renewal application. Therefore, the controlled substance prescriptions he issued after that date, including four which were issued in the name of "Sue Carroll," were issued in violation of 21 U.S.C. 843(a)(2), a felony offense relating to controlled substances.

The OBNDDC did not approve Dr. Brown's 1984 application for renewal of his state controlled substance registration based upon the then-pending criminal investigation. On December 19, 1984, the Oklahoma Board of Osteopathic Examiners revoked Dr. Brown's osteopathic license, based upon his conviction. The Board reinstated his osteopathic license in June 1987, contingent upon Dr. Brown not applying for a state controlled substance registration for one year. On August 16, 1988, the OBNDDC granted Dr. Brown's application for a state controlled substance registration in Schedules III–V. He is not eligible to handle Schedule II controlled substances in the state until November 1, 1991.

The Administrator may revoke a registration or deny a pending application for registration if he determines that such registration is contrary to the public interest. The following factors, enumerated in 21 U.S.C. 823(f), are taken into consideration in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In this case, all factors are relevant in determining whether Dr. Brown's application for registration should be granted. First, although the Oklahoma State Board of Osteopathic Examiners and the OBNDDC have not made recommendations to the Administrator concerning Dr. Brown's pending DEA application, his state osteopathic and controlled substance licenses recently have been reinstated in Oklahoma. The OBNDDC has restricted his state controlled substance license to Schedules III, IIIN, IV and V until November 1991. In addition, he is required to submit triplicate copies of each controlled substance prescription he issues. Clearly, the state authorities have determined that, despite the reissuance of his state licenses, Dr. Brown's controlled substance handling activities must continue to be supervised and restricted.

Because of the facts of this case, the remaining factors are considered concurrently. The record is replete with various controlled substance violations committed by Dr. Brown since the late 1970's. In 1985, Dr. Brown was convicted on fifteen counts of obtaining controlled substances by fraud, which are felony offenses relating to controlled substances. He admitted that he falsified prescriptions to obtain controlled substances for his and his wife's abuse. He was incarcerated for violating the terms of his probation following his conviction. The record also shows that Dr. Brown previously allowed unauthorized personnel to prescribe controlled substances using prescriptions he had pre-signed. In each instance, he had not seen or examined the patients. Dr. Brown was an excessive purchaser of controlled substances. He created a security risk by stockpiling more than 350,000 dosage units of controlled substances in his office. He later reported the drugs as stolen. Dr. Brown was irresponsible in maintaining such large quantities of controlled substances at an unsecured location. Further, Dr. Brown issued controlled substances pursuant to an expired DEA Certificate of Registration.

In his written statement, Dr. Brown stated that he is a "recovering impaired physician." In 1985 and 1986, he completed a six-week drug and alcohol treatment program, attended 90 Alcoholics Anonymous (AA) meetings in 90 days, attended grand rounds weekly, attended bi-weekly AA meetings, attended impaired physician support group meetings on a weekly basis, and submitted to periodic random drug screening. He also stated that, since 1986, he continues to attend impaired physician support group meetings, as well as regular AA meetings. He further explained that his state medical and controlled substance licenses have been reinstated, the latter with restrictions. In addition, he made the following statement:

> To say that I am sorry would be an understatement. I am respectfully asking for another chance. I assure you my handling of CDS [controlled dangerous substances] will be more conservative as I appreciate and respect this privilege much more than I did before I lost it.

Despite Dr. Brown's statement, the Acting Administrator finds that the evidence in this case overwhelmingly supports the denial of his application for registration. Dr. Brown not only personally abused controlled substances, he allowed others to use his controlled substance prescribing authority, he created a danger to the public health and safety by allowing for the theft of approximately 350,000 dosage units of controlled substances from his office. He also issued controlled substances at a time he lacked Federal authority.

Although Dr. Brown should be commended for his recent efforts toward rehabilitation, the Acting Administrator questions the extent of his rehabilitation since he was found to have violated the terms of his probation by appearing intoxicated in 1986, following the completion of his rehabilitation program and while he regularly was attending AA meetings. The Acting Administrator finds that there is insufficient evidence at this time to show that Dr. Brown has been rehabilitated and that he will not succumb to the pressures of abusing controlled substances in the future. Furthermore, since Dr. Brown has lacked authority to handle controlled substances since 1983, the Acting Administrator suggests that Dr. Brown will need to demonstrate that he has attended courses on the proper handling of controlled substances before again applying for registration.

The Acting Administrator finds that Dr. Brown's registration would be inconsistent with the public interest at this time, and that his pending application for registration must be denied. Accordingly, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Acting Administrator of the Drug Enforcement Administration orders that the application for registration submitted by William E. Brown, D.O. on January 21, 1989, be, and it hereby is, denied.

Dated: April 23, 1990.

Terrence M. Burke,

Acting Administrator.

[FR Doc. 90–9751 Filed 4–26–90; 8:45 am]

BILLING CODE 4410–09–M

Robert Edward Gardner, M.D.; Revocation of Registration

On April 20, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert Edward Gardner, M.D. of 112 Alpine Street, Murphy, North Carolina 28906, proposing to revoke his DEA Certificate of Registration AG0652796, and to deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823 (cf). The proposed action was predicated on Dr. Gardner's lack of authorization to handle controlled substances in the State of North Carolina. 21 U.S.C. 824(a)(3).

In a letter dated May 9, 1989, Dr. Gardner failed to request a hearing and instead submitted a written statement in which he explained why he surrendered his state medical license. The Acting Administrator hereby enters his final order in this matter based upon the investigative file and Dr. Gardner's written statement. See 21 CFR 1301.54(d), 21 CFR 1301.54(e) and 21 CFR 1301.57.

The Acting Administrator finds that on April 7, 1988, Dr. Gardner voluntarily surrendered his North Carolina medical license, thereby terminating his authority to prescribe, dispense, administer or otherwise handle controlled substances in the State of North Carolina. The Acting Administrator concludes that DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See 21 U.S.C. 823(f); *Myong S. Yi, M.D.*, 54 FR 30618 (1989); *Clifford E. Bigott, D.M.D.*, Docket No. 88– 24, 53 FR 28711 (1988); *Howard J. Reuben, M.D.*, 52 FR 8375 (1987); *Ramon Pla, M.D.*, Docket No. 86–54, 51 FR 41168 (1986); and cases cited therein.

Having considered the facts and circumstances in this matter, the Acting Administrator concludes that Dr. Gardner's DEA Certificate of Registration should be revoked due to his lack of authorization to handle controlled substances in the State of North Carolina. Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AG0652796, previously issued to Robert Edward Gardner, M.D., be, and it hereby is, revoked. The Acting Administrator further orders that all pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective May 29, 1990.

Dated: April 23, 1990.

Terrence M. Burke,

Acting Administrator.

[FR Doc. 90–9752 Filed 4–26–90; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 89–47]

Edwin A. Schuller, D.O.; Revocation of Registration

On June 16, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Edwin A. Schuller, D.O. (Respondent), 239 Worrell Drive, Springfield, Pennsylvania 19064. The Order to Show Cause proposed to revoke Respondent's DEA Certificate of Registration, AS1385055. The statutory basis for the Order to Show Cause was that Respondent's continued registration with DEA was inconsistent with the public interest as set forth in 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4).

By letter dated June 27, 1989, Respondent requested a hearing on the issues raised in the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young. Following prehearing procedures, a hearing was held in Washington, DC, on December 6, 1989. The Respondent, however, failed to appear at the hearing. The Government proceeded with its case against Respondent. During the hearing, the administrative law judge received a letter from the Respondent who was requesting a continuance of the hearing. After hearing the Government's argument in opposition to such a continuance, the administrative law judge ruled that the hearing would proceed.

On January 17, 1990, the administrative law judge issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. Respondent filed exceptions on February 13, 1990. On February 28, 1990, Judge Young transmitted the record to the Administrator of the DEA.

On April 2, 1990, the Acting Administrator received from Respondent a document entitled "Petition—[f]or interlocutory review of presiding officer's ruling in formal evidentiary public hearing." Citing 21 CFR 2.118(b), 2.131(g), and 2.159(f), Respondent requested that the Commissioner of the Food and Drug Administration (FDA) review the ruling of the administrative law judge. The Commissioner of the FDA has no authority over the administrative hearings of the Drug Enforcement Administration and the FDA regulations cited by Respondent are inapplicable to these proceedings. Nevertheless, the Acting Administrator has reviewed Respondent's document and will consider it as a second set of exceptions under the provisions of 21 CFR 1316.66, notwithstanding that 21 CFR 1316.66(a) requires that exceptions be filed within twenty days after the date of receipt of the administrative law judge's ruling.

Having considered the record in its entirety, including both sets of Respondent's exceptions, the Acting Administrator hereby enters his final order in this matter pursuant to 21 CFR 1316.67, and based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that Respondent had written several prescriptions for certain controlled substances for the stated purpose of maintaining a stock of the controlled substances in his office, in violation of 21 CFR 1306.04(b). Respondent also issued numerous prescriptions for controlled substances, such as Hydrocet, Oxycodone, and MS-Contin, in the names of individuals who were currently his patients, or who were no longer his patients, at the time he issued the prescriptions in their names. Respondent had these prescriptions filled at the same pharmacy himself; he personally picked up the medications for which he issued the prescriptions, indicating he would deliver the medications, all controlled substances, to the individuals named on the prescriptions. Respondent also indicated that said individuals were terminally ill or otherwise unable to pick up the medications at the pharmacy themselves. Respondent did not in fact deliver the medications to said individuals. The administrative law judge found that it could be reasonably inferred that Respondent unlawfully diverted the controlled substances for his own use.

The administrative law judge also found that from late October 1987 until early February 1988, Respondent wrote a number of prescriptions for Hydrocet and Xanax for his wife. The frequency of these prescriptions and the amount of the controlled substances prescribed raised the inference that the controlled substances were not prescribed for the stated medical purpose, and were not prescribed for any legitimate medical purpose.

Further, the administrative law judge determined that the evidence showed that during 1988, Respondent was involved in an automobile accident, Respondent was carrying a briefcase containing various quantities of several controlled substances. During an investigation several hours later, Respondent appeared to be under the influence of drugs or alcohol. He passed a breathalyzer test; however, he refused to submit to a blood or urine test.

The administrative law judge concluded that Respondent' s continued registration was inconsistent with the public interest and recommended that his registration be revoked. The Acting Administrator adopts the opinion and recommended ruling of the administrative law judge, and concludes that Respondent' s DEA Certificate of Registration should be revoked. Nothing in Respondent' s exceptions persuade the Acting Administrator that any other conclusion is warranted.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AS1385055, previously issued to Edwin A. Schuller, D.O., be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of that registration be, and they are hereby, denied.

This order is effective May 29, 1990.

Dated: April 23, 1990.

Terrence M. Burke,

Acting Administrator.

[FR Doc. 90–9753 Filed 4–26–90; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs. Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration.

August 1990 Job Training Suppiement.

One-time.

Individuals or households.

57,000 respondents; 5,510 total hours; 5.8 hours per respondent

The August 1990 Job Training Supplement will collect data which will be used to assess both the extent of job-related training received by individuals in the workforce and their training needs.

Local Office Survey.

One-time.

State or local governments.

53 respondents; 159 total hours; 3 hours per response

This survey will allow FY 1990 budget shortfall and furnish information for program and budgetary policy development.

ETA Summaries—U1 Trust Fund Activities.

ETA 9025 and 9026.

Monthly.

State or local governments.

53 respondents; 4224 total hours; 20 minutes per form; 2 forms.

ETA forms 9025 and 9026 will be used to monitor SESAs' cash management performance and evaluate their cash management programs. Periodic Cash Management data will be published as the results of evaluating performance.

Extension

Employment and Training Administration.

Disaster Unemployment Assistance (DUA) Handbook Program Operating Forms.

1205–0051; ETA 81, 81A, 82, 83, 84.

Form No.	Affected public	Respondents	Frequency	Av. time per response (min.)
ETA 81	Individuals/households	11,000	Annually	20
ETA 81A	do	3,800	Annually	15
ETA 82	do	11,000	Annually	15
ETA 83	do	11,000	Six[1]	15
ETA 84	do	235	Annually	30

[1] This figure represents the average number of weeks paid to an individual in a specific disaster.

12,483 total hours.

Public Law 93–288 (section 407) provides for benefit assistance to "any individual unemployed as a result of a major disaster." The forms in Chapters III to VII of the DUA Handbook are used by State agencies in connection with the provision of this benefit assistance.

Disaster Payment Activities under The Disaster Relief Act of 1974.

1205–0234; ETA 90–2.

Monthly.

State or local governments.

50 respondents; 150 total hours; 15 minutes per respondent; 1 form.

Data on disaster unemployment assistance (DUA) activity are needed for timely program evaluation necessary for competent administration of Section 407 of the Act. Workload items are also used with fiscal reports to estimate the cost of administering the Act.

Signed at Washington, DC, this 24th day of April, 1990.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 90–9853 Filed 4–26–90; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law are based on the informatoin obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benfits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, 200 Constitution Avenue NW., room S–3014, Washington, DC 20210.

New General Wage Determinations Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume State and page numbers(s).

Volume I:

New York, NY 90–20 ..... p.908a, pp.908b–908d

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page numbers(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

Florida, FL90–1 (Jan. 5, 1990). p.101, p.102

Georgia:

GA90–5 (Jan. 5, 1990)..... p.225, p.226
GA90–6 (Jan. 5, 1990)..... p.227, p.228
GA90–13 (Jan. 5, 1990)..... p.243, p.244
GA90–15 (Jan. 5, 1990)..... p.247, p.248
GA90–19 (Jan. 5, 1990)..... p.255, p.256
GA90–31 (Jan. 5, 1990)..... p.279, p.280a–2
GA90–36 (Jan. 5, 1990)..... p.280i, p.280j
GA90–37 (Jan. 5, 1990)..... p.280k, p.280l

Kentucky:

KY90–2 (Jan. 5, 1990)..... p.291, p.292
KY90–3 (Jan. 5, 1990)..... p.297, p.298
KY90–4 (Jan. 5, 1990)..... p.303, p.304
KY90–5 (Jan. 5, 1990)..... p.309, pp.310–313
KY90–7 (Jan. 5, 1990)..... p.321, p.322
KY90–29 (Jan. 5, 1990)..... p.381, pp.382–384

Mississippi, MS90–27 (Jan. 5, 1990). p.571, pp.572–572b

Volume II:

Alabama, AL90–27 (Jan. 5, 1990). p.1, p.2
Iowa, IA90–1 (Jan. 5, 1990)... p.17, p.18
Kansas, KS90–5 (Jan. 5, 1990). p.349
Michigan, MI90–3 (Jan. 5, 1990). p.457
New Mexico, NM90–1 (Jan. 5, 1990). p.747, pp.748,751,760
Ohio, OH90–1 (Jan. 5, 1990). p.777, pp.778–789

Oklahoma:

OK90–14 (Jan. 5, 1990)..... p.953, pp.955–956
OK90–16 (Jan. 5, 1990)..... p.965, p.966
OK90–17 (Jan. 5, 1990)..... p.969, p.970
OK90–19 (Jan. 5, 1990)..... p.975, p.976

Texas:

TX90–5 (Jan. 5, 1990)..... p.993, p.994
TX90–10 (Jan. 5, 1990)..... p.1011, p.1012
TX90–15 (Jan. 5, 1990)..... p.1023, p.1024
TX90–18 (Jan. 5, 1990)..... p.1029, p.1030

Volume III:

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 20th day of April 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90–9620 Filed 4–26–90; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and;

(3) That increases of imports or articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–23, 910; Norwin Plating, Inc., Larimer, PA

TA–W–23, 902; Campbell Plastics, Schenectady, NY

TA–W–23, 938; Howell Industries, Inc., Masury, OH

TA–W–23, 830; A.O. Smith Automotive Products Co., Milan, TN

TA–W–23, 939; Jay Garment Co., Clarksville, TN

TA–W–23, 955; Rose Ellen Sportswear, Inc., Long Beach, NJ

TA–W–23, 966; Cortelco, Corinth, MS

TA–W–23, 953; Regal-Beloit Corp., New York Twist Drill Div., Ramsey, NJ

TA–W–23, 978; J.J. Farra, Brooklyn, NY

TA–W–23, 854; NWL Control Systems, Kalamazoo, MI

TA–W–23, 937; Harvey Industries, Inc., Athens, TX

TA–W–23, 687; Robertshaw Controls Co., Knoxville, TN

TA–W–23, 824; Sterling Plumbing Group, Morgantown, WV

TA–W–23, 927; The Budd Co., Detroit, MI

TA–W–24, 178; Felice Fashions, Inc., Newark, NJ

TA–W–23, 882; NBI, Inc., & NBI Supplies, Boulder, CO

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–23, 957; Tech Form Industries, Shelby, OH
Increased imports did not contribute importantly to workers separations at the firm.

TA–W–23, 970; Etienne Aigner, Edison, NJ
Increased imports did not contribute importantly to workers separations at the firm.

TA–W–23, 997; Quadra Oil & Gas, Inc., Denver, CO
The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–24, 046; Bank Leu, LTD, New York, NY
The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–23, 972; Forstmann & Co., Tifton, GA
Increased imports did not contribute importantly to workers separations at the firm.

TA–W–23, 727; Chrysler Corp., Huntsville, AL
Increased imports did not contribute importantly to workers separations at the firm.

TA–W–24, 011; Acadia Polymer, Inc., Clifton Forge, VA
The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–23, 928; Butoni Food Corp., South Hackensack, NJ
Increased imports did not contribute importantly to workers separations at the firm.

TA–W–24, 010; Abitibi-Price Corp., Alpena, MI
Increased imports did not contribute importantly to workers separations at the firm.

TA–W–23, 934; General Motors Corp., AC Rochester, Milwaukee, WI
Increased imports did not contribute importantly to workers separations at the firm.

TA–W–23, 924; Ames Rubber Corp., Hamburg, NJ
The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–23, 959; Unisys Corp., Roseville, MN
The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–23, 994; Owens Brockway Glass Container, Inc., Ada, OK
The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–23, 969; Expanding Energy Corp., Midland, TX
The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–23, 665; End Devices, Inc., Midland, TX
The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–23, 968; Eastern Pennsylvania Clothing Worker Joint Board, Amalgamated Clothing & Textile Workers Union, Allentown, PA
The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–23, 973 Globe Products Co., Inc., Clifton, NJ
The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA–W–23, 949; Mayfield Manufacturing Co., Inc., Mayfield, KY
A certification was issued covering all workers separated on or after January 25, 1989 and before January 31, 1990.

TA–W–23, 976; Industrial Drives Div., Kollmorgan Corp, Radford, VA

A certification was issued covering all workers separated on or after February 5, 1989.

TA-W-23, 947; L.J. Simone, Inc., Brooklyn, NY
A certification was issued covering all workers separated on or after January 22, 1989.

TA-W-24, 084; Charles D. Burnes Co., Inc., Forestdale, RI
A certification was issued covering all workers separated on or after February 21, 1989.

TA-W-24, 041; UpJohn Co., Fine Chemical Div., North Haven, CT
A certification was issued covering all worker separation on or after January 5, 1989.

TA-W-23, 958; Temple Manufacturing Co., Temple, OK
A certification was issued covering all workers separated on or after October 25, 1989 and before March 1, 1990.

TA-W-23, 838; Del Sportswear, Tobyhanna, PA
A certification was issued covering all workers separated on or after December 30, 1988.

TA-W-23, 963; Wolverine International, Inc., Bay City, MI
A certification was issued covering all workers separated on or after July 5, 1989.

TA-W-23, 956; Swing'n Sway Manufacturing, Inc., Brooklyn, NY
A certification was issued covering all workers separated on or after January 14, 1988 and before December 31, 1989.

TA-W-24, 044; Avid Airline Products of Rhode Island, Inc., Middletown, RI
A certification was issued covering all workers separated on or after February 9, 1989.

TA-W-24, 006; Walter Dobie and Associates, Lafayette, LA
A certification was issued covering all workers separated on or after February 1, 1989.

TA-W-23, 986; Operators, Inc., Houston, TX
A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-23, 987; Operators, Inc., Bakersfield, CA
A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-23, 988; Operators, Inc., Denver, CO
A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-23, 989; Operators, Inc., Lafayette, LA
A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-23, 990; Operators, Inc., Farmington, NM
A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-23, 992; Operators, Inc., Oklahoma City, OK
A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-23, 993; Operators, Inc., San Antonio, TX
A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-23, 982; Lawton Manufacturing Co., Lawton, OK
A certification was issued covering all workers separated on or after October 25, 1989 and before March 2, 1990.

I hereby certify that the aforementioned determinations were issued during the month of April 1990. Copies of these determinations are available for inspection in room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: April 19, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-9851 Filed 4-26-90; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may requst a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 9th day of April 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm	Location	Date received	Date of petition	Petition number	Articles produced
A & T Dress, Inc. (ILGWU)	Lodi, NJ	4/09/90	3/20/90	24,229	Ladies' Dresses.
AT&T Material Mgt. Services (CWA)	Allentown, PA	4/09/90	3/28/90	24,230	Telephone Equip.
Aloha Shake (Workers)	Pacific Beach WA	4/09/90	3/19/90	24,231	Shakes & Shingles.
Amity Casuals/SMX, (ILGWU)	Belleville, NJ	4/09/90	3/30/90	24,232	Lingerie.
Amoco Production Co., General Ofc. (Company)	Chicago, IL	4/09/90	3/30/90	24,233	Oil & Gas.
Amoco Production Co., Tulsa Research Center (Company).	Tulsa, OK	4/09/90	3/30/90	24,234	Oil & Gas.
Amoco Production Co., Houston Reg. (Company)	Houston, TX	4/09/90	3/30/90	24,235	Oil & Gas.
Amoco Production Co., New Orleans, Reg. (Company).	New Orleans, LA	4/09/90	3/30/90	24,236	Oil & Gas.
Amoco Production Co., Denver Reg. (Company)	Denver, CO	4/09/90	3/30/90	24,237	Oil & Gas.
Amoco Production Co., Africa & Middle E. Reg. (Company).	Houston, TX	4/09/90	3/30/90	24,238	Oil & Gas.
Amoco Production Co., Europe, Latin American & F. East Reg. (Company).	Houston, TX	4/09/90	3/30/90	24,239	Oil & Gas.
City Design, Inc. (ILGWU)	Newark, NJ	4/09/90	3/28/90	24,240	Ladies Bottom-wear.

APPENDIX—Continued

Petitioner (union/workers/firm	Location	Date received	Date of petition	Petition number	Articles produced
Climax Molybdenum, Co. (Workers)	Empire, CO	4/09/90	3/19/90	24,241	Molybdenum.
Compuscan, Inc. (Workers)	Bloomfield, NJ	4/09/90	3/26/90	24,242	Electronic Optical Character Reader.
Corning, Inc./Erwin Plant (AFGWU)	Corning, NY	4/09/90	3/27/90	24,243	Catalytic Convertors.
Curly Candy Fashion (ILGWU)	Newark, NJ	4/09/90	3/28/90	24,244	Fabrics.
Dudley Sports Co. (Company)	Vidalia, GA	4/09/90	3/14/90	24,245	Softballs.
Dunn & McCarthy, Inc. (Workers)	Auburn, NJ	4/09/90	3/30/90	24,246	Women's Shoes & Boots.
Eltsac Apparel, Inc. (ILGWU)	Long Branch, NJ	4/09/90	3/27/90	24,247	Sportswear.
Fairfield Jersey, Inc. (ILGWU)	Fairfield, NJ	4/09/90	3/30/90	24,248	Fabrics.
Firestone Industrial Products (Company)	Noblesville, IN	4/09/90	3/29/90	24,249	Rubber Parts.
Garrett Automotive Div. (Workers)	Las Angeles, CA	4/09/90	3/19/90	24,250	Heat Exchangers.
Gay Mode, Inc. (Workers)	Brooklyn, NY	4/09/90	3/29/90	24,251	Ladies' Coats.
Gen. Electric Co. (Workers)	Carroll, IA	4/09/90	3/27/90	24,252	Timers.
Goodall Rubber Co. (Company)	Trenton, NJ	4/09/90	3/26/90	24,253	Rubber Parts.
Grant Hardware, Co. (UBCJA)	W. Nyack, NY	4/09/90	3/21/90	24,254	Metal Drawers.
Invader Boats, Inc. (Workers)	Giddings, TX	4/09/90	3/12/90	24,255	Boats.
Jendall Fashions, Inc. (ILGWU)	S. Orange, NJ	4/09/90	3/23/90	24,256	Ladies' Skirts.
John Roberts (ACTWU)	Bidderford, ME	4/09/90	3/22/90	24,257	Men's Jackets.
Kellwood, Co. (Company)	Altus, OK	4/09/90	3/19/90	24,258	Ladies' Undergraments.
Lee Apparel Co. (ILGWA)	Guntersville, AL	4/09/90	3/29/90	24,259	Men's & Womens' Jeans.
Lee Co. (ILGWA)	Jasper, GA	4/09/90	3/26/90	24,260	Jeans & Slacks.
Ligia Fashions (ILGWA)	Newark, NJ	4/09/90	3/28/90	24,262	Ladies' Coats.
M.V.D. T/A Olympic Jr. (ILGWA)	Newark, NJ	4/09/90	3/30/90	24,262	Ladies' Jackets.
Mercury Stainless, Inc. (USWA)	Massillon, OH	4/09/90	3/21/90	24,263	Steel.
N Diluzio, Inc. (ILGWA)	E. Newark, NJ	4/09/90	3/27/90	24,264	Ladies' Jackets & Skirts.
Oil Producers Assoc. (Workers)	Springfield, IL	4/09/90	3/13/90	24,265	Oil & Gas.
Peter Pan Industries (AIU)	Lakewood, NJ	4/09/90	3/30/90	24,266	Records & Cassettes.
Peterson American Corp. (Workers)	Madison Hgts, MI	4/09/90	3/23/90	24,267	Automotive Springs.
Racal Data Communications (Workers)	Sunrise, FL	4/09/90	3/29/90	24,268	Data Equip.
Robinson Drilling, Inc. (Company)	Duncan, OK	4/09/90	3/26/90	24,269	Oil & Gas.
Spectrum Polytronics, Inc. (Workers)	Tucson AZ	4/09/90	3/29/90	24,270	capacitors.
Sunshine Shake Co., Inc. (Workers)	Forks, WA	4/09/90	3/26/90	24,271	Shakes & Shingles.
TRW Knoxville (Workers)	Knoxville, TN	4/09/90	3/27/90	24,272	Circuit Boards.
Teal Cedar Products (Workers)	Burlington, WA	4/09/90	3/27/90	24,273	Shakes & Shingles.
Ungermann-Bass, Inc. (Workers)	Ronkonkoma, NY	4/09/90	3/28/90	24,274	Computers.
Unisys Defense System (Workers)	St. Paul, MN	4/09/90	3/21/90	24,275	Computers.
(The) Young American Clothing Co. (ILGWA)	Newark, NJ	4/09/90	3/28/90	24,276	Ladies Coats & Jackets.
Wrangler (Company)	Belmont, MS	4/06/90	10/19/90	23,566	Denim Jackets.

[FR Doc. 90-9852 Filed 4-26-90; 8:45 am]

BILLING CODE 4510-30-M

Commission on Achieving Necessary Skills; Open Meeting

AGENCY: Employment and Training Administration, Labor.

SUMMARY: The Secretary's Commission on Achieving Necessary Skills (SCANS) was established in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) on February 20, 1990. The Commission is to advise the Secretary on national competency guidelines for the level of basic skills required of high school graduates for entry into employment. The Commission will be charged with the practical task of specifying and quantifying levels of basic skills attainment to adequately perform different types of entry-level jobs.

Time and Place: The first meeting will be held May 18, 1990 from 10 a.m. until 3 p.m. at the Frances Perkins (Main Labor) Building, 200 Constitution Avenue NW., DOL Academy, Room C-5515, Seminar Room 1A and 1B, Washington, DC 20210.

Agenda: The agenda for the meeting follows:

1. Welcome and Introductions
2. SCANS Goals and strategies to be employed to meet them
3. Organizational Matters including committee sub-groups, technical support, and logistics/scheduling.

Public Participation: The meeting will be open to the public. Thirty minutes will be set aside for public comments. Seating will be available for the public on a first-come, first-serve basis. Five seats will be reserved for the media. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made.

Individuals or organizations wishing to submit written statements should send 10 copies to Dr. Arnold Packer, Executive Director, SCANS—room C-2318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Papers received on or before April 30, 1990 will be included in the record of the meeting.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Packer, Exec. Dir., SCANS—room C-2318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-4840.

Signed at Washington, DC, this 23rd day of April, 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-9854 Filed 4-26-90; 8:45 am]

BILLING CODE 4510-30-M

[Training and Employment Guidance Letter No. 6-89]

Job Training Partnership Act and Job Opportunities and Basic Skills; Job Training Partnerships Act Program Coordination With the Job Opportunities and Basic Skills Trainining Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration has issued Training and Employment Guidance Letter (TEGL) No. 6-89 (April 10, 1990) providing information on the Job Opportunities and Basic Skills (JOBS) program and policy guidance regarding

the role that the Job Training Partnership Act (JTPA) community should play in JOBS. The TEGL provides guidance to the JTPA community, particularly the State job training coordinating councils (SJTCCs) and private industry councils (PICs), regarding the need for coordination of JOBS with JTPA in order to provide comprehensive services to welfare recipients while preventing duplication of services. TEGL 6–89 is reprinted below for public information.

DATE: Training and Employment Guidance Letter No. 6–89 was effective April 10, 1990.

FOR FURTHER INFORMATION CONTACT: Hugh Davies. Telephone (202) 535–0580.

Signed at Washington, DC, this 23rd day of April 1990.

Dolores Battle,

Administrator, Office of Job Training Programs.

Training and Employment Guidance Letter No. 6–89

From: Roberts T. Jones, Assistant Secretary of Labor.

Subject: Job Training Partnership Act Program, Coordination with the Job Opportunities and Basic Skills Training Program.

1. Purposes

To provide: (a) information and reference materials on the Job Opportunities and Basic Skills (JOBS) program, including features that impact on activities and responsibilities under the Job Training Partnership Act (JTPA); and (b) policy guidance regarding the role that the JTPA community, particularly the State job training coordinating councils (SJTCCs) and private industry councils (PICs), should play in JOBS.

2. References

a. Family Support Act (FSA) of 1988, sections 203, 482, 483, 484, 485 and 486.

b. Job Training Partnership Act, as amended.

c. Training and Employment Guidance Letter (TEGL) No. 2–89, dated January 12, 1990.

d. Final JOBS regulations published in the **Federal Register** on October 13, 1989 (copy attached).

e. Proposed Joint Department of Labor (DOL)-Department of Health and Human Services (DHHS) JOBS regulations published in the **Federal Register** on April 19, 1989 (copy attached).

f. JTPA-Welfare Linkage chapter of the JTPA Advisory Committee's Final Report, "Working Capital: Coordinated Human Investment Directions for the 90's," dated October 1989 (copy attached).

3. Background

Final regulations for the JOBS program were published in the **Federal Register** on October 13, 1989, one year after the President's signing of the Family Support Act (FSA) of 1988. To date 27 States have implemented the JOBS program, with implementation in all remaining States mandated by October 1, 1990. The JOBS program is designed to assure that families receiving Aid to Families with Dependent Children (AFDC) obtain education, training, and employment that will help them achieve self-sufficiency. While many Regions and States are already involved to differing degrees in JOBS implementation, the Department is providing this guidance in recognition of the need to stress its commitment to cooperative implementation. Attached to this TEGL for your reference is a copy of these JOBS regulations, as well as two documents which describe and highlight the major provisions of this program.

Administered by the Assistant Secretary for Family Support in the Department of Health and Health Services (DHHS), the JOBS program includes a number of specific areas for collaboration between DHHS and DOL, as well as for coordination at the State and local levels by agencies administering JOBS programs, JTPA, Employment Service (ES), and other employment and training programs. Attached to this TEGL for your reference is the JTPA-Welfare Linkage chapter of the JTPA Advisory Committee's final report which discusses coordination and linkages with the welfare system.

In addition, Secretary Dole has met with Secretaries Sullivan and Cavazos and assured them of her commitment to the coordination of human resource development programs and the commitment of the Department's employment and training system to work as an active partner with the welfare system and the education system in the implementation and operation of the JOBS program. To this end, the Employment and Training Administration (ETA) Regional Administrators have been asked to work closely with their Family Support Administration (FSA) Regional Office counterparts.

As part of its overall commitment to coordination, the Department has also executed an interagency agreement with DHHS, and the Department of Education (ED) for coordinated JOBS technical assistance (TA). (A copy of this agreement is attached.) This agreement also authorizes joint funding and shared responsibility of DOL, DHHS, and ED for competitive contracts to provide TA and training to States and to Indian Tribes and Alaska Native Organizations in implementing or improving their JOBS programs. The primary mechanism for the above mentioned TA will be this 3-year contract, funded in part by the Department. Currently, bids on this contract are being solicited by a request for proposal.

4. Coordination and Consultation

The JOBS legislation contains a number of provisions designed to assure the coordination of JOBS with JTPA in order to provide comprehensive services to welfare recipients while preventing duplication of services. For example, the Governor must assure that program activities under JOBS are coordinated with the JTPA programs. Appropriate components of the State JOBS plan which relate to job training and work preparation must be consistent with the coordination criteria specified in the Governor's Coordination and Special Services Plan (GCSSP) under JTPA. The JOBS plan must also contain a description of the State IV–A agencies' efforts to coordinate with other agencies including, but not limited to, JTPA, the Employment Service, basic and adult education programs, programs under the Carl D. Perkins Vocational Education Act and other vocational services, and other human development programs.

a. *SJTCC Role.* The State JOBS plan must be reviewed by the SJTCC at least 60 days prior to its submission to the DHHS Secretary. In addition, State IV–A agencies which administer the JOBS programs have been encouraged by DHHS to meet regularly with the SJTCC regarding the planning and implementation of JOBS to identify common JOBS–JTPA activities and services, and to develop a coordinated, or ideally an integrated, strategy which ensures that eligible AFDC recipients receive training and employment services in an effective, non-duplicative manner. Once such coordination is implemented in the planning period, it is important that these regular meetings are continued during the implementation phase in order to respond to operational problems.

The SJTCC should initiate contacts with the State IV–A agency if it has not already done so in order to establish this kind of on-going institutional coordination. The establishment of coordination at the State level will set an important example for local JTPA and JOBS agencies and will encourage

coordination at the local level. It will also serve as a basis both for building trust and for exploring ways in which joint activities can achieve joint objectives. SJTCCs are also encouraged to add the State IV–A agency director to their membership if this is not presently the case.

b. *PIC Role.* The Family Support Act assigns PICs a fundamental role in local JOBS programs. The PICs consult with the IV–A agency about the development of arrangements and contracts under JOBS and identify and provide advice on the types of jobs that are available, or are likely to become available, in the service delivery area (SDA). The provision of this labor market information will assist the IV–A agency to ensure that JOBS provides training for the types of jobs which are, or are likely to become, available in the area, and that resources are not expended on training for jobs which are not likely to be available.

The local relationship between the PIC and the welfare agency at the county or local level is key to the success of the coordination efforts within the SDA. Since, pursuant to the legislation, the PIC must be consulted on the development of arrangements and contracts under JOBS, the PIC plays a crucial role in promoting a successful local JOBS program. As an example, given its experience with employment and training contractors in the area, the PIC can provide invaluable guidance to the local welfare agency in the selection and evaluation of service providers. PICs should also provide available labor market information either through the Job Service or directly to the local welfare agency. In order to facilitate JOBS/JTPA coordination, the PIC should develop a JOBS strategy in cooperation with the local IV–A agency and incorporate this strategy in its Job Training Plan submitted to the State as well as provide a copy of this Plan to the local welfare agency. In order to further facilitate coordination, PICs are encouraged to include the local or county IV–A JOBS administrators as members of the PIC.

5. Maintenance-of-Effort

The JOBS legislation and regulations clearly provide that Federal JOBS funds are not to be used to replace non-Federal funds to pay for services and activities (including education, training, and employment activities) that are otherwise available on a non-reimbursable basis. State and local funding for the purpose of the JOBS program must not be less than expenditures incurred in Fiscal Year 1986 for education, training, employment activities, and related supportive services dedicated to assist AFDC individuals to become self-sufficient. In addition, the State IV–A agency may not contract to pay for services which are already available at no cost. It can pay for additional services which are added to the existing range of services available or for completely new services. Because of this provision, the State IV–A agency will need to assess the types of services previously provided before determining how to proceed with contracting.

Therefore, in seeking JOBS-funded contracts, JTPA administrators need to evaluate the nature and level of services provided to welfare recipients in previous years as well as in the current program year. Administrators also will need to assess whether the services they are providing or propose to provide are appropriate for the target populations identified in the Family Support Act. Further, the JTPA agency must assure compliance with section 203(b)(3) of the Act regarding equitable service to welfare recipients. The JTPA program is not to be considered as a presumptive deliverer of JOBS services. Instead, like any other service provider in the community, the JTPA agency must approach the IV–A agency with proposed new or expanded services for welfare recipients in order to receive JOBS funds.

6. Program Contracting.

The IV–A agency may contract a wide range of services and activities such as orientation, testing and JOBS employment and training component activities and services. The decisions whether to procure services or not, and the parameters of such procurements are State or county decisions, depending upon the extent to which contracting authority has been delegated to counties by the State. Accordingly, the extent to which contracting is used will differ from State to State and/or county to county.

The State IV–A agency must maintain overall responsibility for the design and operation of the program and may not delegate to other than its own officials function involving discretion in the administration or supervision of the program. Certain JOBS functions and activities which involve decisionmaking with regard to individual participants, such as assessment and case management, may be performed by entities other than the IV–A agency, so long as it is undertaken according to policies, rules and regulations of the State IV–A agency. While, they may not review, change, or otherwise substitute their judgment for that of the IV–A agency, the other entities may have broad responsibilities regarding the operation of these programs within the parameters established by the IV–A agency.

7. Misinformation vs. Fact.

As discussed in the JTPA-Welfare Linkages chapter of the JTPA Advisory Committee's final report, "Working Capital: Coordinated Human Investment Directions for the 90's," managers and staff in both the JTPA and welfare communities may have negative and often incorrect views of the goals, practices, and constraints of the other system. They may also be unfamiliar with or cautious regarding the ability and objectives of the other system. Moreover, much of the information that they do have may be negative, inaccurate and based on stereotypes, and misperceptions rather than fact. Before a productive cooperative working relationship can be developed between the JTPA and welfare communities, these misperceptions must be replaced with facts concerning welfare and JTPA programs and participants. The JTPA and JOBS programs share similar formal goals: eliminating barriers to employment; increasing employment and earnings; reducing welfare dependency; and upgrading basic and vocational skills, with the objective of getting people better jobs and reducing long-term poverty. JTPA does provide long-term intensive services and does serve welfare recipients. On the other side, JOBS participants are not unemployable individuals who do not want to work. They have similar characterisitcs and have the same employment and training needs as the JTPA participants.

The attached JTPA-Welfare Linkages chapter of the Advisory Committee's final report "Working Capital" contains a number of specific recommendations to facilitate coordination between the JTPA and welfare systems. It discusses the key steps which should be taken at the local, State, and Federal levels to facilitate collaborative planning.

8. Timetable for JOBS and JTPA Planning.

The remaining States which have not yet implemented the JOBS program may submit JOBS plans anytime prior to October 1, 1990, for implementation to begin the first of any fiscal year quarter.

For the 27 States which are currently operating JOBS programs, interim JOBS plans have been reviewed by the SJTCCs and approved by DHHS. These States are required to submit new JOBS plans within 90 days of the date that

JOBS Plan preprints (the printed JOBS plan formats) are issued by DHHS. However, these plan preprints will only be reviewed by the SJTCCs if there are substantial changes to the interim plan. For the States which implement JOBS after the plan preprints become available, these plans will have to be reviewed by the SJTCCs prior to their submittal to DHHS.

Following the initial implementation of JOBS, States must submit a biennial update of the JOBS plan. The biennial update, which must be submitted to DHHS for approval 90 days prior to the date it is to become effective, is considered to be a new plan and must also be reviewed by the SJTCC. Each State must submit its first biennial update by July 1, 1992, for the period beginning October 1, 1992. Alternatively, a State may submit its first update by April 1, 1992, for the period beginning July 1, 1992. This would put JOBS on the same 2-year operating cycle as JTPA.

The decision to allow the States flexibility to choose to operate their programs on other than a fiscal year basis removes an administrative barrier to cooperation between JOBS and JTPA. If the State does determine to operate JOBS on a program year basis, the SJTCC and PICs should be prepared to provide any necessary assistance in the planning process during the latter part of 1991 since the final plan is due to the SJTCC for review by February 1, 1992. This will mean that the GCSSP for PY 1990 and PY 1991 should be shared with the State IV–A agency early in the JOBS update planning process as well as the revised coordination criteria which will be incorporated in the GCSSP for PY 1992 and PY 1993. This timetable will also ensure that JOBS-JTPA coordination can be clearly described in the GCSSP which will be submitted to DOL May 1, 1992.

9. *Inquiries.* Direct inquiries to Hugh Davies at (202) 535–0580.

10. Attachments.

[FR Doc. 90–9855 Filed 4–26–90; 8:45 am]

BILLING CODE 4510–30–M

LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

Meeting

Background

The Lower Mississippi Delta Development Commission was created by Public Law 100–460, signed on October 1, 1988. The purpose of the Commission is to identify and study the economic development, infrastructure, employment, transportation, resource development, education, health care, housing, and recreation needs of the Lower Mississippi Delta region by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, and others in developing a 10-year plan that makes recommendations and establishes priorities to alleviate the needs identified. The Commission will make its final report to Congress, the President, and the Governors of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee no later than May 14, 1990.

This notice announces a Commission meeting only.

Commission Meeting

Time: 9:00 a.m., May 8, 1990
Place: AgriCenter International Office, Memphis, Tennessee
Status: Open meeting
Contact: Ron Register, telephone (901) 753–1400

Wilbur F. Hawkins,

Executive Director.

[FR Doc. 90–9736 Filed 4–26–90; 8:45 am]

BILLING CODE 6820–SN–M

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Amendment of Privacy Act System of Records

AGENCY: U.S. Merit Systems Protection Board.

ACTION: Notice of amendment to existing system of records.

SUMMARY: The Merit Systems Protection Board (MSPB) publishes this document pursuant to the requirements of the Privacy Act of 1974 at 5 U.S.C. 552a(e)(4) to update the existence and character of its systems of records and to amend the routine uses of those records to provide for disclosure of personal information from the systems of records during the course of litigation.

EFFECTIVE DATE: April 27, 1990.

ADDRESSES: Office of the Clerk of the Board, U.S. Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Michael H. Hoxie, (202) 653–7200.

SUPPLEMENTARY INFORMATION: This notice amends the text of the MSPB's systems of records notice published at 47 FR 57792, December 28, 1982, as it pertains to the following systems of records:

1. MSPB/INTERNAL–1, Pay, Leave, and Travel: System Location and System Manager have been changed to reflect changes in MSPB organization. Categories of Records in the System have been changed to include information on the Leave Transfer Program. Authority for Maintenance of the System has been changed to include Public Laws 100–202, and 100–400, which authorize the Leave Transfer Program.

2. MSPB/INTERNAL–2, Motor Vehicle and Accident Report Records: This system has been deleted. The MSPB no longer maintains these records. Records previously maintained in this system have been destroyed.

3. MSPB/INTERNAL–3, Grievance Records: This system has been redesignated MSPB/INTERNAL–2, and renamed Employee Grievance Records to more accurately describe the records maintained. System Location has been changed to reflect changes in MSPB organization. Storage has been changed to show the use of an automated record storage and retrieval system.

4. MSPB/INTERNAL–4, Employee Incentive Award and Recognition Records: This system has been redesignated MSPB/INTERNAL–3, and renamed Employee Awards Tracking System Records to more accurately reflect the nature and purpose of the records maintained. Categories of Individuals covered by the System have been changed to include employees in the Senior Executive Service and employees covered by the Performance Management and Recognition System. Storage has been changed to show use of computer processable storage media.

5. MSPB/INTERNAL–5, Individual Production Reports. This system has been deleted. The MSPB no longer maintains these records.

6. MSPB/GOVT–1, Appeal and Case Records: Categories of Records in the System have been changed to include information contained on the automated Case Management System. Purpose has been changed to include the management information purpose served by the Case Management System.

7. The appendix has been revised to reflect changes in regional office addresses.

ADDRESSES: Office of the Clerk of the Board, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419.

Dated: April 23, 1990.

Robert F. Taylor,

Clerk of the Board.

Accordingly, the U.S. Merit Systems Protection Board amends its system of records by revising MSPB/INTERNAL–1, deleting MSPB/INTERNAL–2, redesignating, renaming and revising

MSPB/INTERNAL–3, redesignating, renaming and revising MSPB/INTERNAL–4, deleting MSPB/INTERNAL–5, and by revising MSPB/GOVT–1.

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APPENDIX Regional Offices of the Merit Systems Protection Board

MSPB/INTERNAL–1

SYSTEM NAME:

Pay, Leave, and Travel Records.

SYSTEM LOCATION:

Office of Administration, Personnel Division, Merit Systems Protection Board (MSPB) and Information Resources Management Division, 1120 Vermont Avenue, NW., Washington, DC 20419; MSPB regional offices (see list of regional office addresses in the Appendix); and USDA National Finance Center, 13800 Gentilly Road, New Orleans, Louisiana 70129.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Merit Systems Protection Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system, both manual and automated, contains records relating to pay, leave, and travel. This includes information such as: Name; date of birth; Social Security number; home address; grade; employing organization; timekeeper number; salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; Civil Service Retirement contributions; FICA withholdings; Federal, state and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; garnishment documents; savings bonds allotments; union and management association dues withholding allotments; travel expenses; and information on the leave transfer program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205, 5501 et seq., 5525 et seq., 5701 et seq., 6301 et seq., Executive Order 9397, and Public Laws 100–202, and 100–440.

PURPOSE:

These records are used to administer the pay, leave and travel functions of the Merit Systems Protection Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To the Department of Treasury to issue checks and U.S. Savings Bonds;

b. To the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness;

c. To state offices of unemployment compensation in connection with claims filed by former MSPB employees for unemployment compensation;

d. To Federal Employees, Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefit claims or records reconciliations;

e. To the Internal Revenue Service and state and local tax authorities;

f. To the Social Security Administration in connection with FICA withholding and benefits;

g. To the Office of Personnel Management in connection with payroll deductions for civil service retirement plans;

h. To the authorized employees of another Federal agency that provides MSPB with manual and automated assistance in processing pay, and leave;

i. To officials of labor organizations recognized under 5 U.S.C. Chapter 7l when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

j. To the appropriate Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the MSPB becomes aware of a possible violation or potential violation of civil or criminal law or regulation;

k. To any source from which the MSPB requests additional information relevant to an MSPB determination concerning an individual's pay, or leave;

l. To a Federal agency, at its request, for purposes connected with: The hiring or retention of an employee, the issuance of a security clearance, the conduct of a suitability or security investigation of an individual, the classification of a job, 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;

m. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19;

n. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual;

o. To the Department of Justice when:

(1) The agency, or any component thereof; or

(2) Any employee of the agency in the employee's official capacity; or

(3) Any employee of the agency in the employee's individual capacity where the Department of Justice has agreed to represent the employee; or

(4) The United States is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, provided that the disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected; or approval or consultation is required;

p. In a proceeding before a court or adjudicative body before which the agency is authorized to appear, when:

(1) The agency, or any component thereof; or

(2) Any employee of the agency in the employee's official capacity; or

(3) Any employee of the agency in the employee's individual capacity where the agency has agreed to represent the employee; or

(4) The United States is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, provided that the disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected; or approval or consultation is required;

q. To the National Archives and Records Administration pursuant to records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

r. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding;

s. To officials of the Office of Special Counsel, Office of Personnel Management, the Federal Labor Relations Authority or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties;

t. To the General Accounting Office for auditing purposes; and

u. To the Social Security Administration and the Department of the Treasury, to provide pay data.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and in computer processable storage media.

RETRIEVABILITY:

These records are retrieved by name or social security number.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Paper records are maintained in locked cabinets. Automated records are protected from unauthorized access through password identification procedures and other system-based protection methods. Magnetic tape files and disk files are in a locked computer room and library which can be accessed by authorized personnel only.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time in accordance with NARA General Records Schedule 2. Disposal of manual records is by shredding or burning; magnetic tapes and disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the Clerk of the Board or the MSPB regional office where the individual is or was employed (See Appendix for a list of regional office addresses).

Individuals making inquiries as to the existence of records pertaining to them must follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURE:

Individuals requesting access to their records should contact the Clerk of the Board or the MSPB regional office where the individual is or was employed (See Appendix for list of regional office addresses).

Individuals requesting access must also follow the MSPB Privacy Act regulations at 5 CFR 1201.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Clerk of the Board or the MSPB regional office where the individual is or was employed.

Individuals requesting amendment of their records must also follow the MSPB Privacy Act regulations set forth at 5 CFR !205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains;

b. Merit Systems Protection Board officials responsible for pay, travel and leave; and

c. Other official personnel documents of MSPB.

MSPB/INTERNAL-2

SYSTEM NAME:

Employee Grievance Records.

SYSTEM LOCATION:

Office of Administration, Personnel Division, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue NW., Washington, DC 20419

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Merit Systems Protection Board who have filed grievances in accordance with the MSPB procedures established under 5 CFR part 771, subpart C.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records of grievances filed by MSPB employees. The case files contain all documents related to the grievance, including statements of witnesses, reports or transcripts of interviews and hearings, the employee's written request for review of the initial grievance, designation of the grievance examiner, any written comments by the grievant or the grievant's representative upon review of the file at the completion of the inquiry, the examiner's report of findings and recommendations, the grievance decision, and correspondence and exhibits related to the grievance. The system does not include files and records of any grievance filed under negotiated procedures with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205, 5 CFR part 771.

PURPOSE:

These records are used to process grievances filed by MSPB employees for personal relief in certain matters that are subject to the control of MSPB management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To any source from which the MSPB requests additional information in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested;

b. To an appropriate Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the MSPB is aware of a violation or potential violation of civil or criminal law or regulation;

c. To a Federal agency, at its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conduct of a security or suitability investigation of an individual, the classifying of jobs, 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;

d. To a congressional office which makes an inquiry on a current or former employee;

e. To the Department of Justice when:

(1) The agency, or any component thereof; or

(2) Any employee of the agency in the employee's official capacity; or

(3) Any employee of the agency in the employee's individual capacity where the Department of Justice has agreed to represent the employee; or

(4) The United States is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected or approval or consultation is required;

f. In a proceeding before a court or adjudicative body before which the agency is authorized to appear, when:

(1) The agency, or any component thereof; or

(2) Any employee of the agency in the employee's official capacity; or

(3) Any employee of the agency in the employee's individual capacity where the agency has agreed to represent the employee; or

(4) The United States is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that the disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected; or approval or consultation is required;

g. To the National Archives and Records Administration pursuant to records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

h. To officials of the Office of Special Counsel, Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties;

i. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding; and

j. To officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, and housed in an automated records storage and retrieval system.

RETRIEVABILITY:

These records are retrieved by the name of the grievant.

SAFEGUARDS:

These records are maintained in an automated records storage and retrieval system, equipped with a locking device. Access to the system is limited to persons whose official duties require such access.

RETENTION AND DISPOSAL:

These records are disposed of by shredding three years after closing of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the Clerk of the Board. Individuals who have filed grievances are aware of that fact and have been given an opportunity to review the record.

Individuals making inquiries as to the existence of records pertaining to them must also follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the Clerk of the Board.

Individuals requesting access must also follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the officer ruling on the case, and will not include a review of the merits of the action, determination, or findings.

Individuals wishing to request amendment of their records to correct factual errors should write the Clerk of the Board.

Individuals requesting amendment must also follow the MSPB Privacy Act regulations at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. The individual on whom the record is maintained;

b. Witnesses;

c. Agency officials;

d. Hearing examiner; and

e. Related correspondence from organizations or persons.

MSPB/INTERNAL-3

SYSTEM NAME:

Employee Awards Tracking System Records.

SYSTEM LOCATION:

Office of Administration, Personnel Division, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, NW., Washington, DC 20419.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Merit Systems Protection Board who have received recognition for achievements either within or outside the employee's job responsibilities, and for length of service to the Government.

The system includes awards given to employees under the MSPB Incentive Awards Program; performance awards given to employees in the Senior Executive Service; and performance awards given to employees in the Performance Management and Recognition System.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information about the awardees, including: Name, social security number, position title and series, current grade, step within grade, annual salary, most recent previous award, requested and approved award amount and accounting data or code.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

5 U.S.C. 1205, 5 U.S.C. 4501 et seq. and 5 U.S.C. 5336.

PURPOSE(S):

These records are collected and maintained to provide calculation and reporting data on MSPB employees who have received awards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To other Federal agencies and other organizations to process and approve suggestions and nominations for awards or quality step increases for MSPB employees;

b. To other government agencies to recommend whether suggestions made by an MSPB employee affect the functions or responsibilities of the agencies;

c. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual;

d. To other public (Federal, state, or local) or private organizations, including news media, which grant or publicize employee awards or honors;

e. To the National Archives and Records Administration pursuant to records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

f. To officials of the Office of Special Counsel, the Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission

when requested in performance of their authorized duties; and

g. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in computer processable storage media.

RETRIEVABILITY:

These records are retrieved by the name of the individual award recipients or nominees.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. The records in this system are maintained in a locked room in a building with restricted access. The records are protected from unauthorized access through password identification procedures.

RETENTION AND DISPOSAL:

These records are retained for two years and then destroyed.

SYSTEM MANAGER AND ADDRESS:

Director of Personnel, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the Clerk of the Board. Individuals inquiring as to the existence of records pertaining to them must also follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the Clerk of the Board. Individuals requesting access must follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment of records about them should write the Clerk of the Board. Individuals requesting amendment must also follow the MSPB Privacy Act regulations at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. Individuals submitting suggestions or nominations for awards or quality step increases;

b. Supervisors of employees;

c. Evaluators of suggestions or nominations for awards or quality step increases;

d. Official Personnel Folders; and

e. Staff of the Office of Personnel Management, General Accounting Office, and other Federal agencies.

MSPB/GOVT-1

SYSTEM NAME:

Appeals and Case Records.

SYSTEM LOCATIONS:

Office of the Clerk of the Board, Merit Systems Protection Board (MSPB), Office of Administration, Information Resources Management Division, 1120 Vermont Avenue NW., Washington, DC 20419, and the MSPB regional offices (see list of Regional Office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees, applicants for employment, annuitants, and other individuals who have filed appeals with MSPB, or with respect to whom a Federal agency has petitioned MSPB concerning any matter over which MSPB has jurisdiction.

b. Current and former employees of state and local governments who have been investigated by the Special Counsel and have had a hearing before MSPB concerning possible violation of the Hatch Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. These records contain information or documents such as briefs, pleadings, motions, exhibits, hearing tapes and transcripts, and MSPB decisions, which comprise the administrative records of appeals and other matters arising under the adjudicatory authority of MSPB. These records also contain individual appellant's names, social security numbers, home addresses, veterans status, race, sex, national origin and disability status data.

b. This system also includes the Board's automated Case Management System. The system, resident on MSPB headquarter's minicomputer, contains information from the above records.

Note: This system includes records and documents compiled by Federal agencies in processing adverse actions and actions based on unacceptable performance, covered by OPM/GOVT-3, when such actions are appealed to the MSPB.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205, 1206, 1207, 1208, 7701 and 7702.

PURPOSE(S):

a. These records are used to document and adjudicate appeals and other matters arising under the MSPB original and appellate jurisdiction.

b. These records also serve a management information function by providing statistical data for reports, physical file location, and staff productivity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from the record may be disclosed:

a. To officials of the Equal Employment Opportunity Commission or the Special Panel convened under authority of 5 U.S.C. 7702 when requested in connection with the performance of their authorized duties;

b. To officials of the Office of Personnel Management, Office of Special Counsel, the Federal Labor Relations Authority and the Equal Employment Opportunity Commission in connection with the performance of their authorized duties;

c. To a Member of Congress or the Government Accounting Office regarding the status of an appeal or other action;

d. To a congressional office regarding an individual in response to an inquiry made at the request of that individual;

e. To a person in response to an inquiry made by that person on behalf of the individual to whom the record pertains;

f. To an appropriate Federal or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation;

g. To the Office of Management and Budget at any stage in the legislative process in connection with private relief legislation as set forth in OMB Circular No. A-19;

h. To the Department of Justice when:

(1) The agency, or any component thereof; or

(2) Any employee of the agency in the employee's official capacity; or

(3) Any employee of the agency in the employee's individual capacity where the Department of Justice has agreed to represent the employee; or

(4) The United States is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that the disclosure of the records is a use of the information contained in the records

that is compatible with the purpose for which the records were collected, or approval or consultation is required.

i. In any proceeding before a court or adjudicative body before which the agency is authorized to appear, when:

(1) The agency, or any component thereof;

(2) Any employee of the agency in the employee's official capacity; or

(3) Any employee of the agency in the employee's individual capacity where the agency has agreed to represent the employee; or

(4) The United States is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that the disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected, or approval or consultation is required.

j. To any person making an inquiry regarding a proceeding before the MSPB;

k. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

l. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding;

m. To Federal and state agencies for the purpose of providing MSPB with information concerning MSPB appellants, which information will be used, absent personal identifiers, in the MSPB research projects mandated by 5 U.S.C. 1205(a)(3); and

n. To officials of the U.S. Court of Appeals for the Federal Circuit in connection with the performance of their judicial functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and in computer processible storage media. Case files are housed in automated records storage and retrieval systems.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained, by social security numbers and by MSPB docket numbers.

SAFEGUARDS:

Access to these records is limited to persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure. Automated records in this system are maintained in a secure computer room in a building with restricted access. Automated records are protected from unauthorized access through password identification procedures and other system-based protection methods.

RETENTION AND DISPOSAL:

Paper records are maintained for up to one year after a final determination by MSPB or, in some instances, other administrative authorities or the courts. Thereafter, they are transferred to the National Archives and Records Administration Regional Federal Records Centers or other appropriate facility. Paper records are destroyed by the Federal Records Centers when the records are six years old. Electronic records of the Case Management System are maintained as a permanent MSPB set of records.

SYSTEM MANAGER(S) AND ADDRESSES:

The Clerk of the Board and the Office of Administration, Information Resources Management Division, 1120 Vermont Avenue, NW., Washington, DC 20419, and the MSPB regional offices (see list of regional office addresses in the Appendix).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Clerk of the Board and must follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the Clerk of the Board. If the requester has reason to believe the records in question are located in a regional office, it is appropriate to submit the request to that office. Such requests should be addressed to the regional director (See the list of regional office addresses in the Appendix). Requests for access to records must follow the MSPB Privacy Act regulations at 5 CFR 1205.11.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment should contact the Clerk of the Board. If the requester has reason to believe the records in question are located in a regional office, it is appropriate to submit the request to that office. Requests to the regions should be addressed to the regional director (See the list of regional office addresses in the Appendix). Requests for amendment of records must follow the MSPB Privacy Act regulations at 5 CFR 1205.21. These provisions for amendment of the record are not intended to permit the alteration of evidence presented in the course of adjudication before the MSPB either before or after the MSPB has rendered a decision on the appeal.

RECORD SOURCE CATEGORIES:

The sources of these records are:

a. The individual to whom the record pertains;

b. The agency employing the above individual;

c. The Merit Systems Protection Board, the Office of Personnel Management, the Equal Employment Opportunity Commission, the Office of the Special Counsel; and

d. Other individuals or organizations from whom the MSPB has received testimony, affidavits or other documents.

APPENDIX— Regional Offices of the Merit Systems Protection Board:

Atlanta Regional Office, Merit Systems Protection Board, 401 West Peachtree Street, NW., 10th Floor, Atlanta Georgia, 30308

Boston Regional Office, Merit Systems Protection Board, 10 Causeway Street, Suite 1078, Boston, Massachusetts 02222–1042

Chicago Regional Office, Merit Systems Protection Board, 230 South Dearborn Street, 31st Floor, Chicago, Illinois 60604–1669

Dallas Regional Office, Merit Systems Protection Board, 1100 Commerce Street, Room 6F20, Dallas, Texas 75242–9979

Denver Regional Office, Merit Systems Protection Board, 730 Simms Street, Suite 301, P.O. Box 25025, Denver, Colorado 80225–0025

New York Regional Office, Merit Systems Protection Board, 26 Federal Plaza, Room 3137–A, New York, New York 10278–0022

Philadelphia Regional Office, U.S. Customhouse, Room 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106–2904

St. Louis Regional Office, Merit Systems Protection Board, 911 Washington Ave., Suite 615, St. Louis, Missouri 63101–1203

San Francisco Regional Office, Merit Systems Protection Board, 525 Market Street, Room 2800, San Francisco, California 94105–2789

Seattle Regional Office, Merit Systems Protection Board, 915 Second Avenue, Room 1840, Seattle, Washington 98174–1001

Washington, D.C. Regional Office, Merit Systems Protection Board, 5203 Leesburg Pike Suite, Suite 1109, Falls Church, Virginia 22041–3473

[FR Doc. 90–9775 Filed 04–26–90; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL SCIENCE FOUNDATION

College University Innovative Research (CUIR) Program Regional Meeting.

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation is sponsoring eight half-day regional meetings between April 30 and May 22, 1990 in order to provide interested organizations with information on the development of the proposed College University Innovation Research Program as well as to hear questions, suggestions and views. These meetings, open to the public, will be held in Atlanta, GA, Cincinnati, OH, Denver, CO, Des Moines, IA, New Orleans, LA, San Diego, CA, University Park, PA, and Worcester, MA.

Dates:

New Orleans

Date: Monday, April 30, 1990
Hosted By: Tulane University
Location: University Center Building No. 73, Tulane University, New Orleans, LA 70118–5698

Denver

Date: Friday, May 11, 1990
Hosted By: Colorado Advanced Technology Institute
Location: University of Colorado, Health Sciences Center, 2nd Floor Lecture Hall, Colorado Boulevard & 8th Avenue, Denver, CO 80262

Des Moines

Date: Monday, May 14, 1990
Hosted By: Iowa State University
Location: Holiday Inn—University Park, West Des Moines, IA 52065

Atlanta

Date: Tuesday, May 15, 1990
Hosted By: Clark-Atlanta Unviersity
Location: Atlanta University Center, Robert W. Woodruff Library, 111 James P. Brawley Drive, SW., Atlanta, GA 30310

Cincinnati

Date: Wednesday, May 16, 1990
Hosted By: University of Cincinnati
Location: Auditorium, Institute of Advanced Manufacturing Sciences, 1111 Edison Drive, Cincinnati, OH 45216

San Diego

Date: Tuesday, May 17, 1990
Hosted By: San Diego State University Foundation
Location: Conference Room L & M, Aztec Center, San Diego State University, San Diego, CA 92182–1900

University Park, PA

Date: Tuesday, May 22, 1990
Hosted By: Pennsylvania State University
Location: Assembly Room, Nittany Lion Inn, University Park, PA

Worcester, MA

Date: Tuesday, May 22, 1990
Hosted By: Worcester Polytechnic Institute
Location: Higgins House, 100 Institute Road, Worcester, MA 01609–2280

FOR FURTHER INFORMATION CONTACT:

Atlanta: Dr. John Hall, Director, Milligan Science Research Institute, Atlanta University Center, (404) 523–5150.
Cincinnati: Dr. Earnest Hall, University of Cincinnati, (513) 556–2730.
Denver: Ms. Virginia Orndorff, Director, Biotechnology Programs, Colorado Advanced Technology Center, (303) 620–4777.
Des Moines: Ms. Lynette Sherer, Engineering Research Institute, Iowa State Uni., (515) 294–2337.
New Orleans: Dr. Gene D'Amour, Vice President for Research, Tulane, Uni., (504) 865–5272.
San Diego: W. Timothy Hushen, Director, Research Management, San Diego State University Foundation, (619) 594–4102.
University Park: Maynard Kohler, Jr., Sponsored Programs and Contracts Office, Pennsylvania State University, (814) 863–0715.
Worcester: Dr. Arthur Gerstenfeld, Department of Management, Worcester Polytechnic Institute, (508) 831–5000.

SUPPLEMENTARY INFORMATION: Section 114 of the National Science Foundation Authorization Act of 1989 required the preparation and submission of a report on how to assist members of the academic community to pursue high quality research of economic potential. The Act required that the research would be conducted at a wide range of colleges and universities, including smaller institutions which do not traditionally receive Federal research Funds. This report was submitted to the Congress on April 3, 1989. The National Science Foundation has proposed the initiation of a pilot novel program outlined in the report to the Congress. Funding was proposed for Fiscal Year 1991 to start the Program. No funds are currently available for this Program.

Dated: April 23, 1990.

Donald Senich,

Division Director, Industrial Science and Technological Innovation.

[FR Doc. 90–9735 Filed 4–26–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–338 and 50–339

Virginia Electric and Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–4 and NPF–7 issued to Virginia Electric and Power Company (VEPCO, the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (NA–1&2), located in Louisa County, Virginia.

The amendments, requested by the licensee by letter of March 15, 1990, would replace the current Technical Specifications (TS) with a set of TS based on the new Westinghouse Owners Group Standard Technical Specifications currently under review by the staff. The adoption of Owners Group approved TS is part of an industry-wide initiative to standardize and improve TS. NA–1&2 is the lead plant for adoption of the Westinghouse Owners Group standardized TS.

The changes in the TS can be grouped into 4 categories: non-technical changes, more stringent requirements, relocation of requirements to other controlled documents, and relaxations of existing requirements.

Non-technical changes are intended to make the TS easier to use for plant operations personnel.

More stringent requirements are more conservative than corresponding requirements in the current TS, or are additional restrictions which are not in the current TS. The more stringent requirements provide an additional safety margin.

Relocation of requirements involves items that are currently in the TS but do not meet the criteria for inclusion of TS set forth in the Commission's Interim Policy Statement on Technical Specifications Improvement. These items may be removed from the TS and placed in some other controlled document. Once these items have been relocated, the licensee generally would be able to revise them under the provisions of 10 CFR 50.59 without a licensee amendment.

The relaxation of exiting requirements is based on operating experience. When restrictions are shown to provide little or no safety benefit, and place a burden on the licensee, their removal from the TS may be justified. In most cases, relaxations have previously been

granted to individual plants on a plant-specific basis.

For further details regarding the proposed changes in the TS, see the application for amendments dated March 15, 1990, which is available in the Local Public Document Room and the Commission's Public Document Room.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 29, 1990, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 petitions 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 20555 and at the Local Public Document Room located at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. If a request for a hering 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 a 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 aspects(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 fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file 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 amendments 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.

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, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow, Director, Project Directorate II–2: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212, 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 specified in 10 CFR 2.714(a)(1)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendments after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments dated March 15, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room, the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Rockville, Maryland, this 20th day of April, 1990.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–9806 Filed 4–26–90; 8:45 am]

BILLING CODE 7590–01–M

PEACE CORPS

Information Collection Request Under OMB Review

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act [44 U.S.C. 3501 et seq.] this notice announces that the information collection request abstracted below has been forward to

the Office of Management and Budget for review and is available for public review and comment. A copy of the information collection may be obtained from Mr. Michael Berning, Office of Recruitment, United States Peace Corps, 1990 K Street NW., Washington, DC 20526. Mr. Berning may be called at 202–254–6480. Comments on this form should be addressed to Mr. Marshall Mills, Desk Officer, Office of Management and Budget, Washington, DC 20503.

Information Collection Abstract

Title: RPCV and Former Staff Data Base Card.

Need for and Use of the Information: Peace Corps needs this information in order to help the agency regain and maintain contact with former Peace Corps volunteers and staff.

Respondents: Former Peace Corps volunteers and staff.

Burden on the public:

a. Annual reporting burden: 165 hours.

b. Annual recordkeeping burden: 0 hours.

c. Estimated average burden per response: 2 minutes.

d. Frequency of response: on occasion.

e. Estimated number of likely respondents: 5,000.

This notice is issued in Washington, DC on April 24, 1990.

Collins Reynolds,

Associate Director for Management.

[FR Doc. 90–9847 Filed 4–26–90; 8:45 am]

BILLING CODE 6051–01–M

PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS

Meeting

The Presidential Commission on Catastrophic Nuclear Accidents, pursuant to its authority under subsection 170(l), of Public Law 100–408, the Price-Anderson Amendments Act of 1988, will hold a meeting on May 9, 1990, from 10 a.m.–5 p.m., and on May 10, 1990, from 9 a.m.–5 p.m. at the law offices of Bishop, Cook, Purcell and Reynolds, 1400 L St., NW, Washington, DC 20005. The Commission was created to conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident and to submit a final report to Congress no later than August 20, 1990.

At the meetings on May 9 and 10, the Commission will discuss preliminary drafts of its reports. There may be speakers.

The public is permitted to attend both meetings and there will be time during each session for brief statements. Minutes of the Commission sessions and copies of the draft report will be available after the meeting at the Commission office, 600 E St., NW, Room 660.

For further information, contact Jerome Saltzman at 600 E St., NW, Room 660, Washington, DC 20004, (202)272–5695. Members of the public planning to attend the Commission meeting should contact Mr. Saltzman at (202)272–5695 at least two days before the meeting date.

Dated: April 24, 1990.

Jerome Saltzman,

Executive Director, Presidential Commission on Catastrophic Nuclear Accidents.

[FR Doc. 90–9846 Filed 4–26–90; 8:45 am]

BILLING CODE 6820–SP–M

SECURITIES EXCHANGE ACT OF 1934

[Release No. 27929]

Meeting/Conference Travel

April 23, 1990.

The Securities Exchange Act of 1934, as amended in August, 1983, gives the Commission authority to accept payment and reimbursement from non-federal entities to defray the cost of travel and subsistence expenses incurred by Commission members and staff while participating in meetings and conferences concerning the agency's responsibilities.

Kenneth A. Fogash, Deputy Executive Director, today released the following compilation of payments and reimbursements for such travel during the quarters ending December 31, 1989 and March 31, 1990:

Type of traveller	Number of trips	Host paid	SEC paid
Quarter ending Dec. 31, 1989			
Member	3	$827.00	$430.86
Staff	35	10,305.50	7,000.46
Quarter ending Mar. 31, 1989			
Member	10	2,691.93	100.43
Staff	106	35,067.73	2,812.56

For the Commission, by the Deputy Executive Director, pursuant to delegated authority under 17 CFR 200.30–15.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–9861 Filed 4–26–90; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–25074]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 20, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 14, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Fuel Gas Company, et al. (70–7650)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, and four of its subsidiary companies, National Fuel Gas Distribution Corporation, National Fuel Gas Supply Corporation, Penn-York Energy Corporation, and Seneca Resources Corporation, all located at 10 Lafayette Square, Buffalo, New York 14203, have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45, 50 and 50(a)(5) thereunder.

By prior Commission order in this matter (HCAR No. 24871, dated April 25, 1989), National was authorized to issue and sell under its Indenture prior to December 31, 1990, or prior to June 1991, subject to further Commission approval,

in one or more transactions up to $250 million aggregate principal amount of debt securities consisting of (i) one or more series of its debentures ("New Debentures") and/or (ii) medium-term notes ("MTNs"), the nature of the security to be determined when the agreement to sell is made or at time of delivery.

On July 19, 1989, National issued and sold, at competitive bidding, $100 million in principal amount of its 9½% Debentures Series due July 1,2019. At this time, $150 million of Debentures and/or MTNs remain to be issued.

National now requests an exemption from the standards required under the Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935 (NCAR No. 13105, February 16, 1956) ("Statement of Policy") with respect to redemption provisions of the New Debentures. National proposes to issue New Debentures, with maturities of up to thirty years, which may not be callable prior to their maturity. The Statement of Policy requires that bonds must be callable for redemption at any time upon reasonable notice and with reasonable redemption premiums, if any. National believes that approval of the authority requested herein represents a reasonable and logical extension of the authority already granted to National in connection with its ability to issue and sell MTNs which, according to existing authorization, may or may not be redeemable. The New Debentures, like the MTNs, will legally be considered debentures and "funded debt" under National's Indenture.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–9862 Filed 4–26–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Incorporated

April 23, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12 (f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Rhone Poulenc SA

American Depository Receipts (File No. 7–5868)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–9772 Filed 4–26–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

April 23, 1990.

The Midwest Stock Exchange, Inc. ("MSE") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 thereunder for unlisted trading privileges ("UTP") in the 2 securities listed below solely for the purpose of trading these securities as part of a portfolio transaction traded through the MSE's Portfolio Trading System during its Secondary Trading Session. The 2 securities listed below are all over-the-counter securities that are quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ").[1] Last sale information for these securities are reported through NASDAQ facilities.

Autodesk, Inc.

Common Stock, No Par Value (File No. 7–5869)

DSC Communications Corp.

Common Stock, $.01 Par Value (File No. 7–5870)

Interested persons are invited to submit on or before [May 7, 1990] written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f) of the Act. Under this section the Commission can only approve the UTP application if it finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

Further, in considering the MSE's application for extension of UTP in the 2 NASDAQ stocks, section 12(f)(2) of the Act requires the Commission to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension of the existing markets for such securites, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commission may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1)(C) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–9773 Filed 4–26–90; 8:45 am]

BILLING CODE 8010–01–M

[1] None of the securities on which UTP has been requested are registered on another national securities exchange under section 12(b) of the Act.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: Systems of Records; Railroad Safety—Noncompliance by Individuals and Office of Safety Investigation Case File System

The Department of Transportation herewith publishes a notice relating to the proposed amendment of two systems of records maintained in

connection with the investigation and prosecution of violations of safety statutes and regulations applicable to railroad carriers.

Any person or agency may submit written comments on the proposed amendment of the systems to S. Mark Lindsey, Chief Counsel (RCC–1), Federal Railroad Administration, 400 Seventh Street SW, Washington, DC 20590. Comments to be considered must be received by May 19, 1990.

If no comments are received, the proposed changes will become effective on the above-mentioned date. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, DC, April 19, 1990.

Melissa J. Allen,

Deputy Assistant Secretary for Administration.

DOT/FRA 130

System name: Office of Chief Counsel Individual Enforcement Case System.

System location: Federal Railroad Administration, Office of the Chief Counsel, Safety Division (RCC–30), 400 Seventh Street SW, Washington, DC 20590.

Categories of the individuals covered by the system: Individuals that have allegedly failed to comply with certain railroad safety statutes and regulations.

Categories of records in the system: Facts and circumstances surrounding alleged rail safety violations by individuals; recommendations for enforcement actions; and enforcement cases.

Authority for maintenance of the system: Hazardous Materials Transportation Act (49 App. U.S.C. 1801 *et. seq.*); Safety Appliance Acts, (45 U.S.C. 1–16); Locomotive Inspection Act, (45 U.S.C. 22–34); Accident Reports Act, (45 U.S.C. 38–43); Hours of Service Act, (45 U.S.C. 61–64a); Signal Inspection Act, (49 App. U.S.C. 26); Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*); 18 U.S.C. 1001; and Rail Safety Improvement Act of 1988 (Pub. L. No. 100–342).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

To disclose pertinent information to any source from which additional information is requested in the course of conducting an investigation to the extent necessary to identify the purpose(s) of the request and identify the information requested.

To provide notice of the investigation and its outcome to the individual's employing railroad or shipper, or other railroad related to the case through joint facilities or trackage rights in order to give those entities information they may need to assist in preventing a recurrence of noncompliance.

To provide information concerning enforcement actions for violations of safety statutes and regulations to government agencies and the regulated industry in order to provide them with information necessary to carry out their responsibilities, and to the public in order to increase the deterrent effect of the actions and keep the public apprised of how the laws are being enforced.

To be reviewed by the Safety Division and to form the basis, or support for, civil and/or criminal enforcement actions against the individuals involved.

The general routine uses in the prefatory statement apply to all of these files.

Policies and practices for storing, retrieving, assessing, retaining, and disposing of records in the system

Storage: File folders, file cabinets and an automated tracking system.

Retrievability: Records are retrievable by name of individual and/or his or her employer.

Safeguards: Information in this system is maintained in both manual and automated forms. Access in each case is limited to authorized officials.

Manual records will be maintained in file cabinets which will be locked after working hours.

Automated records will be password protected.

Retention and disposal: Appropriate records retention schedules will be applied and disposal will be by shredding. Certain automated records will be retained indefinitely to provide complete compliance histories.

System manager and address: Enforcement Information Technician, Safety Division, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590.

Notification procedure: Inquiries should be directed to: Assistant Chief Counsel, Safety Division, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW, Washington, DC 20590.

Record access procedure: Contact (202) 366–0635 or write to the System Manager for information on procedures for gaining access to records.

Contesting record procedures: Same as record access procedure.

Record source categories: Information is obtained directly from the individual or from other persons with personal knowledge of the facts and circumstances involved.

DOT/FRA 131

System name: Office of Safety Individual Enforcement Case System.

System location: Each regional office and Federal Railroad Administration, Office of Safet, RRS–10, 400 Seventh Street SW., Washington, DC 20590.

Categories of the individuals covered by the system: Individuals who have allegedly failed to comply with certain railroad safety statutes and regulations.

Categories of records in the system: Facts and circumstances surrounding alleged rail safety violations by individuals; recommendations for enforcement actions; and enforcement cases.

Authority for maintenance of the system: Hazardous Materials Transportation Act (49 U.S.C. 1801 *et seq.*); Safety Applicane Acts, (45 U.S.C. 1–16); Locomotive Inspection Act, (45 U.S.C. 22–34); Accident Reports Act, (45 U.S.C. 38–43); Hours of Service Act, (45 U.S.C. 61–64a); Signal Inspection Act, (49 App. U.S.C. 26); Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*); 18 U.S.C. 1001, and Rail Safety Improvement Act of 1988 (Pub. L. No. 100–342).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

To be reviewed by the Associate Administrator for Safety and his staff to determine whether cases should be forwarded to the Office of Chief Counsel for prosecution and to otherwise accomplish the mission of the Office of Safety.

To disclose pertinent information to any source from which additional information is requested in the course of conducting an investigation to the extent necessary to identify the purpose(s) of the request and identify the information requested.

To provide notice of the investigation and its outcome to the individual's employing railroad or shipper, or other railroad related to the case through joint facilities or trackage rights in order to give those entities information they may need to assist in preventing a recurrence of noncompliance.

To provide information concerning enforcement actions for violations of safety statutes and regulations to government agencies and the regulated industry in order to provide them with information necessary to carry out their responsibilities, and to the public in order to increase the deterrent effect of

the actions and keep the public apprised of how the laws are being enforced.

The general routine uses in the prefatory statement apply to all of these files.

Policies and practices for storing, retrieving, assessing, retaining, and disposing of records in the system

Storage: File folders, file cabinets and an automated tracking system.

Retrievability: Records are retrievable by direct terminal access with the selection of the data elements determined by the authorized user.

Safeguards: Information in this sytem is maintained in both manual and automated forms. Access in each case is limited to authorized officials.

Manual records will be maintained in file cabinets which will be locked after working hours.

Automated records will be password protected.

Retention and disposal: File records will be retained for a period of three years, automated records will be maintained for a period of five years. Disposal will be by shredding except certain automated records will be retained indefinitely to provide complete compliance histories.

System manager and address: Director, Office of Safety Enforcement, RRS–10, Federal Railroad Administration, RRS–1, 400 Seventh Street SW., Washington, DC 20590.

Notification procedures: Inquiries should be directed to: Associate Administrator for Safety, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590.

Record access procedure: Contact the System Manager for information on procedures for gaining access to records.

Contesting record procedures: Same as record access procedure.

Record source categories: Information is obtained directly from the individual or from other persons with personal knowledge of the fact and circumstances involved.

Narrative Statement for the Department of Transportation, Federal Railroad Administration

The Department of Transportation (DOT), on behalf of the Federal Railroad Administration (FRA), proposes to amend two existing systems of records, Railroad Safety-Noncompliance by Individuals, DOT/FRA 130, and Office of Safety Investigation Case File System, DOT/FRA 131, established under the Privacy Act of 1974. These systems contain facts and circumstances surrounding rail safety violations by individuals.

The purpose of this notice is to amend the two systems by redesignating them as Office of Chief Counsel Individual Enforcement Case System, DOT/FRA 130, and the Office of Safety Individual Enforcement Case,System, DOT/FRA 131, and by including, as a routine use of the information contained in each system, the distribution of information concerning enforcement actions based on violations of railroad safety laws and regulations to other government agencies, the regulated industries, and the public, and for other reasons. Under certain circumstances the release of this information will create a valuable deterrent effect on individuals in safety-sensitive positions and will give the employers of individuals who have violated the safety laws information they need to help prevent a recurrence.

The authority to maintain these two systems of records is contained in 49 App. U.S.C. 1801 *et seq.*' 45 U.S.C. 1–16, 22–34, 38–43, and 61–64a, and 421 *et seq.;* 49 App. U.S.C. 26; and 18 U.S.C. 1001.

Most of the information in the systems is either provided voluntarily by individuals involved in each case or gathered by FRA inspectors. The information will be used in accordance with the stated routine uses and will not unduly impact individual privacy rights.

Information in these systems will be processed in both hard copy and computerized environments. A description of the steps taken to safeguard these records is given under the appropriate heading in the attached copy of the system notice for each system prepared for publication in the **Federal Register**.

The purpose of this report is to comply with Office of Management and Budget (OMB) Circular A–130, Appendix 1, Federal Agency Responsibilities for Maintaining Records About Individuals, dated December 12, 1985.

[FR Doc. 90–9784 Filed 4–26–90; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 90–025]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC). The meeting will be held on Thursday, July 12, 1990, in room 2415 of U.S. Coast Guard Headquarters. The meeting is scheduled to run from 8 a.m. to 5 p.m. Attendance is open to the public. The agenda follows:

1. Subcommittee Reports

(a) Personnel Manning and Licensing

(b) Tug-Barge Construction, Certification and Operations

(c) Port Facilities and Operations

(d) Personnel Safety and Workplace Standards

2. Other Topics of Discussion

With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the TSAC Executive Director no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee at any time; however, to ensure distribution to each Committee member, 20 copies of the written material should be submitted to the Executive Director by July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Jo Pensivy, Executive Director, Towing Safety Advisory Committee, room 2414, U.S. Coast Guard Headquarters (G–MP–2), 2100 Second St., SW., Washington, DC 20593–0001, (202) 267–1406.

Dated: April 20, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90–9779 Filed 4–26–90; 8:45 am]

BILLING CODE 4910–14–M

[CGD 90–026]

Towing Safety Advisory Committee; Meeting of Subcommittees

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. I), notice hereby is given of a meeting of all Towing Safety Advisory Committee (TSAC) Subcommittees. The Subcommittee meetings will be held from 1:30 p.m. to 4 p.m. on Wednesday, July 11, 1990, in room 2415, U.S. Coast Guard Headquarters. The agenda for the meeting follows:

1. Call to Order

2. Individual Subcommittee Discussions

(a) Personnel Manning and Licensing

(b) Tug-Barge Construction, Certification and Operations

(c) Port Facilities and Operations
(d) Personnel Safety and Workplace Standards

3. Presentation of any new items for consideration by the Subcommittees

4. Adjournment

Attendance is open to the public. Members of the public may present oral or written statements at the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Jo Pensivy, TSAC Executive Director, room 2414, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–1406.

Dated: April 20, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90–9780 Filed 4–26–90; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard

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

ACTION: Grant in part of petition for exemption.

SUMMARY: This notice grants in part the petition by General Motors Corporation (GM) for exemption from the parts marking requirements of the vehicle theft prevention standard for the Cadillac Deville/Fleetwood (Deville/Fleetwood) and Oldsmobile Ninety-Eight (Ninety-Eight) car lines for Model year (MY) 1991, pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* for MY 1991 and beyond. GM is required to mark only the engines and transmissions of the exempted car lines.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–4808.

SUPPLEMENTARY INFORMATION: On December 27, 1989, GM submitted a petition for exemption from the theft prevention standard for its Deville/Fleetwood and Ninety-Eight car lines, pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* for MY 1991 and beyond.

The informatoin submitted by GM constitutes a complete petition, as required by 49 CFR part 543.7, in that it meets the general requirements contained in part 543.5 and the specific content requirements of part 543.6. The agency has analyzed the petition and is issuing this notice to announce its determination.

The system is identified by GM as the Personalized Automotive Security System ("PASS-Key"). Since the beginning of the 1990 model year, the Deville/Fleetwood has had "PASS-Key" as standard equipment. "PASS-Key" is not standard on the Ninety Eight. This "PASS-Key" System is identical to that on the Chevrolet Camaro and Pontiac Firebird car lines, for which the agency granted a partial exemption from theft marking beginning from MY 1989 (54 FR 33655, August 15, 1989). GM is required to mark only the engines and transmissions on the Camaro and Firebird car lines.

The "PASS-Key" theft deterrent system utilizes an ignition key, an ignition lock cylinder and a decoder module. The conventional mechanical code permits the key to release the steering wheel and transmission shift lever locks. Before the vehicle can be started, the electrical resistance of a pellet embedded in the shank of the key must be sensed by elements in the lock cylinder and its value compared to a fixed resistance in the decoder module located in the instrument panel in the passenger compartment. If the key pellet has the proper resistance, the starter enable relay is energized and a discrete signal is transmitted to the electronic control module. Recognition of the signal by the electronic control module allows fuel injector pulses to begin. If a key other than the one with proper resistance for that vehicle is inserted, the decoder module will shut down for a period of two to four minutes. The time period for shut down is controlled by a timer located within the module. Variability in the length of time that the decoder is shut down is a function of the components preselected by GM for a specific timer and is not a programmable feature by the owner/operator. GM claims that any process of trial and error using various keys with different resistance pellets will cause the timer to recycle and begin again with each failed attempt to match resistance values of the key and the decoder.

The components are located in the passenger compartment behind the instrument panel, with the exception of the starter solenoid/starter motor combination which is physically located in the engine compartment. The remaining components are inside the passenger compartment behind the instrument panel. Unlike many other theft deterrent systems, removing and subsequently reapplying vehicle power does not alter "PASS-Key" performance.

GM states that since "PASS-Key" is fully operational once the engine has been turned off and the key removed, it has not provided audio warnings, or visual warnings visible from outside of the cars, that unauthorized attempts have been made to enter or move the vehicles.

In order to draw attention to improper use of a key to start the vehicle, GM has installed a yellow "Security" light inside the passenger compartment. This light is designed to activate if the proper key with a dirty or contaminated resistor pellet is used and the vehicle does not start. If this happens, it is necessary to clean the key and delay a further attempt to start the engine until the "PASS-Key" timer has run its course (a minimum of four minutes). The "Security" light is designed to illuminate also if a key with the proper mechanical but improper electrical code is used to try and start the vehicle.

GM states that a premise for the design of any theft deterrent system in its products has been that a failure in such a system would not affect a running vehicle. It may not be possible to restart a vehicle after such a failure but that failure should not stop an engine that has been started. That criterion has been met in "PASS-Key." Once an "Engine Running" signal has been identified by the engine control module, a "PASS-Key" failure will not cause the engine to stop.

GM's analysis of the failure mode effects of the "PASS-Key" system indicated that the component with the highest probability for failure was the ignition lock cylinder with its key, wiring, contacts, and rotational motion. A 52,500 cycle automated bench test of the key, ignition lock cylinder, wiring, and "PASS-Key" electronics module was conducted over a temperature range of approximately −40 degrees Fahrenheit to +120 degrees Fahrenheit. GM informs this agency that for the "C" body platform, on which both the Deville/Fleetwood and the Ninety Eight are based, tests with a total of 2,327,848 cycles were performed with one failure. GM states that this is equivalent to 1.01 defects per thousand vehicles and a one year reliability of 0.995.

Although the Deville/Fleetwood has had "PASS -Key" as standard equipment since the start of production for 1990, early warranty data for these vehicles is insufficient to confirm the bench test results. GM informs this agency that since failures in the "PASS-Key" system will directly affect

consumer satisfaction, GM will monitor warranty data on this system.

As previously stated, beginning with MY 1990, the GM Firebird and Camaro car lines were granted partial exemptions from theft marking. Since MY 1989, both car lines have had the "PASS-Key" system as standard equipment. To substantiate its statements on the "PASS–Key" antitheft system effectiveness, GM provided theft data on Firebird/Camaro theft rates for MYs 1986 through 1988. Data for the first half of MY 1989, as reported by the National Automobile Theft Bureau (NATB), was also reported. (The agency's official source of theft data is the National Crime Information Center (NCIC) for theft data. See 50 FR 4666, dated November 12, 1985.) NCIC data for any part of MY 1989 were unavailable.

The NATB data covers thefts of insured Firebirds and Camaros reported by insurance companies that are members of NATB. That data would not cover, for example, thefts of uninsured vehicles, self-insured vehicles, or vehicles insured by non-NATB-member companies. On the other hand, NCIC receives reports on all thefts.

The NATB data reported by GM showed that Firebird/Camaro theft rates (per thousand vehicles) by Model Year were: for 1986, 23.3 for the Firebird, 24.7 for the Camaro; for 1987, 26.4 for the Firebird, 20.7 for the Camaro; for 1988, 24.3 for the Firebird, 19.7 for the Camaro; and for January 1, 1989 to June 30, 1989, 6.9 for the Firebird and 5.7 for the Camaro.

GM stated a belief, based on the decreases in thefts of the Firebird/Camaro car lines during the 1989 model year which occurred with the implementation of "PASS-Key" as standard equipment, that the "PASS-Key" system is "extremely effective in deterring motor vehicle theft." GM stated that it believes that such a reduction will be achieved with the Deville/Fleetwood and the Ninety-Eight when "PASS-Key" becomes standard on those vehicles.

NHTSA believes that there is substantial evidence indicating that the antitheft system to be installed as standard equipment will likely be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the theft prevention standard (49 CFR part 541). This determination is based on the information GM submitted with its petition and on other available information. The agency believes that the device will provide all but one of the types of performance listed in § 543.6(a)(3); promoting activation; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device. The single exception is that the device lacks an alarm which would attract attention to unauthorized entries.

As required by section 605(b) of the statute and 49 CFR 543.6(a)(4), the agency also finds that GM has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information GM provided on its device. This information included a description of reliability and functional tests conducted by GM for the antitheft system and its components. GM presented extensive data on the life cycle test results of the "PASS-Key" ignition lock system.

Based on the foregoing, the agency has decided to grant the petition of GM in part. The petition is granted in part, instead of in whole, because although the agency believes that the system would likely be as effective as parts marking, it differs from other devices for which exemptions have been granted in that it lacks an alarm to attract attention to unauthorized entries. GM will be required to mark only the engines and transmissions of MY 1991 Cadillac Deville/Fleetwoods and Oldsmobile Ninety Eights. Those parts were chosen since they are among the most interchangeable of the 14 parts for which labeling is required.

If GM decides not to use the partial exemptions for the Deville/Fleetwood and Ninety Eight car lines, it should formally notify the agency. If this is the case, these car lines must be fully marked according to the requirements under 49 CFR parts 541.6 and 541.5 (marking of major component parts and replacement parts).

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs make it difficult at this stage of the theft standards implementation to compare the effectiveness of compliance with the theft prevention standard. The statute clearly invites such a comparison, which the agency has made on the basis of the limited data available.

NHTSA notes that if GM wishes in the future to modify the device on which this partial exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the lines exemption was based. Further, § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to it differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimus*. Therefore, NHTSA suggests that if GM contemplates making any changes the effects of which might be characterized as *de minimus* then the company should consult the agency before preparing and submitting a petition to modify.

(15 U.S.C. 2025, delegation of authority at 49 CFR 1.50)

Issued on April 20, 1990.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90–9785 Filed 4–26–90; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 23, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0024.
Form Number: 843.
Type of Review: Revision.
Title: Claim.
Description: Internal Revenue Code sections 6402, 6404, and §§ 301.6402–2,

301.6403–1, 301.6404–1, and 301.6511 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors or certain actions by the IRS. Form 843 is used by taxpayers to claim these refunds, credits, or abatements.

Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 688,000.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping	26 minutes.
Learning about the law or the form	8 minutes.
Preparing the form	20 minutes.
Sending the form to IRS	25 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/ Reporting Burden: 908,160 hours.

OMB Number: 1545–0182.

Form Number: 4782.

Type of Review: Extension.

Title: Employee Moving Expense Information

Description: 26 CFR 31.6051–1(e) requires employers to give employees a statement showing a detailed breakdown of reimbursements or payments of moving expenses. The information is used by employees to figure their moving expense deduction on their income tax return.

Respondents: State or local governments, Business or other for-profit, Small businesses of organizations.

Estimated Number of Respondents: 1,155,000.

Estimated Burden Hours Per Response/Recordkeeping: 7 hours, 47 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/ Reporting Burden: 8,985,900 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports, Management Officer.

[FR Doc. 90–9769 Filed 4–26–90; 8:45 am]

BILLING CODE 4830–01–M

Fiscal Service

[Dept. Circ. 570, 1989—Rev., Supp. No. 19; 4–00236]

Surety Companies Acceptable on Federal Bonds: Termination of Authority: Consolidated Insurance Company, and Indiana Insurance Company

Notice is hereby given that the Certificates of Authority issued by the Treasury to Consolidated Insurance Company and Indiana Insurance Company, under the United States Code, Title 31, Sections 9304–9308, to quality as an acceptable surety on Federal bonds are terminated effective today.

The Companies were last listed as acceptable sureties on Federal bonds at 54 FR 27806, and 27813, June 30, 1989.

With respect to any bonds currently in force with Consolidated Insurance Company and Indiana Insurance Company bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Companies. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3921.

Dated: April 23, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90–9744 Filed 4–26–90; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1989 Rev., Supp. No. 18; 4–00236]

Surety Companies Acceptable on Federal Bonds; ERIC Reinsurance Co.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1989 Revision, on page 27808 to reflect this addition:

ERIC Reinsurance Company. Business Address: 82 Hopmeadow Street, P.O. Box 129, Simsbury, CT 06070. *Underwriting Limitation b/: $9,413,000. Surety Licenses c/:* CA, CT, DE, NY. *Incorporated in:* Delaware.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287–3921.

Dated: April 20, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90–9745 Filed 4–26–90; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the

OMB Desk Officer within 30 days of this Notice.

Dated: April 18, 1990.

By direction of the Secretary.

Frank E. Lalley,

Acting Director, Office of Information Resources Policies.

Reinstatement

1. Veterans Benefits Administration
2. Transfer of (Scholastic) Credit (Schools)
3. VA Form Letter 22–315
4. This form letter is used to gather information to determine whether an eligible person who is enrolled in a program of training is entitled to receive educational allowance for a supplemental enrollment pursued at a second training institution.
5. On occasion
6. Individuals or households—State or local governments—Businesses or other for-profit—Non-profit institutions—Small businesses or organizations
7. 1,307 responses
8. ⅛ hour
9. Not applicable

[FR Doc. 90–9742 Filed 4–26–90; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, VA Clearance Officer (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: April 18, 1990.

By direction of the Secretary.

Frank E. Lalley,

Acting Director, Office of Information Resources Policies.

Reinstatement

1. Office of Information Resources Plans and Policies
2. 38 CFR 1.519(a) Lists of Names and Addresses
3. Not applicable
4. The information is used to determine whether an applicant for a list of VA beneficiary names and addresses is a nonprofit organization and intends to use the list for a proper purpose.
5. When a list is applied for.
6. State or local governments—Non-profit institutions
7. 103 responses
8. 1 hour
9. Not applicable

[FR Doc. 90–9743 Filed 4–26–90; 8:45 am]

BILLING CODE 8320-01-M

Special Medical Advisory Group; Notice of Availability of Annual Report

Under section 10(d) of Public Law 92–463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report of the Department of Veterans Affairs' Special Medical Advisory Group for Fiscal Year 1989 has been issued. The report summarizes activities of the Group on matters relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Veterans Affairs' Veterans Health Services and Research Administration. It is available for public inspection at two locations·

Federal Documents Section, Exchange and Gift Division, LM 632, Library of Congress, Washington, DC 20540, and

Department of Veterans Affairs, Office of the Chief Medical Director, room 811, 810 Vermont Avenue NW., Washington, DC 20420.

Dated: April 16, 1990.

By direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 90–9740 Filed 4–26–90; 8:45 am]

BILLING CODE 8320-01-M

Veterans Affairs Wage Committee; Availability of Annual Report

Under section 10(d) of Public Law 92–463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report of the Veterans Affairs Wage Committee for Fiscal Year 1989 has been issued.

The report summarizes activities of the Committee on matters related to wage surveys and pay schedules for Federal prevailing rate employees. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications, Reading Room, LM 133, Madison Building, Washington, DC 20540, and

Department of Veterans Affairs, Office of the Committee Secretary, VA Wage Committee, Room 1108, 810 Vermont Avenue NW, Washington, DC 20420.

Dated: April 16, 1990.

By Direction of the Secretary.

Sylvia Chavez Long,

Deputy Assistant Secretary for Program Coordination and Evaluation.

[FR Doc. 90–9741 Filed 4–26–90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 82
Friday, April 27, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:00 a.m., May 14, 1990.

PLACE: The Westin Hotel, 24th & M Street, NW., Washington, DC 20037.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) and 22 CFR 1300.2 of the Board's rules.

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government as they relate to international shortwave radio broadcasting into Eastern Europe and the Soviet Union.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Mark G. Pomar, Deputy Executive Director, Board for International Broadcasting, Suite, 400, 1201 Connecticut Avenue, NW., Washington, DC 20036.

Mark G. Pomar,

Deputy Executive Director.

[FR Doc. 90-9969 Filed 4-25-90; 1:52 pm]

BILLING CODE 6155-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:23 p.m. on Tuesday, April 24, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Application of Savers Thrift and Loan Association, Laguna Hills, California, an operating noninsured industrial bank, for Federal deposit insurance.

Application of La Mesa Thrift and Loan Company, a proposed new industrial bank to be located at 7800 University Avenue, La Mesa, California, for Federal deposit insurance.

Application of Westwood Thrift and Loan Association, Los Angeles, California, an operating noninsured industrial bank, for Federal deposit insurance.

Application of Industrial Bank of Korea, Seoul, Republic of Korea, for Federal deposit insurance of deposits received at and recorded for the accounts of its proposed branch to be located at 16-20 West 32nd Street, New York City (Manhattan), New York.

Application of Habib Bank AG Zurich, Zurich, Switzerland, for Federal deposit insurance of deposits received at and recorded for the accounts of its proposed branch to be located at 261 South Figueroa Street, Los Angeles, California.

Administrative enforcement proceedings.

Matters relating to the probable failure of certain insured banks.

Request of Eastern Bank and Trust Company, Salem, Massachusetts, for a waiver of the municipal securities representative apprenticeship requirement pursuant to Municipal Securities Rulemaking Board Rule G-3(i)(ii).

Matters relating to certain assistance agreements pursuant to section 13 of the Federal Deposit Insurance Act.

Matters relating to the Corporation's corporate activities.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,529
First Texas Savings Association, Dallas, Texas
Case No. 47,533
American Diversified Savings Bank, Costa Mesa, California
Case No. 47,537
Sale of Performing Mortgage Loans—Various Banks

Matters relating to an assistance agreement with a savings association.

Personnel matters.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Dated: April 25, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-9968 Filed 4-25-90; 1:51 p.m.]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, May 2, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of proposed amendments to Regulation BB (Community Reinvestment) to implement changes in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 regarding uniform procedures for disclosure and preparation of CRA evaluations.

Discussion Agenda

2. Proposed implementation of certain payment system risk reduction policies. (Proposed earlier for public comment; Docket Nos. R-0668, R-0669, and R-0670.

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant in the Board; (202) 452-3204.

Dated: April 25, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-9936 Filed 4-25-90; 10:47 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 12:30 p.m., Wednesday, May 2, 1990, following

a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 25, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–9937 Filed 4–25–90; 10:47 am]

BILLING CODE 6210–01–M

Corrections

Federal Register
Vol. 55, No. 82
Friday, April 27, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-00-4212-13; GPO-183; OR-45076]

Conveyance of Public Lands; Order Providing for Opening of Land; Oregon

Correction

In notice document 90-8355 beginning on page 13671 in the issue of Wednesday, April 11, 1990, make the following corrections:

1. The docket number should have appeared as set forth above.

2. On page 13671, in the second column, under "**SUMMARY**", beginning on the third line delete "This action will also open 229.10 acres of Federal ownership."

3. On the same page, in the third column, under **Williamette Meridian**, in the 17th line "90°54'" should read "89°54'".

4. On the same page, in the same column, in the same paragraph, beginning in the 37th line delete everything following the semicolon and the entire 38th line.

5. On page 13672, in the first column, in the fourth line "and" should read "land".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-ASW-43]

Airworthiness Directives: McDonnell Douglas Helicopter Company (MDHC) Model 369 Series Helicopters

Correction

In proposed rule document 90-8960 beginning on page 14428, in the issue of Wednesday, April 18, 1990, make the following correction:

On page 14428, in the second column, in the second complete paragraph, in the fourth line, "McDonnell" should read "McDowell".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular; Proposed Change 1, Advisory Circular 23-8A, Flight Test Guide for Certification of Part 23 Airplanes

Correction

In notice document 90-8531, appearing on page 13878, in the issue of Thursday, April 12, 1990, make the following corrections:

1. On page 13878, in the second column, under **SUMMARY:**, in the fourth line, insert "to" after "revision".

2. On the same page, in the same column, under **DATES:**, in the last line, "January 11, 1990" should read "June 11, 1990".

BILLING CODE 1505-01-D

Federal Register

Friday
April 27, 1990

Part II

Environmental Protection Agency

40 CFR Parts 260, 261, 264, and 270
Standards for Owners and Operators of Hazardous Wastes Incinerators and Burning of Hazardous Wastes in Boilers and Industrial Furnaces; Proposed and Supplemental Proposed Rule, Technical Corrections, and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 264 and 270

[FRL-3358-6 EPA/OSW/FR/90-007]

RIN 2050-AB90

Standards for Owners and Operators of Hazardous Waste Incinerators and Burning of Hazardous Wastes in Boilers and Industrial Furnaces

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule, supplemental proposed rule, technical corrections, and request for comments.

SUMMARY: Under this proposal, the Environmental Protection Agency (EPA) would amend the hazardous waste incinerator regulations to improve control of toxic metal emissions, hydrogen chloride emissions, and residual organic emissions; amend the definitions of incinerators and industrial furnaces; propose definitions for plasma arc incinerators and infrared incinerators; propose to regulate carbon regeneration units as thermal treatment devices; and make a number of minor revisions to permitting procedures.

At present, toxic metal emissions from incinerators are controlled indirectly by a limitation on particulate matter. Under some conditions, the particulate standard may not sufficiently control toxic metals to ensure adequate protection of human health. Under today's proposal, EPA would establish risk-based emission limits for individual toxic metals in addition to the existing particulate standard.

Under existing rules, hydrogen chloride emissions are controlled by a technology-based standard. Because that standard may under-regulate emissions in particular situations, risk-based emissions limits would be established in addition to the existing standard.

In addition, organic emissions that result from inadequate combustion of toxic organic hazardous wastes are controlled under present rules by a destruction and removal efficiency (DRE) standard. The DRE standard requires destruction of toxic organic constituents in the waste, but does not directly control products of incomplete combustion. To address the potential health risk from products of incomplete combustion, today's proposed rule would require that incinerators continuously operate at high combustion efficiency by establishing limits on flue gas carbon monoxide and hydrocarbon levels.

Finally, EPA is noticing technical corrections as well as requesting comment on three regulatory alternatives to issues presented in the October 26, 1989 supplement to the proposed rule for burning hazardous waste in boilers and industrial furnaces (54 FR 43718). These items are set forth in part One, section III.C of this notice. The issues of concern are: regulation during interim status of the direct transfer of hazardous waste from a transport vehicle to a boiler or furnace; controls on emissions of free chlorine; and limiting stack gas temperature at the inlet to a dry emissions control device to below 450 °F.

DATES: EPA will accept public comments on this proposed rule and on the other issues opened for public comment by this notice until June 26, 1990.

ADDRESSES: Comments on this proposed rule, including the boiler and furnace supplemental issues, should be sent to RCRA Docket Section (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 ATTN: Docket No. F-90-BWIP-FFFFF. The public docket is located in Room 2427 and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. Individuals interested in viewing the docket should call (202) 475-9327 for an appointment.

FOR FURTHER INFORMATION CONTACT: RCRA HOTLINE, at (800) 424-9346 (toll free) or at (202) 382-3000. Single copies of the proposed rule are available by calling the RCRA Hotline. For technical information, contact Shiva Garg, Combustion Section, Waste Management Division, Office of Solid Waste, OS-322, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 382-7924.

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Today's preamble is organized in five major parts. Part One contains background information that summarizes major provisions of the rule. It also describes how today's rule fits into the Agency's strategy for regulating all burning of hazardous waste. Finally, this part identifies the need for increased regulatory controls beyond the present hazardous waste incinerator regulations.

Part Two discusses why the proposed controls limit emissions based on risk assessment rather than using technology-based standards. Part Two also discusses the proposed definitions for incinerators, industrial furnaces, and plasma arc and infrared incinerators; the regulation of carbon regeneration units as thermal treatment devices; and minor revisions to existing permitting requirements.

Part Three discusses the proposed revisions to the existing emissions standards. It explains EPA's use of risk assessment to develop the proposed rule; describes conservative screening limits for toxic metals, hydrogen chloride, and total hydrocarbons; and explains how site-specific dispersion modeling would be used to establish emission limits when the screening limits are exceeded.

Part Four discusses the permit procedures that would be used to implement the controls, and also discusses issues regarding the already proposed listing of halogen acid furnaces as industrial furnaces under § 260.10. This section also explains the impact of these proposed rules on existing permits and the added information requirements. Sampling and analytical procedures that may be used to analyze wastes for metals and to determine actual metal emissions during trial burns are also discussed. In addition, this part discusses a number of proposed revisions to permitting procedures that would clarify ambiguities and provide more flexibility to applicants and permit writers.

Part Five discusses the applicability of the rules in authorized States and their effect on State authorizations. This part also discusses the economic impacts the rule would have on the regulated community.

PART ONE: BACKGROUND

I. Legal Authority

These regulations are proposed under authority of sections 1006, 2002, 3001 through 3007, 3010, and 7004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976, the Quiet Communities Act of 1978, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6905, 6912, 6921 through 6927, 6930, and 6974.

II. Overview of the Proposed Rule

EPA proposes today to amend the hazardous waste incinerator regulations at 40 CFR part 264, subpart O, part 260 and part 261; and the associated permit rules at 40 CFR part 270 to provide improved control of toxic metals emissions, hydrogen chloride emissions, and residual organic emissions. EPA also proposes to definition for sludge dryers and a revised definition for industrial furnaces. Minor amendments to a number of permit requirements are also proposed.

A. Toxic Metals

Wastes bearing high levels of metals are commonly burned in incinerators (spent solvents and their still bottoms are examples). Metals and metal compounds in hazardous waste are not destroyed by incineration but are transformed into other metal species (usually oxides) and then either are removed as ash or in scrubber water, or are emitted with stack gases. Metals are usually emitted as particulates, but can be emitted as metal vapors if the metal is volatile.

EPA has conducted risk assessments to determine the levels of toxic metals that would create an unacceptable risk to human health if released to the atmosphere. EPA's analysis indicates that the present hazardous waste incinerator particulate standard of 0.08 grain per dry standard cubic foot (180 milligrams per dry standard cubic meter) may not adequately control emissions of toxic metals.[1]

In 1982 and 1983, EPA conducted field studies on eight incinerators to quantify emissions of pollutants. The Agency then evaluated the risk posed by those emissions and concluded that metals emissions probably did not present an unacceptable level of risk. However, the metals levels in the waste feed to the incinerators in these tests were relatively low. Emissions from incinerators burning waste with high levels of metals have not been determined in actual field tests. Thus, the Agency is concerned that, under conditions of high concentrations of toxic metals in waste and inadequate flue gas cleaning methods, the potential for unacceptable levels of risk could exist at some incinerators.

After considering the options for limiting such potential risk, the Agency is proposing to establish risk-based emission limits for the individual toxic metals listed in Appendix VIII of 40 CFR part 261. The limits would be back-calculated from ambient levels that EPA believes pose acceptable health risk. To reduce the burden to the applicant and permitting officials, EPA has developed conservative Screening Limits. If the

[1] Mitre Corp. "Mitre Working Paper: Hazardous Waste Stream Trace Metal Concentrations and Emissions." USEPA, Office of Solid Waste. November 1983.

Screening Limits are not exceeded, emissions do not pose unacceptable risk. If the Screening Limits are exceeded, however, site-specific dispersion analysis would be required to demonstrate that emissions would not result in an exceedance of acceptable ambient levels.

B. Hydrogen Chloride

EPA's present standard for control of acid gas at 40 CFR 264.343(b) requires that the rate of emission of hydrogen chloride (HC1) be no greater than the larger of 1.8 kilograms per hour (4 pounds per hour) or 1 percent of the HC1 in the stack gas before entering any pollution control device. EPA believes that this standard may not be protective of public health in some instances.[2] Thus, EPA is proposing to regulate HC1 under the same risk-based approach proposed for metals. The risk-based controls would be used on a case-by-case basis to ensure that the existing technology-based standard is protective.

C. Control of Products of Incomplete Combustion

Existing regulations control organic emissions by the destruction and removal effeciency (DRE) standard at 40 CFR 264.343(a). This standard limits stack emissions of principal organic hazardous constituents (POHCs) to 0.01 percent (0.0001 percent for dioxin-containing waste) of the quantity of the POHC fed to the incinerator. The standard considers a POHC to be destroyed (or removed in ash or scrubber water) if it is not present in the stack emissions. EPA's concern is that although the POHC itself may not be present at significant levels, intermediate combustion products, or products of incomplete combustion (PICs), may be present at levels that could pose significant health risk. The complete combustion of all hydrocarbons to produce only water and carbon dioxide is theoretical and could occur only under ideal conditions. Real-world combustion systms (e.g., incinerators, fossil fuel steam generators, diesel engines), however, virtually always produce PICs, some of which could be highly toxic.

EPA believes that requiring incinerators to operate at high combustion efficiency is a prudent approach to minimize the potential health risk posed by PIC emissions. Given that stack gas CO is a conventional indicator of combustion efficiency and a conservative indicator of combustion upsets (i.e., poor combustion conditions), today's rule would limit CO emissions to a *de minimis* level that ensures high combustion efficiency and low unburned hydrocarbon emissions. In cases where the *de minimis* CO limit is exceeded, the owner or operator would be required to demonstrate that higher CO levels would not result in high hydrocarbon emissions. We are taking comment on two alternative approaches to ensure that hydrocarbon emissions are acceptable: (1) A demonstration that hydrocarbon emissions are not likely to pose unacceptable health risk using conservative, prescribed risk assessment procedures; or (2) a technology-based demonstration that the hydrocarbon concentration in the stack gas does not exceed a good operating practice-based limit of 20 ppmv. Although we prefer the technology-based approach for reasons discussed below, we request comment on the health-based alternative as well.

D. Definitions

EPA is today proposing revised definitions for industrial furnaces and incinerators and new definitions for infrared incinerators and plasma arc incinerators. These definitions would include infrared and plasma arc incinerators within the definition of incinerator, and include nonflame combustion devices within the definition of industrial furnaces. EPA also proposes to regulate both direct flame and nonflame carbon regeneration units as thermal treatment units and, because of ambiguity regarding the current regulatory status of flame units, to establish the date of promulgation as the "in existence" date for interim status. EPA is also taking comment on an alternate regulatory approach that would simply regulate all types of hazardous waste thermal treatment devices (e.g., incinerators, boilers, industrial furnaces) under one set of standards, subpart O of parts 264 and 265.

E. Permitting Procedures

The EPA is today proposing to make a number of revisions to current permitting procedures. The purpose of these revisions is to clarify ambiguities in the present regulations and to give the permit writer flexibility in implementing the rules while providing adequate protection of public health. Examples of these changes include: all hazardous waste combustion units at a site would be considered when implementing the risk-based controls proposed today; compounds may be chosen as POHCs even though they may not be on appendix VIII or in the waste (at the permit writer's discretion); information relating to emergency relief valves and their use must be provided in the part B application; automatic waste feed cutoffs must be noted in an operating log and reported on a quarterly basis; and temperature must be maintained in the combustion chamber until all wastes (and residues) exit the chamber.

We note that EPA has already published at 54 FR 4286 (January 30, 1989) clarifications to 40 CFR 270.62(d) which better reflect the initial intent of the regulations with regard to requiring existing incinerators either to complete a trial burn, or submit data in lieu of a trial burn, prior to permit issuance.

F. Halogen Acid Furnaces

On May 6, 1987, EPA proposed to add Halogen Acid Furnaces (HAFs) to the list of industrial furnaces under § 260.10. See 52 FR 17018. We are today requesting comment on revisions to the proposed definition of HAFs to better distinguish between HAFs and incinerators burning halogenated waste. In addition, we are proposing to list as inherently waste-like under § 261.2(d) any secondary material fed to a HAF that is identified or listed as a hazardous waste under part 261, subparts C or D. Without that listing, HAFs burning wastes solely as an ingredient (i.e., wastes that have low heating value and, so, are not burned partially for energy recovery) to produce acid gas would be unregulated under § 261.2(e)(l)(i). Wastes with high heating value (i.e. greater than 5,000 Btu/lb), however, are considered to be burned at least partially for energy recovery and, thus, would be subject to the proposed boiler and industrial furnace rules.

III. Relationship of the Proposed Rule to Other Rules

A. Existing Hazardous Waste Incinerator Standards

The permit standards for incinerators now in effect at 40 CFR part 264, subpart O, establish three performance standards. The Agency believes that these standards may not be adequately protective in all cases and, thus, is today proposing to strengthen the standards.

Incinerators burning hazardous waste must achieve a destruction and removal efficiency (DRE) of 99.99 percent for each Principal Organic Hazardous Constituent (POHC) designated for each waste feed. This approach was based upon data indicating the hazardous waste incinerators burning a wide range of organic hazardous wastes could achieve such a destruction efficiency

[2] U.S. EPA, "Technical Background Document: Control of Metals and Hydrogen Chloride Emissions from Hazardous Waste Incinerators." August 1989.

and risk assessments indicating levels of unburned POHC would not pose an unacceptable health risk.

Metals emissions are controlled indirectly by a particulate matter emissions limit of 180 milligrams per dry standard cubic meter (or 0.08 gr/dscf).

Finally, hydrogen chloride (HC1) emissions are controlled by a standard that requires emissions to be reduced by 99 percent if emissions exceed 4 lb/hr. This standard is based upon the expected HC1 removal efficiency from existing wet scrubber technology.

B. Other Related Actions

The Agency has promulgated some regulations and proposed others for the burning of hazardous waste in boilers and industrial furnaces that would ensure that combustion controls and emissions standards are identical for boilers, industrial furnaces, and incinerators.

On January 4, 1985, EPA revised its rules to state that listed hazardous wastes and sludges are subject to transportation and storage controls prior to their being burned as fuels in boilers and industrial furnaces and prior to their processing or blending to produce a waste-derived fuel (50 FR 665). On November 29, 1985, EPA promulgated administrative controls for marketers and burners of hazardous waste fuels (50 FR 49164) that included a provision regulating transportation and storage of any hazardous waste used as a fuel or used to produce a fuel.

On May 6, 1987, EPA proposed rules that would establish technical (i.e., emissions) controls for boilers and industrial furnaces burning hazardous waste (52 FR 16982). The proposed boiler and industrial furnace rules would extend the concept of risk assessment to establish national performance standards to control stack emission of metals and hydrogen chloride (HCl) and would control products of incomplete combustion by limiting flue gas carbon monoxide levels. The rules would also require a DRE of 99.99 percent to be demonstrated.

On October 26, 1989, EPA published in the **Federal Register** (54 FR 43718) a supplemental notice to the May 1987 proposed rule. That notice requested comment on alternative approaches to address the following issues: control of PIC emissions by limiting flue gas concentrations of CO and hydrocarbons; control of metals, HCl and particulate emissions; the small quantity burner exemption; the definition of waste that is indigenous when processed for reclamation; applicability of the proposed metals and organic emissions controls to smelting furnaces involved in materials recovery; and the status under the Bevill amendment of residues from burning hazardous waste. The PIC, metals, and HCl emission controls proposed today for incinerators are identical to those which the Agency proposed for boilers and industrial furnaces in the October 1989 supplemental notice. As discussed below, the Agency is also today making several technical corrections to the October 1989 notice. In addition, the Agency is requesting comment on several regulatory issues pertaining to boilers and industrial furnaces burning hazardous waste.

We note that EPA is also proposing today to amend the definition of industrial furnace to include devices that otherwise meet EPA's criteria for classification as an industrial furnace but that are heated by means other than controlled flame combustion (e.g., electric arc smelting furnaces). See section III of part Two. Moreover, we are also requesting comment today on whether and how to regulate all hazardous waste thermal treatment devices (e.g., incinerators, boilers, and industrial furnaces) under parts 264 and 265, subpart O. Under this regulatory scheme, we may be able to eliminate the need for the sometimes ambiguous distinction between boilers, industrial furnaces, and incinerators and the redundant regulatory language that would occur if we promulgate boiler and industrial furnace regulations (part 266, subpart D) as proposed, that are virtually identical to existing and proposed regulations for incinerators.

Finally, we note that we are requesting comments on several issues regarding the proposed listing (52 FR 17018) of halogen acid furnaces as industrial furnaces under § 260.10.

C. Technical Corrections To The October 26, 1989, Boiler/Furnace Supplemental Notice And Request For Comment On Regulatory Issues

For convenience and because today's proposed amendments to the incinerator standards are closely related to the Agency's proposed boiler and industrial furnace rules, the Agency is using today's notice to make several technical corrections to the October 26, 1989, supplemental notice (54 FR 43718). We are also requesting comment on several additional regulatory issues and are reopening the comment period on the supplemental notice to take comment on these issues.

1. *Technical Corrections.* The Agency is making the following corrections to FRL–3358–5EPA/OSW–FR–89–024, Supplement to Proposed Rule for Burning of Hazardous Waste in Boilers and Industrial Furnaces (54 FR 43718 (October 26, 1989)):

a. On page 43720 under the heading "3. Apply Existing Hazardous Waste Incinerator Standard", the cite should be 40 CFR 264.343(c), not 40 CFR 340.342(c).

b. On page 43731, the second equation should read:

$$\frac{x}{140} + \frac{y}{40} < 1$$

c. On page 43757, footnote 56 referencing the source for the HCl RAC of 7 ug/m3 should read "Memo dated May 4, 1989, from Mike Dourson, EPA Office of Health and Environmental Assessment, to the RfD Workgroup, entitled "RfD Meeting of February 16, 1989".

d. On page 43762 in Appendix I, the long-term (i.e., annual) exposure RAC for HCl should be 7 $\mu g/m^3$, the 3-minute exposure RAC for HCl should be 150 $\mu g/m^3$, and the RAC for mercury should be 0.3 $\mu g/m^3$.

e. On page 43763 in Appendix J, the unit risk for beryllium should be 2.4E–03 $m^3/\mu g$ and the unit risk for a n-nitroso-n-methylurea should be 8.6 E–02 $m^3/\mu g$.

2. *Request for Comment on Regulatory Issues.* The Agency is reopening the comment period on the October 26, 1989, supplemental notice to take comment on three issues: (a) the regulation during interim status of the direct transfer of hazardous waste from a transport vehicle to a boiler or furnace; (b) controls on emissions of free chlorine; and (c) limiting stack gas temperature at the inlet to a dry emissions control device (e.g., bag house, ESP) to 450°F. (We note that we are reopening the comment period for the October 26, 1989, supplemental notice to receive comment on these issues only.)

a. Transfer Operations. In the October 26 supplemental notice (see page 43736), the Agency requested comment on two approaches to regulate direct transfer operations: (1) permit writers could use the omnibus authority provided by the statute to establish additional permit conditions as necessary to ensure adequate protection of human health and the environment from such operations; and (2) a requirement that all facilities that burn hazardous waste use blending and surge storage tanks to avoid flow interruptions and waste stratification, which, in turn, could affect the ability of the combustion device to meet the performance standards.

During the comment period for the boiler/furnace supplemental notice, commenters suggested that blending/surge storage tanks were not necessary to ensure compliance with performance standards. This issue will be discussed further in the promulgation of the final boiler/furnace rules. Commenters also stated, however, that controls on transfer operations were needed *during interim status.* They noted that it could take several years for the States or the Agency to issue a final permit to a boiler or furnace facility with a direct transfer operation. They argued that controls were needed in the interim to ensure adequate protection of human health and the environment from spills, fires, explosions, and toxic fumes. We agree and are today requesting comment on regulating direct transfer operations under the appropriate interim status standards for containers and tank systems provided by Subparts I and J of 40 CFR part 265. The other nontechnical standards for interim status facilities could also be applied, as applicable, including subparts A, B, C, D, E, G, and H.

These standards would become effective at the same time that the interim status standards become effective for the boiler or furnace—six months after promulgation.

The transport vehicle, once connected to the boiler or furnace firing system, could be subject to the Subpart I container standards. The once-a-week inspection frequency provided by § 265.174, however, could be revised to require daily inspection.

The piping system from the transport vehicle to the boiler or furnace could be subject to the tank system standards of Subpart J. We note that the compliance dates provided by Subpart J could be revised to reflect the date of promulgation of a final rule.

In the final rule, we could revise the subpart I and J standards as indicated above and include them under the boiler/furnace rules in subpart D of part 266.

The Agency requests comments on the need to regulate transfer operations during interim status and whether the suggested revised standards would be appropriate. The date of the final rule would be the "in existence" date for purposes of interim status qualification.

b. Controls for Emissions of Free Chlorine (Cl_2). As discussed in section III.B. of today's proposal, we are concerned that Cl_2 could be emitted from burning chlorinated wastes if there was insufficient hydrogen available (i.e., from other hydrocarbon compounds or water vapor) to react with all the chlorine in the waste. To address this problem, we are requesting comment on whether to require owners and operators of boilers and industrial furnaces burning hazardous waste to demonstrate that the maximum exposed individual (MEI) is not exposed to Cl_2 concentrations exceeding an annual average reference air concentration (RAC) of 0.4 $\mu g/m^3$.[3] The Cl_2 RAC is based on 100% of the interim inhalation RfD because other sources of Cl_2 are expected to have little or no effect on background levels due to the short life of Cl_2 in the atmosphere. This approach is consistent with the approach EPA proposed for HCl. As with the HCl standards, compliance could be demonstrated by: (1) emissions testing and dispersion modeling; (2) emissions testing and conformance with Cl_2 emissions Screening Limits; or (3) waste analysis and conformance with chlorine feed rate Screening Limits.

The Cl_2 Screening Limits could be developed using the same methodology used for the metals Limits (e.g., same dispersion or dilution factors; feed rate limits assume all chlorine in the feed is emitted as Cl_2). (The dispersion factors used to establish the HCl Screening Limits would not be appropriate because they are based on short-term (i.e., 3-minute) exposures. A short-term RAC is not yet available for Cl_2.) Given that the RAC for Cl_2 is 1.33 times the RAC for mercury, the Screening Limits for Cl_2 would be 1.33 times the Limits established for mercury in Appendix E of the boiler/furnace supplemental notice.

Emissions testing for Cl_2 should be conducted in accordance with "Draft Method for Determination of HCl Emissions from Municipal and Hazardous Waste Incinerators", U.S. EPA, Quality Assurance Division, July, 1989. In using this method for Cl_2 determination, caustic impingers must be used after the water impingers in the sampling train. The caustic solution will then be analyzed for chloride and reported as chlorine.

c. Limiting APCD Inlet Temperatures. We are requesting comment on whether to limit the temperature of stack gas entering a dry emissions control device (e.g., bag house, electrostatic precipitator (ESP)) to minimize formation of chlorinated dibenzodioxin and dibenzofurans (CDD/CDF). After conducting extensive emissions testing of municipal waste combustors (MWCs), the Agency has concluded that CDD/CDF can form on MWC flyash in the presence of excess oxygen at temperatures in the range of 480 to 750°F.[4] Cooling the flue gases and operating the air pollution control device (APCD) at temperatures below 450°F helps minimize the formation of CDD/CDF in the flue gas. Thus, the Agency has recently proposed to limit MWC stack gas temperatures at the inlet to the APCD to 450°F. See 54 FR 52251 (December 20, 1989).

Given that some hazardous waste incinerators and boilers and industrial furnaces burning hazardous waste are equipped with dry particulate control devices, we request comment on the need to control gas temperatures to 450°F to minimize CDD/CDF formation. Although available data indicate that CDD/CDF emissions from hazardous waste combustion devices are much lower than can be emitted from MWCs,[5] it may be prudent to limit gas temperatures in hazardous waste combustion devices as well.

E. Proposed Definition of Sludge Dryer

We note that the Agency plans to discuss the regulatory status of sludge dryers and propose a new definition for such devices in a separate Federal Register notice. This definition would distinguish between sludge dryers and incinerators. In that notice, the Agency also will propose to revise the definition of incinerator to exclude sludge dryers that may otherwise meet the definition of incinerator. We summarize below the discussion the Agency plans to present in that notice.

The notice will clarify the current regulatory status of sludge dryers: (1) sludge dryers that meet the § 260.10 definition of a tank [6] and a wastewater

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[3] Memo from Priscilla Halloran, EPA, to Dwight Hlustick, EPA, entitled "Health-Based Air Concentrations for Chlorine and N-nitroso-n-methyluera", dated January 4, 1990.

[4] See US EPA, "Municipal Waste Combustion Study: Combustion Control of Organic Emission", EPA/530-SW.87-021C, NTIS Order No. PB87-206090, US EPA, "Municipal Waste Combustion Study: Flue Gas Cleaning Technology", EPA/530-SW-87-021D, NTIS Order No. PB87-206108, and 54 FR 52251 (December 20, 1989).

[5] See discussions in US EPA, "Background Information Document for the Development of Regulations for PIC Emissions from Hazardous Waste Incinerators", October 1989. (Draft Final Report), and Engineering Sciences, "Background Information Document for the Development of Regulations to Control the Burning of Hazardous Waste in Boilers and Industrial Furnaces, Volume III: Risk Assessment", February 1987. (Available from the National Technical Information Service, Springfield, VA. Order No. PB87173845.)

[6] We believe that virtually all sludge dryers meet the tank definition and therefore would be exempt when used as part of a wastewater treatment system.

treatment unit are exempt from regulation; and (2) sludge dryers that are not exempt are subject to regulation under part 265, subpart P, or part 264, subpart X, as thermal treatment units, including those sludge dryers that meet the current definition of an incinerator. Given that the Agency never intended to regulate as incinerators sludge dryers that met the definition of incinerator when it was revised in 1985, nonexempt sludge dryers (those not meeting the definition of wastewater treatment unit) are subject to regulation under the interim status standards of part 265, subpart P, and the permit standards of part 264, subpart X, for other treatment devices. Accordingly, EPA plans to propose a revision to the incinerator definition to explicitly exclude sludge dryers.

To distinguish between sludge dryers and incinerators, EPA plans to propose the following definition: "sludge dryer" means any enclosed thermal treatment device used to dehydrate sludge and that has a maximum thermal input (from wastes and auxiliary fuel) of 1,500 Btu/lb of waste treated. EPA believes that this definition would clearly distinguish dryers from incinerators because incinerators require much higher thermal input—from 3,300 to more than 19,000 Btu/lb of waste treated—to achieve the temperatures required to destroy organic compounds to levels required by the subpart O destruction and removal efficiency standard. EPA believes that, for sludge dryers, the thermal input is invariably less than 1,500 Btu/lb.

IV. Need for Controls

A. Risks From Toxic Metals Emissions

The Agency has determined that risks from the burning of metal-bearing hazardous wastes in incinerators can be unacceptable under reasonable, worst-case circumstances, as defined by concentrations of metals in the incinerated waste, incinerator capacity or feed rate, partitioning of metals to bottom ash, collection efficiency of emission control equipment, and local terrain and meteorological conditions. For purposes of this rule, unreasonable risks are considered to be either: (1) exceedance of incremental lifetime cancer risk of greater than 1×10^{-5} to the potential maximum exposed individual (MEI) [7]; or (2) exceedance at the MEI of Reference Air Concentrations (RACs) for noncarcinogens established as 25 percent of the Reference Dose (RfDs) (except that for lead, the RAC is established at 10 percent of the National Ambient Air Quality Standard and for HCl, the RAC is based directly on inhalation exposure studies). (See discussion in part three below.)

For the purposes of this regulation, the Agency conservatively defines the maximum exposed individual in terms of *potential* exposure: the MEI is assumed to be located where ambient pollutant concentrations created by a facility are highest, even if this location is not currently populated. Thus, the potential MEI exposure predicitions are more conservative than the actual MEI concentrations.[8]

EPA has evaluated potential health risks from metals emissions under reasonable, worst-case scenarios. Conservative dispersion coefficients and ambient levels of metals that pose acceptable health risk (see section I of part III) were used to estimate health risk from a liquid injection incinerator and a rotary kiln incinerator. See table 1. Clearly, metals emissions can pose significant health risk. For the liquid injection incinerator analysis, we made the following assumptions: (1) the waste feed contained metals at the 50th percentile level [9] according to our data base; (2) all metals in the feed are emitted (i.e., emissions are not controlled, and no metals are removed with the bottom ash); and (3) 10 percent of the chromium emitted is hexavalent chromium. For the rotary kiln incinerator, we made the following assumptions: (1) the waste feed contained metals at the highest levels in the data base; (2) 0 to 5 percent of each metal is removed with the bottom ash; (3) the incinerator is equipped with a venturi scrubber (VS–20) to control particulate emissions that has a metal collection efficiency as shown in table G–3 of the boiler/furnace supplemental notice (54 FR 43761 (October 26, 1989)); and (4) 10 percent of the chorimum emitted is hexavalent chromium.

[7] In selecting a risk thresh of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

[8] An MEI location is sometimes defined in terms of current land use, i.e., as that location where people are currently exposed to the highest ambient pollutant concentrations. By this definition, MEI concentrations may be *lower* than maximum observed concentrations. Since EPA's intention is to be fully protective of health in the future as well as the present, and since this analysis must generalize on the basis of a sample of situations, we have defined the MEI in terms of maximum potential exposure. We also note that the ground-level concentrations of interest are the *off-site* concentrations except where people reside on site such as military bases, colleges, and universities. Whether on site or off site ground-level concentrations will be considered in demonstrating conformance with the proposed controls will be left to the discretion of the permit writer based on whether people acutally live on site.

[9] The data base is inadequate to derive percentile values. The values shown represent 50 percent of the highest levels of metals in the data base.

TABLE 1.—METALS EMISSIONS CAN POSE SIGNIFICANT RISK

Metal	Liquid injection incinerator			Rotary kiln incinerator		
	Concentration (ppm)	MEI cancer risk	Ambient conc/ RAC	Concentration (ppm)	MEI cancer risk	Ambient conc/ RAC
Carcinogens						
Arsenic	250.0	1E−03		500.0	4E−04	
Beryllium	7.5	4E−06		15.0	2E−08	
Cadmium	500.0	1E−03		1,000.0	3E−04	
Chromium (VI)	1,725.0	3E−03		3,450.0	2E−05	
Noncarcinogens						
Antimony	500.0		2E+00	1,000.0		6E−01
Barium	4,000.0		1E−01	8,000.0		1E−03
Lead	7,000.0		1E+02	14,000.0		3E+01
Mercury	2.0		1E−03	4.0		9E−04
Silver	500.0		2E−01	1,000.0		4E−02
Thallium	500.0		2E+00	1,000.0		6E−01

B. Risks from Hydrogen Chloride Emissions

EPA is today proposing to supplement the existing technology-based HCl standard with a standard based entirely upon evaluation of health risk. The existing HCl standard requires that an incinerator control HCl emissions by 99 percent or emit only 4 lb/hr (1.8 kg/hr).

The Agency has determined through risk assessments of reasonable, worst-case facilities that the short-term reference air concentration (RAC) for HCl can be exceeded under the existing rule. Thus, EPA is proposing to regulate HCl under the same risk-based standard-setting approach proposed for metals. These standards will be in the form of site-specific risk analysis standards, with conservative screening limits provided to ease the burden on the applicant. For more information on the proposed HCl standards, see Part Three, Section III: Proposed Controls for Emissions of Hydrogen Chloride.

C. Potential Risks from Products of Incomplete Combustion (PICs)

The destruction and removal efficiency (DRE) approach to control organic emissions used in the present regulations has some inherent limitations. It does not control the actual mass of POHCs emitted since, for any given DRE, the mass emissions vary directly in proportion to variations in mass feed rate. More importantly, the approach fails to account directly for emissions of PICs, which can be as toxic as, or more toxic than, the POHCs.

As discussed in part Three of this preamble, available data on PIC emissions are limited. The studies done thus far indicate that emissions of toxic organic compounds from incinerators could result in an increased lifetime cancer risk of 10^{-6} (i.e., 1 in 1,000,000) to persons exposed to the maximum annual average ground-level concentration. The data base on PIC emissions is limited, however, and thus those risk assessments under-estimate the risk. Those assessments consider only the organic compounds that have been actually identified and quantified. Only 0 to 60 percent of total unburned hydrocarbon emissions have been chemically identified at any particular facility. Thus, the bulk of the hydrocarbon emissions have not been considered in those risk assessments, Although many of the unidentified, unquantified organic compounds may be nontoxic, some fraction of the organic emissions is undoubtedly toxic. Considering that the available data are limited, EPA believes it is prudent to require incinerators to operate at a high combustion efficiency to minimize the potential health risks from PIC emissions.

PART TWO: REGULATORY OPTIONS CONSIDERED

This part discusses the options considered by the Agency when developing the standards proposed today.

I. Particulate Emission Limits

A. Consideration of Controlling Metals with a Particulate Standard

The existing regulations control metal and some organic emissions through the performance standard for particulates. Metals can be contained in particulates or condense out onto particulates and are then captured by air pollution control devices. The present particulate standard of 180 milligrams per dry standard cubic meter may not provide adequate protection if a substantial percentage of the particulate is composed of toxic metals.[10] Further, in the case of volatile metals such as arsenic, mercury, and chlorides of lead and cadmium, the particulate standard may provide little control.

Existing hazardous waste composition data make it difficult to estimate the average, or reasonable, worst-case levels of toxic metals in wastes that are incinerated. In addition, as the Agency continues to prohibit land disposal of untreated hazardous waste, hazardous wastes with very high metals levels may be incinerated in the future. Also, testing for metals levels in incinerator emissions has been insufficient to determine the average, or reasonable, worst-case levels of metals emissions to be expected from hazardous waste incinerators. However, there is nothing in the present regulations that would prohibit an incinerator operator from introducing extremely high concentrations of toxic metal-containing wastes into an incinerator, thereby creating a situation that would present high risks from toxic metals emissions.

Analysis of a hypothetical reasonable, worst-case situation indicates that present rules may not be adequate to maintain low levels of risk from toxic metals under all possible scenarios.

Even relatively low concentrations of toxic metals in wastes can result in unacceptable levels of risk if the wastes are burned in incinerators without air pollution control devices. Based upon the 1981 mail survey,[11] almost half of all interim status incinerators had no air pollution control device because, as liquid waste incinerators, they did not emit enough particulate matter to require an air pollution control device to meet the particulate standard of 180 mg/dscm.

It does not appear sufficient at this time, in the Agency's judgment, to rely solely on a particulate standard as a surrogate for adequate control of toxic metals. Given that there is virtually no upper bound in the levels of metals in hazardous wastes that may be incinerated (absent regulatory control), we have no assurance that the particulate control provided by state-of-the-art technology would be adequate in all cases. Thus, we believe that the risk-based standards proposed today are preferable to a technology-based particulate standard alone to control metals.

B. Consideration of a More Stringent Particulate Standard

EPA is not proposing to revise at this time the existing standard of 0.08 gr/dscf for the control of particulate matter (see 40 CFR 264.343(c)). This standard was based on the new source performance standard (NSPS) developed under the Clean Air Act in 1979 for solid waste incinerators. On December 20, 1989, however, EPA proposed a particulate emissions NSPS for municipal waste combustors (MWCs) of 0.015 gr/dscf. See 54 FR 52251. This more stringent standard takes advantage of technology advances made in the field of air pollution control.

The Agency has considered lowering the hazardous waste incinerator particulate standard of 0.08 gr/dscf to be consistent with the proposed MWC standard. However, reasonable, worst-case dispersion analyses show that the existing particulate standard of 0.08 gr/dscf limits ambient levels generally to less than 30 percent of the 24-hour average PM_{10} (particulate matter sized less than 10 microns) National Ambient Air Quality Standard (NAAQS), 150 $\mu g/m^3$. Further, we note that the existing particulate standard would, under today's rule, be supplemented with risk-based standards to control emissions of organic compounds and metals that may be adsorbed on particulate matter. In addition, where a problem with the NAAQS is identified in a particular area, the Agency or authorized State should be including all sources of particulates in the State Implementation Plans (SIPs). Therefore, if an incinerator creates or aggravates a problem with the NAAQS, regulation of that source (with respect to particulate emissions) would

[10] Mitre, op. cit., page 8.

[11] DPRA. 1981. Regulatory Impact Analysis Mail Survey. Manhattan, Kansas.

be addressed under the SIP process or potentially by a RCRA permit writer using the omnibus permitting authority.

In developing today's proposed rule, a number of people representing a wide range of interests (e.g., industry representatives, environmentalists) have indicated, however, that the rule may be simpler to implement and more protective if the controls were technology-based. They advocate using risk assessment only as a check to determine if the standards are protective on a site-specific basis. They cite the current limitations of risk-based standards in this particular situation, including: (1) indirect exposure (e.g., uptake through the food chain) has not been considered for carcinogens; (2) metals controls are proposed only for those metals for which sufficient health effects data exist to establish acceptable ambient levels; and (3) the metals controls are difficult to implement by limiting feed rates of individual metals given the physical matrices of wastes and the variability of metals concentrations. We agree with these concerns and are initiating a testing program to develop technology-based controls for particulate matter to provide a measure of control for particulates, including metal particulates and adsorbed organic compounds, commensurate with best demonstrated technology (BDT) for hazardous waste incinerators. See RCRA section 3004(a)(1)—section 3004 standards are to be revised periodically to take into account improvements of measurement and technology. If EPA establishes a BDT particulate standard, the risk-based controls for metals emissions would still apply and would then be used as a check to determine if the BDT standard provides adequate protection on a case-by-case basis. Given the limitations of current risk assessment methodologies, we do not believe that it could be demonstrated that a BDT standard substantially over-regulates in many situations.

We are not proposing at this time to lower the existing particulate standard because we have not conducted adequate field testing of hazardous waste incinerators to establish a BDT particulate standard.[12] Further, once the BDT standard is identified, we would then need to consider the impact on the regulated community of applying the standard to establish a reasonable compliance schedule.

[12] We note that several States control hazardous waste incinerator particulate emissions to levels well below EPA's standard of 0.08 gr/dscf. In addition, several hazardous waste incinerators have been demonstrated to be capable of routinely controlling particulate emissions to levels in the 0.01–0.02 gr/dscf range, or less. Further, as discussed above in the text, the proposed particulate standard for MWCs is 0.015 gr/dscf. Thus, we anticipate that a BDT particulate standard for hazardous waste incinerators would be within that range of 0.01 to 0.02 gr/dscf.

II. Definitions of Incinerators and Industrial Furnaces

We discuss below the basis for proposing to revise the definitions of incinerator and industrial furnace, the regulatory status for sludge dryers, and a request for comment on regulating all hazardous waste thermal treatment devices under parts 264 and 265, subpart O.

A. Definition of Incinerator and Industrial Furnace

Existing definitions in § 260.10 for incinerators and industrial furnaces consider how thermal energy is provided to the device. Both definitions stipulate that the device must utilize controlled flame combustion, thus excluding devices using other means to supply the heat necessary to combust or otherwise themally treat waste. Thus, for example, electric arc smelters are not industrial furnaces and devices using infrared heat to destroy waste are not incinerators. Significant regulatory consequences result from these determinations. Electric arc smelters that reclaim nonindigenous metal hydroxide sludges are not industrial furnaces, and, thus, are exempt from regulation under § 261.6(c)(1), while smelters using direct flame combustion to reclaim the same sludge would be regulated under the May 6, 1987, proposed rules for boilers and industrial furnaces. Infrared devices used to destroy waste would be regulated under the subpart X permit standards of part 264 and the subpart P interim status standards of part 265, while controlled flame incinerators would be regulated under subpart O of parts 264 and 265 (and any amendments resulting from today's proposal). The subpart X permit standards under part 264 are not prescriptive; permit writers use engineering judgment and risk analysis to determine appropriate permit conditions.

We believe that incinerators and industrial furnaces pose much the same risk irrespective of whether they use controlled flame combustion or some other means to provide heat energy. Therefore, we are proposing to replace or temper the reference to controlled flame combustion in respective definitions.

1. *Revised definition of industrial furnace.* We are proposing to revise the definition of industrial furnace to refer to thermal treatment rather than to controlled flame combustion. We believe that there are very few additional industrial furnaces (that process nonindigenous waste) that would be regulated under this expanded definition, and it makes no sense to regulate these few furnaces differently than other industrial furnaces processing the same materials. EPA specifically requests comments on the need for the revised industrial furnace definition and resulant impacts on the regulated community.

2. *Plasma arc and infrared devices are incinertors.* We are proposing to revise the definition of incinerator to include explicitly two nonflame combustion devices: plasma arc and infrared incinerators. Although these devices are sometimes considered to be nonflame devices rather than incinerators, we believe that they should be regulated as Subpart O incinerators for two reasons. First, they invariably employ afterburners to combust hydrocarbons driven off by the plasma arc or infrared process. Thus, it can be argued that these units, in fact, meet the current definition of an incinerator. Second, we believe that the Subpart O incinerator standards can be appropriately applied to these devices; the technical requirements of subpart O are appropriate to address the hazards posed by these devices. We also note that applying the Subpart O standards will reduce the burden on both permit writers and applicants. The Subpart X standards are nonprescriptive standards under which permit writers apply permit conditions as appropriate to protect human health and the environment. Thus, under subpart X, permit writers would need to determine on a case-by-case basis whether particular provisions of subpart O are appropriate and whether additional permit conditions would be needed. Using Subpart O strandards removes the ambiguity for both permit writers and applicants over what requirements are necessary.

Today's proposed amendments to the incinerator standards likewise appear suitable for plasma arc and infrared incinerators. We request comment on whether there are other "nonflame" combustion devices for which the Subpart O incinerator standards are applicable (i.e., devices that use an afterburner to combust hydrocarbons generated from hazardous waste by a nonflame process).

We note that we are proposing only to change (or clarify) the regulatory status of these two classes of devices, not to subject them to regulation for the first time. Thus, interim status is not being reopened for these devices. They have

been regulated since 1980 under subpart P (interim status standards for thermal treatment units), subpart X (permit standards for other treatment units), or subpart O (interim status and permit standards for incinerators). We note that the interim status standards of part 265, subpart P, are virtually identical to the interim status standards of part 265, subpart O.

3. *Fluidized bed devices are incinerators.* EPA would also like to clarify that fluidized bed devices are incinerators and are regulated under subpart O. They are not subject to the thermal treatment standards of part 265, subpart P, or requirements established under part 264, subpart X. Fluidized bed incinerators are enclosed devices that are designed to provide contact between a heated inert bed material fluidized with air and the solid waste. Gas is passed upwards through a column of fine particulates at a sufficient velocity to cause the solids/gas mixture to behave like a liquid. The bed is preheated by overfired or underfired auxiliary fuel. It is generally accepted that fluidized beds meet the definition of incinerator, although there may have been some confusion in the past. Although we are clarifying that they do meet the definition of incincerator, we specifically request comment on whether there is sufficient ambiguity to warrant adding fluidized bed devices to the definition of incinerator.

4. *Revised regulatory status of carbon regeneration units.* We are also proposing to revise the regulatory status of carbon regeneration units. Controlled flame carbon regeneration units currently meet the definition of incinerator and have been subject to regulation as such since 1980,[13] while carbon regeneration nonflame units have been treated as exempt reclamation units. We are proposing to regulate both direct flame and nonflame carbon regeneration units as thermal treatment units under the interim status standards of part 265, subpart P, and the permit standards of part 264, subpart X. Our reason for doing this is that we are concerned that emissions from these devices may present a substantial hazard to human health or the environment. We are not proposing to apply the part 264, subpart O, incinerator standards to these units because we are concerned that demonstration of conformance with the DRE standards (and the proposed CO/THC standards) may not be achievable considering the relatively low levels of toxic organic compounds absorbed onto the activated carbon.

The prevailing view appears to be that carbon regeneration units currently are exempt recycling units. We have considered whether or not these units truly are engaged in reclamation, or whether the regeneration of the carbon is just the concluding aspect of the waste treatment process that commenced with the use of activated carbon to absorb waste contaminants, which are now destroyed in the "regeneration" process.[14] Irrespective of whether these units are better classified as waste treatment or recycling units (or whether the units are flame or nonflame devices), we are concerned, as indicated above, that emissions from the regeneration process can pose a serious hazard to public health if not properly controlled. Consequently, nonflame units in existence on the date of promulgation (like flame units) would be subject to part 265, subpart P, and new units would be subject to part 264, subpart X.

We note that we intend for this proposal to also apply to those carbon regeneration units that meet the definition of wastewater treatment units in § 260.10 while they are in active service. These units would not be exempt from regulation when they are being regenerated because they are no longer treating wastewater. Rather, the activated carbon columns themselves are being treated thermally.

B. Regulation of All Thermal Treatment Units Under Subpart O

The Agency has done some preliminary thinking on an alternative approach to regulating combustion devices—the regulation of all thermal treatment devices under virtually identical standards under subpart O. This would avoid a number of problems with the current regulatory approach, including: (1) Ambiguous definitions for boilers and industrial furnaces; (2) incomplete coverage of the incinerator and industrial furnace definitions (e.g., although today's proposal would expand regulatory coverage of industrial furances to include heating by means other than controlled flame combustion, furances other than those that are "integral components of a manufacturing process" (see § 260.10), such as off-site facilities engaged solely in waste management, could be engaged in *bona fide* reclamation and should be classified as an industrial furnace rather than an incinerator); (3) the burden on the regulated community and EPA and State officials to process petitions to classify individual devices as boilers or industrial furnaces rather than incinerators; and (4) the numerous provisions in the proposed boiler and furnace rules that would merely parrot the current and proposed incinerator standards.

Under this alternative approach, all thermal treatment devices would be regulated under the same risk-based standards to control metals and HCl emissions—the standards proposed today for incinerators.[15] Control of organic emissions could also be the same as those CO controls proposed today for incinerators coupled with the existing DRE standards for incinerators. Devices handling wastes with low levels of toxic organic constituents (e.g., smelters, sludge dryers, certain incinerators), however, would not be subject to organic emissions controls. The applicability of standards could, in many cases, be a function of waste properties and composition. It may not be necessary to identify applicability by type of device.

EPA is continuing to consider this alternative. In particular, we are investigating whether the temporary exclusion for the special wastes in RCRA section 3001(b)(3) and the special standards and exemptions proposed for boilers and industrial furnaces can be implemented without definitions for these devices. We specifically request comments on this alternative regulatory approach whereby all thermal treatment units could be regulated under one set of standards under subpart O.

PART THREE: DISCUSSION OF PROPOSED CONTROLS

I. Overview of EPA's Risk Assessment

In developing this regulation, the Agency has used risk assessment to: (1) determine that absent regulatory

[13] There appears to be confusion as to the current regulatory status of direct flame activated carbon regeneration units. Because EPA indicated in the May 19, 1980, preamble that all activated carbon regeneration units were engaged in a form of recycling presently exempt from regulation (45 FR 33094), EPA is proposing in this notice to amend the regulations to control these devices, both direct and indirect fired. Consequently, the "in existence" date for all activated carbon regeneration units would be the date of promulgation of final regulations.

[14] We note that activated carbon units used as air emissions control devices frequently regenerate the carbon in place by steam stripping, condensing the organic contaminants for reuse. The trapped organics in such columns are not hazardous wastes because the gas originally being treated is not a solid waste (it is an uncontained gas), and therefore any condensed organics do not derive from treatment of a listed hazardous waste.

[15] We note that EPA is requesting comment on applying these controls (as well as the proposed CO controls) to boilers and industrial furnaces as well in lieu of those proposed on May 6, 1987. See the Federal Register notice published today entitled, "Burning of Hazardous Waste in Boilers and Industrial Furnaces: Supplement to Proposed Rule."

controls, emissions of products of incomplete combustion, and certain metals can pose significant health effects; (2) determine that the current hydrogen chloride emissions standard may not be fully protective in all situations; and (3) establish risk-based, conservative emission Screening Limits for metals, hydrogen chloride (HCl), and, under one alternative approach, unburned hydrocarbons. The risk assessment methodology is discussed in detail in the background document supporting this proposed rule—*Technical Background Document: Controls for Metals and Hydrogen Chloride Emissions for Hazardous Waste Incinerators.* The methodology is summarized below for the convenience of the reader.[16]

A. Overview of the Risk Assessment Approach

EPA's risk assessment approach involves: (1) Establishing ambient levels of pollutants (i.e., metals, hydrogen chloride (HCl), and hydrocarbons (HC)) that pose acceptable health risk; and (2) developing conservative dispersion coefficients [17] for reasonable worst-case facilities as a function of key parameters (i.e., effective stack height,[18] terrain type, and land use classification). To establish the conservative Screening Limits for metals, HCl, and HC, we back-calculated from the acceptable ambient levels using the conservative dispersion coefficients.

Under today's proposal, applicants would be required to demonstrate that emissions of metals, HCl, and (when stack gas carbon monoxide concentrations exceed 100 ppmv, and under the health-based alternative approach to assess HC emissions) HC emissions do not result in an exceedance of the acceptable ambient levels. If the conservative Screening Limits are not exceeded, applicants need not conduct site-specific dispersion modeling to make this demonstration.

In developing the conservative coefficients and acceptable ambient levels for metals, HCl, and HC, EPA also found that, under reasonable worst-case situations, emission levels could pose unacceptable risk absent regulatory controls.

B. Identification of Reasonable Worst-Case Incinerators by Terrain Type

1. *Factors influencing ambient levels of pollutants.* Ambient levels of pollutants resulting from stack emissions are a function of the dispersion of pollutants from the source in question. Many factors influence the relationships between releases (emissions) and ground-level concentrations, including: (1) The rate of emission; (2) the release specifications of the facility (i.e., stack height, exit velocity, exhaust temperature and inner stack diameter, which together define the facility's "effective stack height"); (3) local terrain; and (4) local meteorology and (5) urban/rural classification.

2. *Selection of Facilities and Sites for Dispersion Modeling.* Hazardous waste incinerators are known to vary widely in capacity, configuration, and design, making it difficult to identify typical parameters that affect dispersion of emissions (i.e., release parameters). For instance, stack heights of incinerators listed in the 1981 survey [19] vary from less than 15 feet to over 200 feet. Furthermore, many new facilities that are now in operation that are not listed on the survey, and EPA expects that a large number of additional facilities of various types of designs are likely to be constructed over the next several years.

For currently operating facilities, the worst-case dispersion situation would be a combination of release specifications, local terrain, urban/rural land use classification, and local meteorology that produces the highest ambient concentrations of hazardous pollutants per unit of pollutant released by a facility. This can be expressed, for any specific facility, as a dispersion coefficient, which, for purposes of this proposal, is the maximum annual average (or, as explained later, for HCl, maximum 3-minute) ground-level concentration for an emission of 1 g/s (a unit release); the units of the dispersion coefficient are, therefore, $\mu g/m^3/g/s$.[20]

Since dispersion coefficients are, as a general rule, inversely correlated with effective stack heights, worst-case facilities are most likely to be those with the shortest effective stack heights. No similar *a priori* judgment, however, should be made with respect to terrain or meteorology; evaluation of the influence of these factors requires individual site-by-site dispersion modeling. It was therefore not possible to screen facility locations in advance to select for probable worst-case situations simply by considering stack height.

Instead, out of a total number of 154 existing facilities for which data were available from the mail survey,[21] we roughly sorted the facilities into three terrain types based on broad-scale topographic maps: flat, rolling, and complex terrain. We then ranked the facilities by effective stack heights. Next, we evaluated terrain rise out to 50 km for each of the 24 facilities and ranked the facilities by maximum terrain rise. Finally, we subdivided the 24 facilities into three groups which are loosely defined as flat, rolling, and complex terrain. In addition, to enable us to determine conservative dispersion coefficients as a function of effective height, we developed 11 hypothetical incinerators and modeled each of these "incinerators" at the 24 sites. The hypothetical facilities were selected by dividing the range of facilities listed in the 1981 survey into 10 categories based on effective stack height. Then, within each stack height category, we selected a hypothetical effective stack height that approximated the 25th percentile of the range of heights that existed within the category. The 25th percentile was chosen in order to select a facility likely to reflect the higher end of dispersion coefficients (and ambient levels) in each height category. In addition, an eleventh hypothetical source was defined in order to represent facilities whose heights of release do not meet good engineering practice (see the discussion on good engineering practice in Part Three, II C, Site-Specific Risk Analysis Standards). Such devices will experience "building wake effects"—turbulence created by adjacent structures that immediately mixes the

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[16] We note that this discussion has been presented virtually verbatim in the October 26, 1989, supplemental notice to the May 1987 proposed boiler and industrial furnace proposed rules. See 54 FR 43752 (Appendix F). We have, however, made minor revisions to that discussion to: (1) explicitly request comment on alternative risk levels within the range of 10^{-4} to 10^{-6}; (2) better explain the Agency's selection of a 10^{-5} aggregate risk threshold for this rule; (3) explain that the Agency does not intend for the methodology used to establish the proposed reference air concentrations (RACs) to imply a decision to supplant standards established under the Clean Air Act; and (4) request comments on whether the conservative assumptions used in the risk methodology properly balance the nonconservative assumptions, or whether the methodology creates RACs that are unnecessarily stringent.

[17] For purposes of this document, the term dispersion coefficient refers to the ambient concentration that would result from an emission rate of 1 gram/sec. This parameter is also commonly called a dilution factor.

[18] Effective stack height is the height above ground level of a plume, based on summing the physical stack height plus plume rise.

[19] DPRA, op. cit.

[20] Dispersion coefficients can be defined for any specific location surrounding a release. The maximum dispersion coefficient will, under the assumptions used in this regulation, be the dispersion coefficient for the MEI. It may occur at any distance and in any direction from the facility. However, locations within the property boundary of a facility would not be considered when implementing these proposed rules unless individuals reside on site.

[21] We note that the survey should be representative because it addressed over 50 percent of the 250 hazardous waste incinerators now in operation.

plume resulting in high ground-level concentrations close to the stack.

Finally, we also included the site that resulted in the worst-case complex terrain conditions during development of the proposed rule for boilers and industrial furnaces.[22] Although there is currently no hazardous waste incinerator at that site, we used the site as another theoretical location for the 11 hypothetical incinerators and merged the results into those from the actual incinerator sites. Under certain conditions, this site provided higher dispersion coefficients for some stacks.

In summary, 11 hypothetical incinerators and the actual incinerators were modeled at each of 24 sites evenly distributed among flat, rolling, and complex terrain. In addition, the 11 hypothetical incinerators were modeled at an additional complex terrain site.

C. Development of Dispersion Coefficients

Estimating the air impacts of the facilities required the use of five separate air dispersion models. We used the *EPA Guideline on Air Quality Models (Revised),*[23] and consulted with the EPA Office of Air Quality Planning and Standards to select the most appropriate model for each application.

For each of the 25 locations, five consecutive years of concurrent surface and twice-per-day upper air data (to characterize mixing height) were acquired. The data sets contained hourly records of surface observations for five years, or approximately 44,000 consecutive hours of meteorological data. The same five-year data set was used to estimate the highest hourly dispersion coefficient during the five-year period, and to estimate annual average concentrations based on a five-year data set for all release specifications modeled at each location.

The actual incinerator release specifications at each location were used to select the appropriate model for short-term and long-term averaging periods. Once selected, the release specifications for the actual incinerator and the 11 hypothetical incinerators were modeled. Table 2 lists the models selected.

TABLE 2.—MODELS SELECTED FOR THE RISK ANALYSIS

Terrain classification	Urban/ Rural	Averaging period	Model selected
Flat or Rolling.	Urban or Rural.	Annual average.	ISCLT
Flat or Rolling.	Urban or Rural.	Hourly	ISCST
Complex	Urban	Annual average.	LONGZ
Complex	Urban	Hourly	SHORTZ
Complex	Rural	Hourly or annual.	COMPLEX I

The Industrial Source Complex models (ISCLT and ISCST) were selected for flat and rolling terrain because they can address building downwash or elevated releases and can account for terrain differences between sources and receptors. The long-term mode (ISCLT) was used for annual averages, while the short-term mode (ISCST) was used to estimate maximum hourly concentrations.

To meet the EPA guidance on model selection, we used three different models to characterize dispersion over complex terrain. For urban applications, OAQPS recommends SHORTZ for short-term averaging periods and LONGZ for seasonal or annual averages. For rural sites located in complex terrain, OAQPS recommends the COMPLEX I model.

We used U.S. Geological Survey 7.5-minute topographic maps to document terrain rise out to 5 km from each stack. For purposes of this proposed rule, a facility is considered to be in flat terrain if the maximum terrain rise within 5 km of the stack is not greater than 10 percent of the physical stack height. The facility is in rolling terrain if terrain rise is greater than 10 percent but not greater than the physical stack height, and in complex terrain if terrain rise is greater than the physical stack height.[24]

We also used the topographic maps as the basis to classify land use as urban or rural. A simplified version of the Auer technique [25] based on the preferred land use approach (rather than population density) was used for this classification. If greater than 50 percent of the land was classified as urban, the models were executed in the urban mode for that facility. If greater than 50 percent was classified as rural, the rural modes were used.[26]

To identify conservative dispersion coefficients as a function of effective stack height, we graphically plotted for each terrain type (i.e., flat, rolling, and complex) and each land use classification (i.e., urban and rural) dispersion coefficients for the modeled facilities and locations as a function of effective stack height. The outer envelope representing the highest dispersion coefficients was drawn to enable us to identify conservative coefficients for any effective stack height within the range of those modeled (i.e., 4 m to 120 m).

We determined that there was no significant difference in dispersion coefficients (under the severe conditions modeled) between flat and rolling terrain. Thus, those terrain types were merged together and termed noncomplex terrain. In addition, a discontinuity was observed between the SHORTZ/LONGZ and Complex I [27] models, which resulted in our not distinguishing between land use classifications in complex terrain. Finally, we note that there was no significant difference in 3-minute exposures between urban and rural land use in either noncomplex or complex terrain. Thus, we have not distinguished between land use classifications in establishing the HC1 Screening Limits. There is, however, a significant difference in maximum annual average dispersion coefficients between urban and rural land use in noncomplex terrain, and so we have established separate metals and THC Screening Limits for those situations.

We note that the dispersion coefficients used to establish the Screening Limits are designed to be conservative, but may, in fact, not be conservative in extremely poor dispersion conditions, or when the receptor (location (i.e., residence)) is

[22] See "Background Information Document for the Development of Regulations to Control the Burning of Hazardous Waste in Boilers and Industrial Furnaces, Volume III: Risk Assessment", Engineering-Sciences, February 1987. (Available from the National Technical Information Service, Springfield, VA, Order No. PB 87 173845.)

[23] USEPA. *Guideline on Air Quality Models (Revised).* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. EPA–450/2/78–027R. July 1986.

[24] We note that EPA can consider terrain well past 5 km of a stack to define terrain type for some facilities. We believe, however, that a radius of 5 km is adequate because we are concerned with MEI exposures (as opposed to aggregate population exposures) and because the effective stack heights of concern are relatively low in comparison to facilities such as major power plants. Thus, MEI exposures for the conditions modeled will always occur within 5 km of the stack.

[25] Auer, August, H., Jr. *Correlation of Land Use and Cover with Meteorological Anomalies. Journal of Applied Meteorology,* Vol. 17, pp. 636–643, May 1978.

[26] OAQPS guidelines indicate that 50 percent is the cutoff point between urban and rural; however, to be conservative and to account for differences in the accuracy of different measurement methods, EPA is recommending that for permitting purposes land use be considered urban if greater than 75 percent is urban; that it be considered rural if land use is greater than 75 percent rural; and that if the land use is between 75 percent urban and 75 percent rural the more conservative Screening Limit of the two be used.

[27] Complex I was found to produce relatively low estimates of short-term concentrations.

close-in to the source. Under the situations identified below, the Screening Limits may not be protective and the permit writer should require site-specific dispersion modeling consistent with EPA's *Guideline on Air Quality Models (Revised)* to demonstrate that emissions do not pose unacceptable health risk:

- Facility is located in a narrow valley less than 1 km wide; or
- Facility has a stack taller than 20 m and is located such that the terrain rises to the stack height within 1 km of the facility; or
- Facility has a stack taller than 20 m and is located within 5 km of the shoreline of a large body of water (such as an ocean or large lake); or
- The facility property line is within 200 m of the stack and the physical stack height is less than 10 m; or
- On-site receptors are of concern, and the stack height is less than 10 m.

In addition to the situations identified above, there is a probability, albeit small, that the combination of critical parameters, stack height, stack gas velocity, effluent temperature, meteorological conditions, etc., will result in higher ambient concentrations than resulted from the conservative modeling done to support this rule. As a result, the Agency is reserving the right to require that the owner or operator submit, as part of the permit proceeding, an air quality dispersion analysis consistent with EPA's *Guideline on Air Quality Models (Revised)* in order to ensure that acceptable ambient levels of pollutants are not exceeded irrespective of whether the facility meets the specific Screening Limits that would be established by this regulation.

Finally, we specifically request comment on whether less conservative assumptions, coupled with a safety factor then applied to assure that ambient levels are not underestimated, should be used to develop the Screening Limits. This alternative approach may have merit because the repeated use of conservative assumptions in an analysis may "multiply" the conservatism unreasonably. Comments are solicited on: (1) the extent to which less conservative assumptions would enable applicants to meet the Limits; (2) how to reduce the conservatism of the Screening Limits while still ensuring that they are protective; and (3) how the reduced conservatism would affect the criteria discussed above that must be considered to determine if the Screening Limits are protective for a particular situation. Note that, in section I.D. of Part Three of the preamble, the Agency requests comment on basing the standards on alternative risk thresholds.

D. Evaluation of Health Risk

1. *Risk from Carcinogens.* EPA cancer risk policy suggests that any level of human exposure to a carcinogenic substance entails some finite level of risk. Determining the risk associated with a particular dose requires knowing the slope of the modeled dose-response curve. On this basis, EPA's Carcinogen Assessment Group (CAG) has estimated carcinogenic slope factors for humans exposed to known and suspected human carcinogens. Slope factors are estimated by a modeling process. The slope of the dose-response curve enables estimation of a unit risk. The unit risk is defined as the incremental lifetime risk estimated to result from exposure of an individual for a 70-year lifetime to a carcinogen in air containing 1 microgram of the compound per cubic meter of air. Both the slope factors and unit risks are reviewed by the Agency's Cancer Risk Assessment Validation Endeavor (CRAVE) workgroup for verification.

The unit risk values that the Agency is proposing to use for today's incinerator amendments are identical to those the Agency proposed for boilers and industrial furnaces burning hazardous waste. The unit risk values are presented in Appendix J of the October 26, 1989 Supplement to Proposed Rule for boilers/furnaces. See 54 FR 43763. (We note that the unit risk for beryllium presented in Appendix J should be 2.4E–03 m^3/ug.) The acceptable ambient level for a carcinogenic compound is termed the risk-specific dose (RSD) and is derived by dividing the acceptable health risk by the unit risk value. As discussed below, the risk threshold proposed for this rule is 10^{-5}.[28] Thus, the RSDS for the metals that would be regulated by today's rules can be calculated by dividing $1X10^{-5}$ by the unit risk values for the metals presented in appendix J of the boiler/furnace supplemental notice.[29] The RSDs for the metals are presented in appendix H of the boiler/furnace supplemental notice (see page 43762).

In setting acceptable risk levels to develop today's proposed rule, we considered the fact that not all carcinogens are equally likely to cause human cancers, as discussed in *Guidelines for Carcinogenic Risk Assessment* (51 FR 33992 (September 24, 1986)). The Guidelines have established a weight-of-evidence scheme reflecting the likelihood that a compound causes tumors in humans. The weight-of-evidence scheme categorizes carcinogens according to the quantity and quality of both human and animal data as known, probable, and possible human carcinogens. The proposed approach places a higher weight on cancer unit risk estimates that are based on stronger evidence of carcinogenicity. The proposed approach will provide for making fuller use of information by explicitly examining risk for different categories of carcinogens. In reaching the conclusion of the level of cancer risks to be used to support this proposal, we have considered available information on the constituents being emitted, the evidence associating these compounds with cancer risk, the quantities of emissions of these constituents, and the exposed populations.

For purposes of today's rule, we are proposing the following risk levels as acceptable incremental lifetime cancer risk levels to the hypothetical maximum exposed individual (MEI): (1) for Group A and B carcinogens, on the order of 10^{-6};[30] and (2) for Group C carcinogens, on the order of 10^{-5}. These risk levels are within the range of levels historically used by EPA in its hazardous waste and emergency response programs—10^{-4} to 10^{-7}.

Under the weight-of-evidence approach to assess carcinogenic risk for this proposed rule, we believe it is appropriate to add the risk from carcinogens *within* the category of those that are known or probable human carcinogens, the Group A and B carcinogens. Such a group is composed of certain metals which cause lung cancer (arsenic, beryllium, cadmium, and chromium).

Similarly, it is appropriate to add the risk from carcinogens within the category of those that are probable or possible human carcinogens, C carcinogens.

[28] In selecting a 10^{-5} risk threshold for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in Section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

[29] We note, however, that the risk threshold proposed for these rules is based on the aggregate (i.e., summed) risk for all carcinogenic metals. Thus, the RSD calculated by dividing $1X10^{-5}$ by the unit risk value for a carcinogenic metal would be the acceptable ambient level if that were the only carcinogenic metal emitted. If other carcinogenic metals are emitted, the allowable ambient level for a metal depends on the ambient levels of all the carcinogenic metals. The sum of all carcinogenic metals of the ratios of the actual ambient level to the RSD cannot exceed one to ensure that the aggregate risk does not exceed $1X10^{-5}$.

[30] A dose is calculated to correspond to a risk of causing cancer to one individual in one million exposed to that dose over a lifetime.

To implement this carcinogenic risk assessment approach, we are proposing to limit the *aggregate* risk to the MEI to 10^{-5}. This would limit the risk from *individual* carcinogenic metals to levels on the order of 10^{-6} but below 10^{-5}. In selecting a 10^{-5} aggregate risk threshold level for this rule, we considered risk thresholds in the range of 10^{-4} to 10^{-6}, the range the Agency generally uses for various aspects of its hazardous waste programs.

We considered limiting the aggregate risk to the MEI to 10^{-6} but determined that this risk threshold would be unnecessarily conservative for the purpose of this rule. In reaching this determination, we considered that, at an aggregate risk level of 10^{-6}, the risk level for individual metals would be on the order of 10^{-7}, which we believe is overly conservative for this rule.

Alternatively, we considered limiting the aggregate risk to the MEI to 10^{-4}. An aggregate risk threshold of 10^{-4} would result in limiting the risk level for individual carcinogens on the order of 10^{-5}. We did not select a 10^{-4} aggregate risk threshold for this proposed rule because the risk assessment methodology used to establish emission limits considers only direct exposure to the metals via inhalation of dispersed emissions. Other routes of exposure are not accounted for by this methodology, which means risks could be somewhat higher. The Agency requests comments on the magnitude and nature of these risks.

As noted above, the Agency has proposed that an aggregate risk level of 10^{-5} is appropriate in today's regulation because it would limit the risk level for individual carcinogens to the order of 10^{-6}. The Agency points out, however, that in selecting the appropriate risk level for a particular regulatory program, it considers such factors as the particular statutory mandate involved, nature of the pollutants, control alternatives, fate and transport of the pollutant in different media, and potential human exposure. These same factors can also influence choice of a risk level where the Agency is making site-specific determinations.

The Agency would like to use the weight-of-evidence approach in developing the health-based alternative approach to assess hydrocarbon (HC) emissions under the Tier II PIC controls.[31] However, there are a number of unidentified compounds in the mix of hydrocarbon emissions. These unidentified compounds could be either carcinogens or noncarcinogens, or both. Of the compounds that may be carcinogens, the Agency does not know whether they would be classified as A, B1, B2, or C carcinogens. Since the Agency cannot classify these unknown carcinogens, the Agency is unable to use a weight-of-evidence approach to select an acceptable risk level for HC. In order to be conservative, the Agency is assuming that HC can be treated as a single compound for which a unit cancer risk is calculated. To derive this unit cancer risk value, the historical data base of HC emissions from hazardous waste incinerators, boilers, and industrial furnaces was used. For each organic compound identified in the emissions, the 95th percentile concentration value was taken as a reasonable worst-case value. (The highest concentration was often used because there were too few data to identify the 95th percentile value.) For organic compounds listed in appendix VIII of part 261 for which health effects data are adequate to establish an RSD or RAC, but which have not been detected in emissions from hazardous waste combustion, an arbitrary emission concentration of 0.1 ng/L was assumed. The data base was further adjusted to increase the conservatism of the calculated HC unit risk value by assuming that the carcinogen formaldehyde is emitted from hazardous waste combustion devices at the 95th percentile levels found to be emitted from municipal waste combustors. The proportion of the emission concentration of each compound to the total emission concentration for all compounds was then determined. This proportion, termed a proportional emission concentration, was then multiplied by the unit cancer risk developed by CAG to obtain a risk level for that compound. A unit risk of zero was used for noncarcinogens like methane. All the cancer risks were added together to derive a weighted average 95th percentile unit risk value for HC. This procedure for developing a HC unit risk value assumes that the proportion of the various hydrocarbons is the same for all incinerators. In addition, it weighs all carcinogens the same regardless of current EPA classification.

As explained in section IV of part III of the preamble, we are proposing to limit hydrocarbon emissions—when stack gas carbon monoxide levels exceed 100 ppmv, and under the health-based alternative—based on a 10^{-5} aggregate risk level.[32] Thus, we are limiting each of the constituents to a risk level on the order of 10^{-6}.

Finally, in assessing the risk from facilities that emit both HC and carcinogenic metals, we are not proposing that the risk from HC emissions be added to the aggregate MEI risk from metals emissions. Adding the risk would be inappropriate because we do not know how all the HC would be classified according to weight of evidence. (We note again that we prefer the technology-based approach to limit HC emissions for reasons discussed in section IV of part III of the preamble.)

We specifically request comment on this proposed approach to assess carcinogenic risk. We also welcome suggestions or alternative ways to account for additivity.

The Agency also requests comment on whether aggregate population risk or cancer incidence (i.e., cancer incidents per year) should also be considered in developing the national emission limits and in site-specific risk assessments. This approach could, in some situations, be more conservative than considering only MEI risk because, even if the "acceptable" MEI risk level were not exceeded, large population centers may be exposed to emissions such that the increased cancer incidence could be significant. However, it would be difficult to develop acceptable aggregate cancer incidence rates. Nevertheless, it is likely that many facilities that perform a site-specific MEI exposure and risk analysis would also generate an aggregate population exposure and risk analysis that could be considered by the Agency. Based on public comment and further thought on how to implement this dual approach, the final rule could incorporate consideration of both the MEI and aggregate population risk. Alternatively, EPA could provide guidance to the permit writer on when and how to consider cancer incidence on a case-by-case basis under authority of section 3005(c)(3) of HSWA, as codified at § 270.32(b)(2).

2. *Risk from Noncarcinogens.* For toxic substances not known to display carcinogenic properties, there appears to be an identifiable exposure threshold below which adverse health effects usually do not occur. Noncarcinogenic effects are manifested when these

[31] We note that the following discussion in the text pertains only to the health-based alternative for limiting THC when CO exceeds 100 ppmv. Although we request comment on the health-based approach, we prefer the technology-based approach of limiting THC to a good operating practice-based level of 20 ppmv. See discussion in section IV of part Three of the text.

[32] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in Section I.D. of part three of the text, the Agency requests comment on alternative risk thresholds.

pollutants are present in concentrations great enough to overcome the homeostatic, compensating, and adaptive mechanisms of the organism. Thus, protection against the adverse health effects of a toxicant is likely to be achieved by preventing total exposure levels from exceeding the threshold dose. Since other sources in addition to the controlled source may contribute to exposure, ambient concentrations associated with the controlled source should ideally take other potential sources into account. The Agency has therefore conservatively defined reference air concentrations (RACs) for noncarcinogenic compounds that are defined in terms of a fixed fraction of the estimated threshold concentration. The RACs for lead and hydrogen chloride, however, were established differently, as discussed below. The RACs are identical to those the Agency has proposed for boilers and industrial furnaces burning hazardous waste. See appendix H of the Supplement to Proposed Rule at 54 FR 43762 (October 26, 1989).[33] (The Agency notes that it does not intend for RACs to be used as a means of setting air quality standards in other contexts. For instance, the RAC methodology does not imply a decision to supplant standards established under the Clean Air Act.)

RACs have been derived from oral reference doses (RfDs) for those noncarcinogenic compounds listed in Appendix VIII of 40 CFR part 261 (except for lead and hydrogen chloride) for which the Agency considers that it has adequate health effects data. An oral RfD is an estimate (with an uncertainty of perhaps an order of magnitude) of a daily exposure (via ingestion) for the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects even if exposure occurs daily for a lifetime. Since these oral-based RACs are subject to change, EPA contemplates publishing Federal Register notices if the RACs change in a way that affects the regulatory standard (see also the discussion of this issue in the Boiler/Furnace supplemental notice published on October 26, 1989 at 54 FR 43718.)

The Agency is proposing RACs derived from oral RfDs because it believes that the development of the RfDs has been technically sound and adequately reviewed. Specifically:

1. EPA has developed verified RfDs and is committed to establishing RfDs for all constituents of Agency interest. The verification process is conducted by an EPA workgroup, and the conclusions and reasons for these decisions are publicly available.
2. The verification process ensures that the critical study is of appropriate length and quality to derive a health limit for long-term, lifetime protection.
3. RfDs are based on the best available information meeting minimum scientific criteria. Information may come from experimental animal studies or from human studies.
4. RfDs are designed to give long-term protection for even the most sensitive members of the population, such as pregnant women, children, and older men and women.
5. RfDs are designated by the Agency as being of high, medium, or low confidence depending on the quality of the information on which they are based and the amount of supporting data. The criteria for the confidence rating are discussed in the RfD decision documents.

The Agency used the following strategy to derive the inhalation exposure limits proposed today:

1. Where a verified oral RfD has been based on an inhalation study, we will calculate the inhalation exposure limit directly from the study.
2. Where a verified oral RfD has been based on an oral study, we will use a conversion factor of 1 for route-to-route extrapolation in deriving an inhalation limit.
3. Where appropriate EPA health documents exist, such as the Health Effects Assessments (HEAs) and the Health Effects and Environmental Profiles (HEEPs), containing relevant inhalation toxicity data, their data will be used in deriving inhalation exposure limits. We will also consider other agency health documents (such as NIOSH's criteria documents).
4. If RfDs or other toxicity data from agency health documents are not available, then we will consider other sources of toxicity information. Calculations will be made in accordance with the RfD methodology.

The Agency recognizes the limitations of route-to-route conversions used to derive the RACs and is in the process of examining confounding factors affecting the conversion, such as: (a) the appropriateness of extrapolating when a portal of entry is the critical target organ; (b) first pass effects; and (c) effect of route on dosimetry.

The Agency, through its Inhalation RfD Workgroup, is developing reference dose values for inhalation exposure, and some are expected to be available this year. The Agency will use the available inhalation RfDs—after providing appropriate opportunity for public comment—when this rule is promulgated. Certainly, if the workgroup develops inhalation reference doses prior to promulgation of today's rule that are substantially different from the RACs proposed today, and if the revised inhalation reference dose could be expected to have a significant adverse impact on the regulated community, the Agency will take public comment on the revised RACs after notice in the Federal Register.

EPA proposed this same approach for deriving RACs on May 6, 1987 (52 FR 16993) for boilers and industrial furnaces burning hazardous waste. We received a number of comments on the proposed approach of deriving reference air concentrations (RACs) from oral RfDs. As stated in today's proposal and the May 6, 1987, proposal, we would prefer to use inhalation reference doses. Some comments suggested other means of deriving RACs. We will consider those comments and others that may be submitted as a result to today's proposal in developing the final rule.

As previously stated, EPA has derived the RACs from oral reference doses (RfDs) for the compounds of concern. An oral RfD is an estimate of a daily exposure (via ingestion) for the human population that is likely to be without an appreciable risk of deleterious effects, even if exposure occurs daily throughout a lifetime.[34] The RfD for a specific chemical is calculated by dividing the experimentally determined no-observed-adverse-effect-level (NOAEL) or lowest-observable-adverse-effect-level (LOAEL) by the appropriate uncertainty factor(s). The RAC values inherently take into account sensitive populations.

The Agency is proposing to use the following equation to convert oral RfDs to RACs:

$$\text{RAC (mg/m}^3\text{)} = \frac{\text{RfD (mg/kg-bw/day)} \times \text{body weight} \times \text{correction factor} \times \text{background level factor}}{\text{m}^3 \text{ air breathed/day}}$$

[33] Note that the RAC for HCl presented in Appendix I of the Boiler/Furnace supplemental notice is incorrect. The long-term (i.e., annual) exposure RAC should be 7 $\mu g/m^3$, and the 3-minute exposure RAC should be 150 $\mu g/m^3$.

[34] Current scientific understanding, however, does not consider this demarcation to be rigid. For brief periods and for small excursions above the RfD, adverse effects are unlikely in most of the population. On the other hand, several circumstances can be cited in which particularly sensitive members of the population suffer adverse responses at levels well below the RfD. See 51 FR 1627 (January 14, 1986).

where:

- RfD is the oral reference dose
- Body weight (bw) is assumed to be 70 kg for an adult male
- Volume of air breathed by an adult male is assumed to be 20 m^3 per day
- Correction factor for route-to-route extrapolation (going from the oral route to the inhalation route) is 1.0
- Background level factor is 0.25. It is a factor to fraction the RfD to the intake resulting from direct inhalation of the compound emitted from the source (i.e., an individual is assumed to be exposed to 75 percent of the RfD from the combination of indirect exposure from the source in question and other sources).

a. *Short-term exposures.* In today's proposed rule, the RACs are used to determine if adverse health effects are likely to result from exposure to stack emissions by comparing maximum annual average ground-level concentrations of a pollutant to the pollutant's RAC. If the RAC is not exceeded, EPA does not anticipate adverse health effects. The Agency, however, is also concerned about the impacts of short-term (less than 24-hour) exposures. The ground-level concentration of an emitted pollutant can be an order of magnitude greater during a 3-minute or 15-minute period of exposure than the maximum annual average exposure. This is because meteorological factors vary over the course of a year resulting in a wide distribution of exposures. Thus, maximum annual average concentrations are always much lower than short-term exposure concentrations. On the other hand, the short-term exposure RAC is also generally much higher than the lifetime exposure RAC. Nonetheless, in some cases, short-term exposure may pose a greater health threat than annual exposure. Unfortunately, the use of RfDs limits the development of short-term acute exposure limits because no acceptable methodology exists for the derivation of less than lifetime exposure from the RfDs.[35] However, despite these limitations, the Agency is proposing a short-term (i.e., 3-minute) RAC for HC1 of 150 $\mu g/m^3$, based on limited data documenting a no-observed-effect-level in animals exposed to HC1 via inhalation.[36] We do anticipate, however, that short-term RACs for other compounds will be developed by the Agency in the future.

b. *RAC for HC1.* The RAC for annual exposure to HC1 is 7 $\mu g/m^3$ [37] and is based on the threshold of its priority effects. Background levels were considered to be insignificant given that there are not many large sources of HC1 and that this pollutant generally should not be transported over long distances in the lower atmosphere. The RAC for 3-minute exposure is 150 $\mu g/m^3$.[38] As noted above, EPA also proposed these RACs for HC1 in the boiler and furnace proposed rule. See 54 FR 43718 (October 26, 1989). The Agency requests comment on whether the conservative assumptions used in its methodology properly balance the nonconservative assumptions, or whether the methodology creates RACs that are unnecessarily stringent.

c. *RAC for Lead.* To consider the health effects from lead emissions, we adjusted the National Ambient Air Quality Standard (NAAQS) by a factor of one-tenth to account for background ambient levels and indirect exposure from the source in question. Thus, although the lead NAAQS is 1.5 $\mu g/m^3$, for purposes of this regulation, sources could contribute only up to 0.15 $\mu g/m^3$. Given, however, that the lead NAAQS is based on a quarterly average, however, the equivalent annual exposure is 0.09 $\mu g/m^3$ for a quarterly average of 0.15 $\mu g/m^3$. Thus, the lead RAC is 0.09 $\mu g/m^3$. EPA has also proposed this RAC in the boiler and furnace proposed rule. See 52 FR 17006.

d. *Relationship to NAAQS.* The Clean Air Act (CAA) requires EPA to establish ambient standards for pollutants determined to be injurious to public health or welfare. Primary National Ambient Air Quality Standards (NAAQS) must reflect the level of attainment necessary to protect public health allowing for an adequate margin of safety. Secondary NAAQS must be designed to protect public welfare in addition to public health, and, thus, are more stringent.

As discussed above, the Reference Air Concentration (RAC) proposed today for Lead is based on the Lead NAAQS. As the Agency develops additional NAAQS for toxic compounds that may be emitted from hazardous waste incinerators, we will consider whether the acceptable ambient levels (and, subsequently, the feed rate and emission rate Screening Limits) ultimately established under this rule should be revised.

The reference air concentration values (and risk-specific dose values for carcinogens) proposed here in no way preclude the Agency from establishing NAAQS as appropriate for these compounds under authority of the CAA.

E. Risk Assessment Assumptions

We have used a number of assumptions in the risk assessment, some conservative and others nonconservative, to simplify the analysis or to address issues where definitive data do not exist.

Conservative assumptions include the following:

- Individuals reside at the point of maximum annual average and (for HCl) maximum short-term ground-level concentrations. Furthermore, risk estimates for carcinogens assume that the maximum exposed individual resides at the point of maximum annual average concentration for a 70-year lifetime.
- Indoor air contains the same levels of pollutants contributed by the source as outdoor air.
- For noncarcinogenic health determinations, background exposure already amounts to 75 percent of the RfD. This includes other routes of exposure, including ingestion and dermal. Thus, the incinerator is only allowed to contribute 25 percent of the RfD via direct inhalation. The only exception is for lead, where an incinerator is only allowed to contribute 10 percent of the NAAQS. This is because ambient lead levels in urban areas already represent a substantial portion (e.g., one-third or more) of the lead NAAQS. In addition, the Agency is particularly concerned about health risks from lead in light of health effects data available since the lead NAAQS was established. EPA is currently reviewing the lead NAAQS to determine if it should be lowered.[39]

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[35] Memo from Clara Chow through Reva Rubenstein, Characterization and Assessment Division, EPA, to Robert Holloway, Waste Management Division, EPA, entitled "Use of RfDs Versus TLVs for Health Criteria," January 13, 1987.

[36] Memo from Lisa Ratcliff, Characterization and Assessment Division to Dwight Hlustick, Waste Management Division, October 2, 1986, interpreting results from Sellakumar, A.R.; Snyder, C.A.; Solomon, J.J.; Albert, R.E. (1985) *Carcinogenicity of Formaldehyde and Hydrogen Chloride in Rats. Toxicol. Appl. Pharm.* 81:401–406.

[37] Memo dated May 4, 1989, from Mike Dourson, EPA Office of Health and Environmental Assessment, to the RfD Workgroup, entitled RfD Meeting of February 16, 1989.

[38] Memo from Lisa Ratcliff, EPA, to Dwight Hlustick, EPA, entitled "Short-term Health-based Number for Hydrogen Chloride," September 15, 1986.

[39] At this point, we have not attempted to quantify indirect exposure through the food chain, ingestion of water contaminated by deposition, and dermal exposure, because as yet no acceptable methodology for doing so has been developed and approved by the Agency for use for evaluating combustion sources. We note, however, that by allowing the source to contribute only 25 percent of the RfD (or 10 percent of the NAAQS in the case of lead) accounts for indirect exposure by assuming a person is exposed to 75 percent of the RfD from other sources and other exposure pathways. (EPA has developed such a methodology for application to waste combustion sources. The Agency's Science Advisory board has reviewed this methodology, and the Agency is continuing to refine the methodology. When the Agency completes development of procedures to evaluate indirect exposure, a more detailed analysis may be applied to incinerators burning hazardous wastes.)

- Risks are considered for pollutants that are known, probable, and possible human carcinogens.
- Individual health risk numbers have large uncertainty factors implicit in their derivation to take into effect the most sensitive portion of the population.

Nonconservative assumptions include the following:

- Although emission are complex mixtures, interactive effects of threshold or carcinogenic compounds have not been considered in this regulation because data on such relationships are inadequate.[40]
- Environmental effects (i.e., effects on plants and animals) have not been considered because of a lack of adequate information. Adverse effects on plants and animals may occur at levels lower than those that cause adverse human health effects. (The Agency is also developing procedures and requesting Science Advisory Board review to consider environmental effects resulting from emissions from all categories of waste combustion facilities.)

F. Risk Assessment Guideline

EPA proposes to implement the risk-based controls for metals, HCl, and (under the health-based alternative) THC emissions using procedures and information presented in today's preamble. The procedures and information would be provided to permit writers in a document that would be entitled *Risk Assessment Guideline for Permitting Hazardous Waste Thermal Treatment Devices* (RAG). The RAG would be incorporated by reference in the rules at § 270.6. Although the document has not yet been written, it would include information presented in today's notice such as: (1) RACs and RSDs for pollutants of concern (i.e., metals, HCl, and THCs); (2) Screening Limits for metals, HCl, and THCs; and (3) procedures for reviewing site-specific dispersion modeling plans and results submitted by applicants. The RAG would be published concurrently with final promulgation of the amendments proposed today.

In lieu of providing this information in a guidance document, we are considering codifying it as part of the regulation. Our concern is that guidance documents do not carry the weight of a regulation—permit writers would be free to accept or reject the guidance (e.g., Screening Limits, RACs, RSDs) and would be obligated to justify use and appropriateness of the guidance on a case-by-case basis. This could place a substantial burden on the permit writer and result in inconsistent and, perhaps, inappropriate permit conditions. We specifically request comment on whether the Screening Limits, RACs, and RSDs should be codified.

II. Proposed Controls for Emission of Toxic Metals

A. Overview

As in the proposed rule on the burning of hazardous waste in boilers and industrial furnaces (see 52 FR 16982 (May 6, 1987) and 54 FR 43718 (October 26, 1989)), EPA is proposing to control metals emissions by requiring a site-specific risk analysis when metals emissions (or feed rates) exceed conservative Screening Limits. EPA developed the Screening Limits to minimize the need for conducting site-specific risk assessments, thereby reducing the burden to applicants and permit officials. When the Screening Limits are exceeded, the applicant would be required to conduct a site-specific risk assessment that demonstrates that the potential exposure of the maximum exposed individual to carcinogenic and noncarcinogenic metals does not result in an exceedance of reasonable acceptable marginal additional risks, namely:

- That exposure to all carcinogenic metals be limited such that the sum of the excess risks attributable to ambient concentrations of these metals does not exceed an additional lifetime individual risk (to the (potential) maximum exposed individual) of 10^{-5} [41]; and
- That exposure to each noncarcinogenic metals be limited such that exposure (to the (potential) maximum exposed individual) does not exceed the reference air concentration (RAC) for the metal.

B. Metals of Concern

Although the limited data available on metals composition of incinerated waste indicates that some of the 12 Appendix VIII metals may not pose unacceptable health risk (i.e., either because no waste concentration data are available for a particular metal or because the available data indicate that a metal is not present at a particular facility at levels that would pose unacceptable risk), EPA nonetheless is proposing standards to control emissions of all 12 Appendix VIII metals, except for selenium and nickel as discussed below. We believe that controls are needed for the other 10 metals—the carcinogens arsenic, beryllium, cadmium, and chromium VI and the noncarcinogens antimony, barium, lead, mercury, silver, and thallium—because our waste composition data base is both limited and outdated, especially considering the Agency's efforts (and statutory mandate) to require treatment of waste, often by incineration, prior to land disposal. We have no assurance that any particular waste to be burned in an incinerator would not contain levels of any of the 10 metals that could result in unacceptable health risk. Rather than establishing controls for the four or five key metals (e.g., arsenic, cadmium, chromium VI, and lead) and requiring permit officials to determine on a case-by-case basis whether other metals are present at levels that could pose unacceptable risk and controlling those emissions under the Section 3005(c)(3) omnibus provision of HSWA (codified at § 270.32(b)(2)), we believe it is more straightforward and less burdensome on both applicants and permit officials to establish controls for all 10 metals. We note that although EPA proposed to control boiler and furnace emissions only for the metals arsenic, cadmium, chromium, and lead, and to require permit writers to determine the need to control other metals on a case-by-case basis (see 52 FR 17005), the Agency has requested comment in a supplemental notice to the boiler/furnace proposed rules on promulgating controls on all 10 metals. See 54 FR 43718 (October 26, 1989).

The basis for controlling emissions of chromium only in the hexavalent form and for not establishing controls for nickel and selenium is discussed below.

1. *Chromium.* We have assumed that chromium is emitted in its most potent carcinogenic form, hexavalent chromium. We believe this assumption is conservative, but reasonable at this time for the purpose of determining whether chromium emissions could pose significant risk.

Chromium is likely to be emitted in either the highly carcinogenic, hexavalent state or in the relatively low-toxicity trivalent state. (The data available to EPA at this time are inadequate to classify the trivalent chromium compounds as to their carcinogenicity.) Although the hexavalent state could be expected to result from combustion because it represents the more oxidized state, some investigators speculate that most of the chromium is likely to be emitted in the trivalent state given that the hexavalent state is highly reactive and, thus, likely to be reduced to the trivalent state. However, preliminary investigations [42] indicate that 50 percent

[40] Additive effects of carcinogenic compounds are considered by summing the risks for all carcinogens to estimate the aggregate risk to the most exposed individual (MEI).

[41] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in Section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

[42] US EPA, "Pilot Scale Evaluation of the Fate of Trace Metals in a Rotary Kiln Incinerator with a

Continued

or more of chromium emissions from hazardous waste incinerators can be in the hexavalent state when chlorinated wastes are burned. Unfortunately, data on hexavalent chromium emissions is sparse because a reliable emissions sampling and recovery methodology has only recently been developed.[43] Thus, the Agency is not able to establish at this time a reasonable, worst case assumption for the fraction of chromium emissions that may be hexavalent, other than assuming 100 percent of chromium emissions are hexavalent. Consequently, the proposed emission controls under under the Emissions Screening Limits and Site-Specific Risk Analysis alternative would be based on emissions of total chromium unless the applicant conducts emissions testing capable of reliably determining actual chromium emissions in the hexavalent state (e.g., by using the soon-to-be-validated methodology referenced above). In such a case, the Emissions Screening Limits and Site-Specific Risk Analysis standards would be applied to the measured hexavalent chromium emissions. (The Feed Rate Screening Limits, however, would apply to the total chromium present in the waste because emissions testing is not used to comply with these limits.)

As additional data become available on the health effects of chromium emissions from combustion sources, the Agency will consider what, if any, amendments would be appropriate to the rule proposed today. For example, if additional data indicate that hexavalent chromium emissions invariably account for less than 75 percent of total chromium emissions, the Screening Limits could be adjusted accordingly (i.e., by increasing them by 25 percent). The Agency specifically requests data (using validated procedures) documenting hexavalent chromium emissions from incinerators burning hazardous waste.

2. *Nickel.* Nickel carbonyl and nickel subsulfide are suspected human carcinogens. The Agency is continuing to study other nickel compounds with respect to carcinogenic potency. Given that neither nickel carbonyl nor nickel subsulfide is likely to be emitted from a conventional incinerator because of the highly oxidizing environment, we are not proposing controls for nickel. If the Agency determines that nickel compounds in the oxidized state may be human carcinogens or that nickel carbonyl or nickel subsulfide could, in fact, be emitted from some incinerators, we will propose to control those compounds. We note however, that we are proposing today to include two innovative types of incinerators—infrared and plasma arc—in the definition of incinerator. These devices may not use oxidation to thermally destruct organic compounds and, thus, could conceivably emit nickel in reduced species such as carbonyl and subsulfide. Given that we do not have fully developed and validated sampling and analysis procedures specifically for these compounds, we would have to assume conservatively that any nickel emitted from these devices was carbonyl or subsulfide. We specifically request comment on whether these noncombustion incinerators are likely to emit significant levels of nickel carbonyl or subsulfide. If so, we also request information on the availability of validated sampling and analysis procedures for these compounds.

3. *Selenium.* At the present time, the Agency does not have the health effects data needed to establish acceptable ambient levels for selenium. At such time that health effects data become available, selenium emissions will be controlled, if warranted.[44]

C. Metals Emissions Standards [45]

The metals emissions standards require site-specific risk assessment to demonstrate that metals emissions will not: (1) result in exceedances of the reference air concentrations (RACs) for noncarcinogens at the potential MEI; and (2) result in an aggregate increased lifetime cancer risk to the potential MEI of greater than 1×10^{-5}.[46] As discussed above, the RACs for noncarcinogens and risk specific doses (RSDs) for carcinogens are presented in Appendix H of the boiler/furnace supplemental notice. See 54 FR 43763 (October 26, 1989).

To reduce the burden on applicants and permitting officials, EPA has developed conservative Screening Limits for metals emissions (and feed rates) as a function of terrain adjusted effective stack height, terrain, and land use. See discussion below. If the Screening Limits are not exceeded, site-specific dispersion modeling would not be required to demonstrate conformance with the proposed standard.

If the Screening Limits are exceeded, the applicant would be required to conduct site-specific dispersion modeling in conformance with "Guideline on Air Quality Models (Revised)" (1986), and Supplement A (1987), EPA Publication Number 450/2–78–027R, available from National Technical Information Service, Springfield, Virginia, Order Nos. PB 86–245286 and PB88–150958. We are proposing to incorporate that document by reference in § 270.6(a).

The use of physical stack height in excess of Good Engineering Practice (GEP) stack height is prohibited in the development of emission limitations under EPA's Air Program at 40 CFR 51.12 and 40 CFR 51.18. We propose to adopt a similar policy by limiting the height of the physical stack for which credit will be allowed in complying with the metals (and other) standards (i.e., both site-specific dispersion modeling and Screening Limits). GEP identifies the minimum stack height at which significant adverse aerodynamic effects are avoided. Although higher than GEP stack heights are not prohibited, credit will not be allowed for stack heights greater than GEP. Good Engineering Practice (GEP) maximum stack height means the greater of: (1) 65 meters, measured from the ground-level elevation at the base of the stack; or (2) $Hg=H+1.5L$.[47]

where:

Hg=GEP minimum stack height measured from the ground-level elevation at the base of the stack;

H=height of nearby structure(s) measured from the ground-level elevation at the base of the stack;

L=lesser dimension, height or projected width, of nearby structure(s).

If the result of the above equation is less than 65 meters, then the actual physical stack height, up to 65 meters, could be used for compliance purposes. If the result of the equation is greater than 65 meters, the physical stack height considered for compliance purposes cannot exceed that level.

Venturi Scrubber/Packed Column Scrubber, Vol. I, Technical Results", April 1989.

[43] Steinsberger, S. C. and Carver, A. C., Entropy Environmentalists, Inc., and Knoll J. E., et al, US EPA, "Sampling and Analytical Methodology for Measurement of Low Levels of Hexavalent Chromium from Stationary Sources", Paper presented at EPA/AWMA Symposium at Raleigh, N. C., May 1989, as revised by draft dated November 10, 1989, entitled "Method Cr^{+6}—Determination of Hexavalent Chromium Emissions From Stationary Sources".

[44] Memo from Reva Rubenstein, Chief, Health Assessment Section, Technical Assessment Branch to Bob Holloway, Chief Combustion Section, Waste Treatment Branch, EPA, entitled "Hydrogen Bromide, Hydrogen Fluoride, Selenium, and Lead," October 16, 1987.

[45] This discussion has been taken virtually verbatim from the October 26, 1989 boiler/furnace supplemental notice (see 54 FR 43758–60).

[46] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in Section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

[47] We note that this equation also identifies the GEP *minimum* stack height necessary to avoid building wake effects. EPA recommends the application of GEP to define minimum stack heights to minimize potentially high concentration of pollutants in the immediate vicinity of the unit.

EPA requests comment on this use of GEP maximum stack height. We note that although an owner or operator could increase his physical stack height up to the GEP maximum to achieve better dispersion and a higher allowable emission rate, he should first consider that that EPA plans to establish (after proposals and opportunity for comment) a best demonstrated technology (BDT) particulate standard that is likely to be 0.01 to 0.22 gr/dscf. Thus, he would be more likely to upgade his emission control equipment to state-of-the-art control rather than increase stack height.

EPA specifically requests comments on how many facilities are likely to exceed the Screening Limits discussed below and, thus, would conduct site-specific dispersion modeling to comply with the proposed rule. Further, we request information on the changes to equipment and operations that would be required to comply with the Screening Limits if the provision for site-specific dispersion modeling was not available.

D. Screening Limits

EPA developed conservative Screening Limits for metals emission rates (and feed rates) to minimize the need for site-specific dispersion modeling, and thus, reduce the burden on applicants and permitting.[48] The Screening Limits are provided as a function of terrain-adjusted effective stack height, terrain, and urban/rural classification as discussed below. The Screening Limits would be included in the "Risk Assessment Guideline for Permitting Hazardous Waste Thermal Treatment Services" (RAG) which would be incorporated by reference in the rule at § 270.6. See section I.H of part Three for a discussion of the RAG.

The Screening Limits proposed today for incinerators are identical to those proposed for boilers and industrial furnaces in the October 26, 1989 supplemental notice. See 54 FR 43758–62 (appendices F and G) for discussion of the derivation and implementation of the Limits and pages 43745–51 (appendix E) where the Limits are presented. We are not repeating that information in today's notice.

III. Proposed Controls for Emissions of Hydrogen Chloride

A. Summary of Existing Standard

Highly-chlorinated wastes from the manufacturing of organic chemicals, highly-chlorinated spent solvents, and solvent recovery distillation bottoms are routinely incinerated in hazardous waste incinerators. Chlorine in hazardous waste produces hydrochloric acid (HCl) upon combustion, which can cause serious health hazards if it is not removed with flue gas cleaning equipment such as wet scrubbers. (Other halogens of potential health concern such as fluorine and bromine are also common constituents in hazardous waste. However, EPA does not have adequate health data upon which to base a regulation at this time. When data becomes available, EPA intends to revise the regulation to include other halogens if we determine that they can pose unacceptable health risks.[49]

Under EPA's existing rules, an incinerator burning hazardous waste must control HCl emissions to the larger of either 1.8 kilograms (4 pounds) per hour or 1 percent of the HCl in the stack gas prior to entering any pollution control equipment. This performance standard at § 264.343 (b) is based on the capability of wet scrubbers to remove acid gas, with the expectation that the industrial threshold limit value for hydrogen chloride would rarely, if ever, be exceeded.

B. The Existing Standard May Not Be Fully Protective in Certain Situations

Risk assessment using reasonable, worst-case facilities discussed previously indicates that incineration of hazardous waste with total chlorine levels of 35 percent (350,000 ppm) can pose exceedances of the HCl short term reference air concentations (RACs) even when 99 percent of HCl emissions are assumed to be removed from the stack gas as currently required by § 264.343(b). See Table 3. Long term (i.e., annual) reference air concentations, however, are not likely to be exceeded. In addition the *de minimis* HCl emission rate that triggers the 99 percent removal requirement, 4 lb/hr, may not provide adequate protection. See table E–9 of appendix E in the boiler furnace supplement notice (54 FR 43751) indicating that when terrain adjusted effective stack height is less than 30 m in noncomplex terrain and 50 m in complex terrain, a 4lb/hr emission rate could result in an exceedance of the short-term RAC.

[48] We note that the Screening Limits are designed to be conservative and would likely limit emissions by a factor of 2 to 20 times lower than would be allowed by site-specific dispersion modeling.

[49] Memo from Reva Rubenstein, Chief, Health Assessment Section, Technical Assessment Branch to Bob Holloway, Chief, Combustion Section, Waste Treatment Branch, EPA, entitled "Hydrogen Bromide, Hydrogen Fluoride, Selenium, and Lead," October 16, 1987.

TABLE 3.—MAXIMUM CONCENTRATIONS OF HCl FOR SELECTED WORST-CASE FACILITIES

Dispersion coefficient µg/m3/g/sec 3 minute	Dispersion coefficient µg/m3/g/sec annual	Capacity lb/hr	Ambient conc. µg/m3 3 minute	Ambient conc. µg/m3 annual	Risk ambient/RAC 3 minute	Risk ambient/RAC annual
639.04	8.85	600	169.09	2.34	1.13	0.16
604.07	10.48	820	218.44	3.79	1.46	0.25
264.92	3.32	2920	341.14	4.28	2.27	0.29
170.44	2.72	3241	243.61	3.89	1.62	0.26

The RAC for annual exposure to HCl is 7 $\mu g/m^3$ [50] and is based on the threshold of respiratory effects. Background levels were considered to be insignificant given that there are not many large sources of HCl and that this pollutant generally should not be transported over long distances in the lower atmosphere. The RAC for 3-minute exposures is 150 $\mu g/m^3$.[51]

C. Request for Comment on Controls for Free Chlorine

We noted in the proposed boiler/furnace rules (52 Fr 17008 (May 6, 1987)) that we thought there was a remote possibility that free chlorine (Cl_2) could be emitted from burning chlorined wastes if there was insufficient

[50] Memo dated May 4, 1989, from Mike Dourson, EPA Office of Health and Environmental assessment, to the RfD Workgroup, entitled "RfD Meeting of February 16, 1989".

[51] Memo from Lisa Ratcliff, EPA, to Dwight Hlustick, EPA, entitled "Short-term Health-based Number for Hydrogen Chloride," Sept. 15, 1986.

hydrogen available (i.e., from other hydrocarbon compounds or water vapor) to react with all the chlorine in the waste. We understand, however, that free chlorine emissions have been detected at a number of hazardous waste incinerators. Free chlorine emissions are of concern because Cl_2 is a potent irritant to the respiratory system. To address this problem, we are proposing today to amend § 264.343(b) so that the existing 99% removal standard would apply to both HCl and Cl_2. This standard could be met by providing more hydrogen in the waste or supplementary fuel or the addition of superheated steam to the stack gas. In addition, as with HCl, we are proposing to require a health-based check to ensure that the technology-based standard is protective. Thus, the applicant would be required to demonstrate that the maximum exposed individual (MEI) is not exposed to Cl_2 concentrations exceeding the proposed annual average reference air concentration (RAC) of 0.4 $\mu g/m^3$.[52] As for HCl, the RAC is based on 100% of the interim inhalation RfD because other sources of Cl_2 are expected to have little or no effect on background levels due to the short life of Cl_2 in the atmosphere.

As with the HCl standards, compliance with the health-based Cl_2 standard would be domonstrated by: (1) emissions testing and dispersion modeling; (2) emissions testing and conformance with Cl_2 emissions Screening Limits; or (3) waste analysis and conformance with chlorine feed rate Screening Limits. The Cl_2 Screening Limits would be developed using the same methodology used for the metals Limits (e.g., same dispersion or dilution factors; feed rate limits assume all chlorine on the feed is emitted as Cl_2). (The dispersion factors used to establish the HCl Screening Limits were not used because they are based on short-term (i.e., 3-minute) exposures. A short-term RAC is not yet available for Cl_2.) Given that the RAC for Cl_2 is 1.33 times the RAC for mercury, the Screening Limits for Cl_2 would be 1.33 times the Limits established for mercury in Appendix E of the boiler/furnace supplemental notice. See 54 FR 43745 (October 26, 1989).

D. Basis for Proposed Standards

The basis for the proposed standards HCl standards for incinerators is identical to that proposed for boilers and furnaces as discussed in the October 26, 1989, supplemental notice. In addition, the implementation of the controls and the controls themselves (i.e., compliance with feed rate or emission rate Screening Limits, or demonstration by site-specific dispersion modeling that the RAC is not exceeded at the MEI) would be identical for boilers/furnaces and incinerators. See Appendices, E, F, and G of the supplemental notice at 54 FR 43751–62. Those discussions and information are not repeated here, but are to be considered fully applicable.

IV. Proposed Controls for Emissions of Products of Incomplete Combustion

A. Hazard Posed by Emissions of Products of Incomplete Combustion (PICs)

The burning of hazardous waste containing toxic organic compounds listed in Appendix VIII of 40 CFR part 261 under poor combustion conditions can result in substantial emissions of compounds that result from the incomplete combustion of constituents in the waste, as well as emissions of the original compounds which were not burned. The quantity of toxic organic compounds emitted depends on the concentration of the compounds in the waste, and the combustion conditions under which the waste is burned.

Data on typical PIC emissions from hazardous waste combustion sources were compiled and assessed in recent EPA studies.[53] [54] These studies identified 37 individual compounds in the stack gas of the eight full-scale hazardous waste incinerators tested, out of which 17 were volatile compounds and 20 semivolatile compounds. Eight volatile compounds (benzene, toluene, chloroform, trichloroethylene, carbon tetrachloride, tetrachloroethylene, chlorobenzene, and methylene chloride), and one semivolatile compound (naphthalene) were identified most frequently in over 50 percent of the tests. Some of these compounds are carcinogenic. It was found that PIC emission rates vary widely from site-to-site which may be due, in part, to variations in waste feed composition and facility size. The median values of the nine compounds mentioned above range from 0.27 to 5.0 mg/min. Using a representative emission rate of 1 mg/min, the stack gas concentration for PICs in a medium-sized facility (250 m^3/min combustion gas flow rate) would be 4 $\mu g/m^3$ (0.004 $\mu g/l$).

The health risk posed by PIC emissions depends on the quantity and toxicity of the individual toxic components of the emissions, and the ambient levels to which persons are exposed. Estimates of risk to public health resulting from PICs, based on available emissions data, indicate that PIC emissions do not pose significant risks when incinerators are operated under optimum conditions. However, incinerator do not always operate under optimum conditions. In addition, only limited information about PICs is available. PIC emissions are composed of thousands of different compounds, some of which are in very minute quantities and cannot be detected and quantified without very elaborate and expensive sampling and analytical (S&A) techniques. Such elaborate S&A work is not feasible in trial burns for permitting purposes and can only be done in research tests. In addition, reliable S&A procedures simply do not exist for some types of PICs (e.g., water-soluble compounds). The most comprehensive analysis of PIC emissions from a hazardous waste incinerator identified and quantified only approximately 70 percent of organic emissions. Typical research-oriented field tests identify a much lower fraction—from 1–60 percent. Even if all the organic compounds emitted could be quantified, there are inadequate health effects data available to assess the resultant health risk. EPA believes that, due to the above limitations, additional testing will not, in the foreseeable future, be able to prove quantitatively whether PICs do or do not pose unacceptable health risk. Considering the uncertainties about PIC emissions and their potential risk to public health, it is therefore prudent to require that incinerators operate at a high combustion efficiency to minimize PIC emissions. Given that carbon monoxide (CO) is the best available indicator of combustion efficiency, and a conservative indicator of combustion upset, we are proposing to limit the flue gas CO levels to levels that ensure PIC emissions are not likely to pose unacceptable health risk. In cases where CO emissions exceed a proposed *de minimis* limit, higher CO levels would be allowed under two alternative approaches: (1) if hydrocarbon (HC)

[52] Memo from Priscilla Halloran, EPA, to Dwight Hlustick, EPA, enititled "Health-Based Air Concentrations for Chlorine and N-nitroso-n-methyluera", dated January 4, 1990.

[53] Wallace, D. et al., "Products of Incomplete Combustion from Hazardous Waste Combustion," Draft Final Report, EPA Contract No. 68–03–3241, Acurex Corporation, Subcontractor No. ES 59689A, Work Assignment 5, Midwest Research Institute Project No. 8371–L(1), Kansas City, MO, June 1986.

[54] Trenholm, A., and C. C. Lee, "Analysis of PIC and Total Mass Emissions from an Incinerator," Proceedings of the Twelfth Annual Research Symposium on Land Disposal, Remedial Action, Incineration, and Treatment of Hazardous Waste, Cincinnati, OH, April 21–23, 1986, EPA/600–9–86/022, pp. 376–381, August 1986.

concentrations in the stack gas do not exceed a good operating practice-based limit of 20 ppmv; or (2) if the applicant demonstrates that HC emissions are not likely to pose unacceptable health risk using conservative, prescribed risk assessment procedures. Although we prefer the technology-based approach for reasons discussed below, we are requesting comment on the health-based alternative as well.

B. Existing Regulatory Controls

Section 264.345 of the existing regulations requires that the permit must limit the CO level in the stack exhaust gas based on the trial burn when demonstrating conformance with the destruction and removal efficiency (DRE) standard for principal organic hazardous constituents (POHCs). Section 264.347 requires that CO emissions be monitored continuously at a point downstream of the combustion zone and prior to release to the atmosphere; and § 264.345 requires that the incinerator must be equipped with a functioning system to cut off the waste feed automatically when the CO limit is exceeded. Thus, the existing regulations do not specify an upper limit for CO, but rather limit CO to the levels that occur during the trial burn. The regulations do not specify limits for PIC emissions nor require analysis of risks from such emissions. PICs are assumed to be controlled by the DRE standard for POHCs. Although CO levels may often be at levels that represent high combustion efficiency (e.g., below 100 ppmv, the *de minimis* limit proposed today) when demonstrating conformance with the DRE standard, there is no assurance that such low CO levels will always occur. Test data indicate that 99.99 percent DRE can be achieved when incinerators (and boilers and industrial furnaces) are operating under upset combustion conditions as evidenced by high CO stack gas levels and even smoke. Apparently, organic constituents in the waste are readily destroyed in the flame zone, but combustion by-products or PICs may not be exposed to adequate time, temperature, and turbulence to be reduced to low levels. Thus, existing regulatory provisions may not be adequate to ensure that PICs do not pose unacceptable risk.

C. Basis for CO Standards

EPA is proposing to limit flue gas carbon monoxide levels to ensure that incinerators that burn hazardous waste operate at high combustion efficiency to reduce the potential risk from emissions of PICs. EPA believes that a CO level of 100 ppmv represents high combustion efficiency operations that would virtually ensure that PIC emissions are limited to levels that pose acceptable risk to public health. However, all incinerators (e.g., those that handle containers of volatile waste or that have fluid beds) may not be able to readily meet a 100 ppmv CO limit. Because we have not been able to establish a direct correlation between CO, PIC emissions, and the resulting health risk (i.e., when CO is 150 or 200 ppmv we are uncertain if PIC emissions are likely to pose significant risk), we are proposing an approach to waive the CO limit of 100 ppmv. Under the waiver, any CO level achieved during the DRE trial burn would be allowed provided that emissions of hydrocarbons (HC) do not exceed acceptable levels.

1. *Summary of Proposed Controls.* EPA is proposing a two-tiered approach to control PICs by limiting stack of gas CO levels. The first tier requires compliance with a CO limit of 100 ppmv on an hourly rolling average [55] basis. If a facility meets this CO level, during the trial burn, 100 ppmv will be the permit limit. If this CO limit cannot be met, the facility could operate at higher permitted CO levels under a Tier II waiver. The 100 ppmv CO limit would be waived under two alternative approaches: (1) a demonstration that hydrocarbon (HC) emissions are not likely to pose unacceptable health risk using conservative, prescribed risk assessment procedures; or (2) a technology-based demonstration that the HC concentration in the stack gas does not exceed a good operating practice-based limit of 20 ppmv. Although we prefer the technology-based approach for reasons discussed below, we request comment on the health-based alternative as well.

The CO limits for either Tier I or Tier II must be corrected to dry stack gas and 7 percent oxygen in the stack gas. The correction to dry gas is necessary only for instruments that measure CO on a wet basis. This correction factor for humidity would initially be determined during the trial burn and annually thereafter unless specified otherwise in the permit. The oxygen correction factor must be determined at intervals specified in the permit (not less frequently than annually). The oxygen and humidity correction factors would be applied continuously. (The basis for the 7 percent oxygen correction factor is discussed in section IV, C.4 below.)

The existing regulations already require that the hazardous waste feed must be cutoff automatically when the permitted CO limits are exceeded. Today's proposal adds a requirement that hazardous waste burning may be resumed when CO levels are brought within the permitted limits. When the hazardous waste feed is cut off, combustion chamber temperatures specified in the permit and the air pollution control equipment functions must be maintained as long as any waste remains in the combustion chamber. For incinerators with a secondary combustion chamber, we request comment on whether temperatures should be maintained in both the primary and secondary chambers to control organic emissions when the waste feed is cutoff. Auxiliary fuels used to maintain temperatures must not contain hazardous waste other than waste exempt from the substantive requirements of subpart O under provisions of § 264.340(b).

EPA specifically requests comment on how to apply the requirement to maintain temperature following a waste feed cutoff, as well as other standards proposed today, to batch incinerators.

2. *Use of CO Limits to Ensure Good Combustion Conditions.* By definition, low CO flue gas levels are indicative of an incinerator (or any combustion device) operating at high combustion efficiency. Operating at high combustion efficiency helps ensure minimum emissions of unburned (or incompletely burned) organics.[56] In a simplified view of combustion of hazardous waste, the first stage is immediate thermal decomposition of the POHCs in the flame to form other, usually smaller, compounds, also referred to as PICs. These PICs are generally rapidly decomposed to form CO.

The second stage of combustion involves the oxidation of CO to CO_2 (carbon dioxide). The CO to CO_2 step is the slowest (rate controlling) step in the combustion process because CO is considered to be more thermally stable (difficult to oxidize) than other intermediate products of combustion of hazardous waste constituents. Since fuel is being fired continuously, both combustion stages are occurring simultaneously.

[55] An hourly rolling average is the arithmetic mean of the 60 most recent 1-minute average values recorded by the continuous monitoring system.

[56] Given that CO is a gross indicator of combustion performance, limiting CO may not absolutely minimize PIC emissions. This is because PICs can result from small pockets within the combustion zone where adequate time, temperature, and turbulence have not been provided to oxidize completely the combustion products of the POHCs. Available data, however, indicate that PIC emissions do not pose significant risk when combustion devices are operated at high combustion efficiency. EPA is conducting additional field and pilot scale testing to address this issue.

Using this view of waste combustion, CO flue gas levels cannot be correlated to DRE for POHCs and may not correlate well with PIC destruction. As discussed below, test data show no correlation between CO and DRE, but do show a slight apparent correlation between CO and chlorinated PICs, and a fair correlation between CO and total unburned hydrocarbons. Low CO is an indicator of the status of the CO to CO_2 conversion process, the last, rate-limiting oxidation process. Since oxidation of CO to CO_2 occurs after destruction of the POHC and its (other) intermediates (PICs), the absence of CO is a useful indication of POHC and PIC destruction. The presence of high levels of CO in the flue gas is a useful indication of inefficient combustion and, at some level of elevated CO flue gas concentration, an indication of failure of the PIC and POHC destruction process. We believe it is necessary to limit CO levels to levels indicative of high combustion efficiency because we do not know the precise CO level that is indicative of significant failure of the PIC and POHC destruction process. It is possible that the critical CO level may be dependent on site-specific and event-specific factors (e.g., fuel type, air-to-fuel ratios, rate and extent of change of these and other factors that affect combustion efficiency). We believe limiting CO levels is prudent because: (1) it is a widely practiced approach to improving and monitoring combustion efficiency; and (2) most well designed and operated incinerators can easily be operated in conformance with the proposed Tier I CO limits of 100 ppmv.

The Tier I CO limit proposed today specifies a 100 ppmv CO limit in the permit even though the CO level during the trial burn will be lower (i.e., by definition, under Tier I). EPA considered this issue carefully and the proposal is based on three considerations. First, DRE will not be reduced below the levels specified in § 264.343(a)(1) for POHCs by the proposed CO limits. Second, many incinerators run very efficiently during a trial burn and indicate less than 10 ppmv of CO emissions. It may not be possible to achieve that high degree of efficiency on a consisent basis and specifying such low trial burn CO values may result in numerous hazardous waste feed cut-offs due to CO exceedances. Third, the emission of PICs from incinerators has not been shown to increase linearly at such low CO levels. In fact, the trial burn data indicate that total organic emissions are consistently low (i.e., at levels that pose acceptable health risk) when CO emission levels are less than 100 ppmv. Two studies show that no measurable change in DRE is likely to occur for CO levels up to 100 ppmv. The first study generated data from combustion of a 12 component mixture in a bench scale facility.[57] The CO levels ranged from 15 to 522 ppmv without a significant correlation to the destruction efficiency for the compounds investigated. The second study was conducted on a pilot scale combustor.[58] Test runs were conducted with average CO concentrations ranging from 30 to 700 ppmv. When the concentration was less than 220 ppmv no apparent decrease in DRE was noticed, but higher CO concentrations showed a definite decrease in DRE. EPA specifically invites comments on whether the permit should limit CO according to trial burn values in lieu of the limits specified here.

3. *Supporting Information on CO as a Surrogate for PICs.* Substantial information is available that indicate CO emissions may relate to PIC emissions.

Combustion efficiency is directly related to CO by the following equation:

$$\text{Combustion Efficiency (CE)} = \frac{\text{percent } CO_2}{\text{percent } CO_2 + \text{percent CO}} \quad (100)$$

CE has been used as a measure of completeness of combustion.[59] EPA's regulations for incineration of waste PCBs at 40 CFR 761.70 require that combustion efficiency be maintained above 99.9 percent. As combination becomes less efficient or less complete, at some point, the emission of total organics will increase and smoke will eventually result. It is probable that some quantity of toxic organic compounds will be present in these organic emissions. Thus, CE or CO levels provide an indication of the potential for total organic emissions and possibly toxic PICs. Data are not available, however, to correlate these variables quantitatively with PICs in combustion processes.

Several studies have been conducted to evaluate CO monitoring as a method to measure the performance of hazardous waste combustion. Though correlations with destruction efficiency of POHCs have not been found, the data from these studies generally show that as combustion conditions deteriorate, both CO and total hydrocarbon emissions increase. These data support the relation between CO and increased organic emissions discussed above. In one of these studies,[60] an attempt was made to correlate the concentrations of CO with the concentrations of four common PICs (benzene, toluene, carbon tetrachloride, and trichloroethylene) in stack gases of full scale incinerators. For a plot of CO versus benzene, one of the most common PICs, there is considerable scatter in the data indicating that parameters other than CO affect the benzene levels. However, there is a trend in the data that suggests that when benzene levels are high, CO levels also are high. The converse has not been found to be true; when benzene levels are low, CO levels are not always low. Similar trends were observed for toluene and carbon tetrachloride, but not for trichloroethylene. In the pilot-scale study by Waterland cited earlier, similar trends were observed for chlorobenzene and methylene chloride and in another study [61] similar trends were observed for total chlorinated PICs. These data support the conclusion that when the emission rates of some commonly identified PICs are sufficiently high, it is likely that CO emissions will also be higher than typical levels.

More importantly, however, available data indicate that when CO emissions

[57] Hall D.L. et al, "Thermal Decomposition Properties of a Twelve Component Organic Mixture", Hazardous Wastes & Hazardous Materials, Vol. 3, No. 4 pp 4431–449, 1986.

[58] Waterland, L.R. "Pilot-scale Investigation of Surrogate Means of Determining POHC Destruction" Final Report for the Chemcial Manufacturers' Association, ACUREX Corporation, Mountain View, California, July 1983.

[59] We specifically request comments on whether combustion efficiency, as defined above in the text (i.e., considering both CO and CO_2 emissions) should be used to control THC emissions rather than CO alone.

[60] Trenholm, A., P. Gorman, and G. Jungclaus, "Performance Evaluation of Full-Scale Hazardous Waste Incinerators, Vol. 2—Incinerator Performance Results." EPA-600/2–84–181b, NTIS No. PB 85–129518, November 1984.

[61] Chang, D.P. et al., "Evaluation of a Pilot-Scale Circulating Bed Combustor as a Potenial Hazardous Waste Incinerator," APCA Journal, Vol. 37, No. 3, pp. 266–274, March 1987.

are low (e.g., under 100 ppmv), PIC emissions are always low (i.e., at levels that pose acceptable health risk). The converse may not be true: when CO is high, PIC levels may or may not be high. Thus, the Agency believes that CO is a conservative indicator of potential PIC emissions and, given that CO monitoring is already required in the present regulations, the emission levels should be limited to low levels indicative of high combustion efficiency. (For those facilities where CO emissions may be high but PIC emissions low, we are providing an opportunity under Tier II of the proposed rule to demonstrate that, in fact, PIC emissions pose acceptable health risks at elevated CO levels.)

D. Derivation of the Tier I CO Limit.

The proposed Tier I *de minimis* CO limit of 100 ppmv was selected for a number of reasons: (1) it is within the range of CO levels that represent high combustion efficiency; (2) available field test data indicate that PICs are not emitted at levels that pose unacceptable risks when CO does not exceed 100 ppmv; (3) the 100 ppmv level is consistent with the combustion efficiency of 99.9 percent currently required by EPA's PCB incineration regulations codified at 40 CFR 761.70; (4) it is the CO limit proposed for boilers and furnaces burning hazardous waste (see 52 FR 16997 (May 6, 1987), and 54 FR 43718 (October 26, 1989)); and (5) it is a level that the majority of well designed and operated incinerators can meet. These reasons are discussed below.

EPA regulations referred to above (40 CFR part 761) under the authority of the Toxic Substance Control Act (TSCA) for the incineration of PCB-laden wastes require a minimum combustion efficiency (CE) of 99.9 percent. Combustion efficiency of 99.9 percent, calculated as $CO_2/(CO_2+CO)$, translates to CO emissions levels of 80 to 125 ppmv corrected to 7 percent O_2, depending on the fuel C/H ratio. The intent of the PCB combustion efficiency rule is to minimize emissions of potentially toxic organics. Therefore, the proposed 100 ppmv CO level for hazardous wastes destruction is consistent with the intent of the regulations governing the incineration of PCB wastes.

CO emission data from hazardous waste incineration research and trial burn tests also confirm the relationship between CE greater than 99.9 percent and CO levels less than 100 ppmv. The combustion efficiencies in all cases where data were available were calculated to exceed 99.9 percent, except for the test runs where CO exceeded the proposed CO limit.

The data from the research tests of eight incinerators cited earlier [62] showed that most incinerators easily complied with the 100 ppmv proposed limit with two exceptions. The first exception was a maximum hourly average of 120 ppmv which came from one test run out of four at a test site. Information was not available to evaluate why CO levels were higher for this test run; however, all the other three runs at this site showed routine compliance with the proposed limits. The second exception came from data for a rotary kiln that was fed containers of volatile waste. All three runs at this site showed CO levels clearly higher than the proposed limits. This incinerator operated at a relatively higher baseline CO level and also exhibited frequent CO spikes as drums of volatile waste were fed to the rotary kiln.

Another data set on CO is contained in the results of trial burn tests conducted during permitting of hazardous waste incinerators.[63] Based on an evaluation of these data, we estimate that some incinerators could fail the proposed CO limits. (Under today's proposal, owners and operators of these incinerators would be required to demonstrate that their HC emissions are acceptable). But, in general, the data reviewed suggests that most hazardous waste incinerators can easily achieve the recommended CO limits. Information was not available to evaluate why the CO levels were higher at some incinerators and not at others. Reduction of these higher CO levels may involve relatively simple change in some cases, but may require significant changes in operating conditions in other cases. Comments by incinerator operators have indicated that certain incinerator operators may have difficulty achieving the proposed limits without a substantial reduction in capacity. The type of operations specifically referred to are rotary kiln incinerators that feed containers of volatile waste, and fluidized bed incinerators. Volatile hazardous waste when batch fed in containers can volatilize and burn rapidly creating a momentary oxygen deficiency in the primary combustion chamber. A CO spike generally occurs every time a container in fed in the system and the cumulative spikes could increase the average CO level to go above 100 ppmv. The average CO level is also affected by the volatility of the waste, the quantity of waste fed in one batch, the frequency at which batches are fed, and the volume of the combustion chamber. EPA specifically requests comments from incinerator operators about the achievability of the Tier I CO limit. Comments should include supporting a documentation or data on any of the above issues, including information demonstrating how the device is designed and operated to achieve high combustion efficiency but nonetheless has CO levels exceeding 100 ppmv.

Low flue gas CO concentration is widely used as an indicator of "good combustion practices" for waste-to-energy systems. Combustion of municipal waste and refuse derived fuel (RDF) in modern design municipal waste combustors (MWCs) requires sufficient oxygen and mixing at uniformly high furance temperature to ensure complete combustion of toxic organics, including polychlorinated dibenzo-p-dioxins and furans (PCDD/PCDF). Although, by most technical accounts, CO is not considered directly relatable to PCDD/PCDF emissions from MWCs, the Agency has recently proposed to limit CO levels from MWCs to ensure high combustion efficienty.[64] Limits on CO combined with other requirements are designed to minimize emissions of PCDD/PCDF emissions. The proposed MWC CO limits vary from 50 ppmv to 150 ppmv depending on the type of device, and are calculated on a 4-hr average basis, dry-corrected to 12 percent CO_2. The limits are technology-based—they represent levels readily achievable by well-designed and well-operated units. EPA does not believe that the proposed limits of 50 ppmv to 150 ppmv for MWCs presents a conflict with today's proposed 100 ppmv *de minimis* CO emission limit for hazardous waste incinerators. The 100 ppmv limit proposed in today's rule for hazardous waste incinerators can be waived to allow higher CO levels provided that HC levels to not exceed acceptable levels. We did not propose to limit CO to a level lower than 100 ppmv, although readily achievable by many hazardous waste incinerators, because available data indicate that PIC emissions do not pose significant health risk when the CO concentration is 100 ppmv.

[62] Trenholm, A., P. Gorman, G. Jungclaus, "Performance Evaluation of Full-Scale Hazardous Waste Incinerators, Vol. 2—Incinerator Performance Results," EPA–600/2–84–181b, NTIS No. PB 85–129518, November 1984.

[63] PEI Associates and JACA Corporation. "Permit Writer's Guide to Test Burn Data—Hazardous Waste Incineration," USEPA Handbook, EPA/625/6–86/012, September 1986.

[64] See 54 FR 52251 (December 20, 1989).

E. Derivation of the Tier II Controls

If the highest hourly average CO level during the trial burn exceeds the Tier I limit of 100 ppmv, a higher CO level would be allowed if emissions of hydrocarbons (HC) are considered acceptable under two alternative approaches: a health-based approach, or a technology-based approach. We prefer the technology-based approach for reasons discussed below. One of the alternatives will be selected for the final rule based on public comment and Agency evaluation, including a critique by the Agency's Science Advisory Board (SAB).[65]

1. *Health-Based Approach.* Under the health-based approach to waive the 100 ppmv CO limit, the applicant would be allowed to demonstrate that PIC emissions from the combustion device pose an acceptable risk (i.e., less than 10^{-5}[66]) to the maximum exposed individual (MEI). Under this approach, we would require the applicant to quantify total hydrocarbon (THC) emissions during the trial burn and to assume that all hydrocarbons are carcinogenic compounds with a unit risk that has been calculated based on available data. The THC unit risk value would be 1.0 x 10−5 $m^3/\mu g$ and represents the adjusted, 95th percentile weighted (i.e., by emission concentration) average unit risk of all the hydrocarbon emissions data in our data base of field testing of boilers, industrial furnaces, and incinerators burning hazardous waste. The weighted unit risk value for THC considers, emissions data for carcinogenic PICs (e.g., chlorinated dioxins and furans, benzene, chloroform, carbon tetrachloride) as well as data for PICs that are not suspected carcinogens and are considered to be relatively nontoxic (e.g., methane, and other C_1 as well as C_2 pure hydrocarbons, i.e., containing only carbon and hydrogen). We adjusted the data base as follows to increase the conservatism of the calculated THC unit risk value: (1) we assumed that the carcinogen formaldehyde is emitted from hazardous waste combustion devices at the 95th percentile levels found to be emitted from municipal waste combustors; [67] and (2) we assumed that every carcinogenic compound in appendix VIII of part 261 for which we have health effects data but no emissions data is actually emitted at the level of detection of the test methods, 0.1 $\eta g/1$. Finally, we assigned a unit risk of zero to noncarcinogenic compounds (e.g., C_1–C_2 hydrocarbons such as methane, acetylene). The calculated unit risk value for THC is 1 x 10^{-5} $m^3/\mu g$, comparable to the value for carbon tetrachloride.[68]

To implement the health-based approach with minimum burden on permit writers and applicants, we have established conservative THC emission Screening Limits as a function of effective stack height, terrain, and land use. See Appendix B of the October 26, 1989, supplemental notice for boilers/furnaces (54 FR 43739). These Screening Limits were back-calculated from the acceptable ambient level for THC, 1.0 $\mu g/m^3$ (based on the unit risk value discussed above and an acceptable MEI risk of 10^{-5}), using conservative dispersion coefficients. (We also used those dispersion coefficients to develop alternative emissions and feed rate limits for metals and HCl, as discussed elsewhere. The basis for those dispersion coefficients is also discussed elsewhere.) If THC emissions measured during the trial burn do not exceed the THC emissions Screening Limits, the risk posed by THC emissions would be considered acceptable. If the Screening Limits are exceeded, the applicant would be required to conduct site-specific dispersion modeling using EPA's "Guideline on Air Quality Models (Revised)" to demonstrate that the (potential) MEI exposure level (i.e., the maximum annual average ground level concentration) does not exceed the acceptable THC ambient level.

2. *Technology-Based Approach.* Under this Tier II approach, the Tier I CO limit of 100 ppmv would be waived if HC levels in the stack gas do not exceed a good operating practice-based limit of 20 ppmv.

We have developed this technology-based approach because of concern about current scientific limitations of the risk-based approach. In addition, the risk-based approach could allow THC levels of several hundred ppmv—levels that are clearly indicative of upset combustion conditions.

The Agency believes that risk assessment can and should be used to limit the application of technology-based controls—that is, to demonstrate that additional technological controls, even though available, may not be needed. However, we are sufficiently concerned that our proposed to THC risk assessment methodology may have limitations, particularly when applied to THC emitted during poor combustion conditions (i.e., situations where CO exceeds 100 ppmv), that we are considering a cap on HC emissions. Although we believe the development of risk-based approach is a positive step, we are concerned whether the risk-based approach is adequately protective given our limited data base on PIC emissions and understanding of what fraction of organic emissions would be detected by the HC monitoring system. Notwithstanding the limitations of the THC risk assessment methodology, however, we believe it is reasonable to use the methodology to predict whether a technology-based limit appears to be protective. We have used the risk assessment methodology to show that a 20 ppmv HC limit appears to be protective of public health.

We discuss below our concerns with the proposed THC risk-based approach and the basis for tenatively selecting 20 ppmv as the recommended HC limit (measured with a conditioned gas monitoring system, recorded on an hourly average basis, reported as propane, and corrected to 7% oxygen).

a. *Concerns with the THC Risk Assessment Methodology.* Our primary concern with the risk assessment methodology is that, although it may be a reasonable approach for evaluating PIC emissions under good combustion conditions, it may not be adequate for poor combustion conditions—when CO exceeds 100 ppmv. The vast majority of our data on the types and concentrations of PIC emissions from incinerators, boilers, and industrial furnaces burning hazardous waste were obtained during test burns when the devices were operated under good combustion conditions. CO levels were often below 50 ppmv. Under Tier II applications, CO levels can be 500 to 10,000 ppmv or higher (there is no upper limit on CO).[69] The concern is that we do not know whether the types and concentrations of PICs at these elevated CO levels, indicative of combustion upset conditions, are similar to the types and concentrations of PICs in our data base. It could be hypotesized that as

[65] Report of the Products of Incomplete Combustion Subcommittee, Science Advisory Board, U.S. EPA, "Review of the Office of Solid Waste Proposed Controls for Hazardous Waste Incinerators: Products of Incomplete Combustion", October 24, 1989.

[66] In selecting a risk threshold of 10^{-5} for these rules, EDA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

[67] Because of its extremely high volatility, special task sampling and analysis procedures are required to measure formaldehyde emissions. Such testing has not been successfully conducted during EPA's field testing of hazardous waste combustion devices.

[68] For additional technical support, see U.S. EPA, "Background Information Document for the Development of Regulations for PIC Emissions from Hazardous Waste Incinerators," October 1989 (Draft Final Report).

[69] Hazardous waste incenerators have operated at CO levels exceeding 13,000 ppmv during trial burns that achieved 99.99% distributed and removal efficiency.

combustion conditions deteriorate, the ratio of semi-and nonvolatile compounds to volatile compounds may increase. If so, this could have serious impacts on the proposed risk assessment methodology. First, the proposed generic unit risk value for THC may be understated when applied to THC emitted under poor combustion conditions. This is because semi- and nonvolatile compounds comprise only 1% of the mass of THC in our data base, but pose 80% of the estimated cancer risk. Thus, if the fraction of semi- and nonvolatile compounds increases under poor combustion conditions, the cancer risk posed by the compounds may also increase.

To put this concern in perspective, we note that the proposed THC risk value calculated from available data is 1 X 10^{-5} m3/μg. This unit risk is 100 times greater (i.e., more potent) than the unit risk for the quantified PICs with the lowest unit risk (e.g., tetrachloroethylene), but 1000 times lower than the risk for PICs such as dibenzoanthracene, and 10,000 to 1,000,000 times lower than the unit risk for various chlorinated dioxins and furans.

Second, if the fraction of semi- and nonvolatile THC increases under poor combustion conditions, the fraction of THC in the vapor phase when entering the THC detector may be lower than the 75% assumed when operating under good combustion conditions.[70] If so, the correction factor for the so-called missing mass would be greater than the 1.33 factor proposed.

The Agency is currently conducting emissions testing to improve the data base in support of the proposed risk-based approach. We are concerned, however, that the testing that is underway and planned may not provide enough information to support the risk-based approach. In particular, we are concerned that our stack sampling and analysis procedures and our health effects data base are not adequate to satisfactorily characterize the health effects posed by PICs emitted under poor combustion conditions.

A final concern with the risk assessment methodology is that it does not consider health impacts resulting from indirect exposure. As explained above, the risk-based standards proposed today consider human health impacts only from direct inhalation. Indirect exposure via uptake through the food chain, for example, has not been considered because the Agency has not yet developed site-specific procedures for quantifying indirect exposure impacts for purposes of establishing regulatory emission limits.

b. *Basis for the HC Limit.* We request comment on a HC limit of 20 ppmv as representative of a HC level distinguishing between good and poor combustion conditions. Under this alternative approach, HC would be monitored continuously during the trial burn, recorded on an hourly average basis, reported as ppmv propane, and corrected to 7% oxygen. (See discussion below regarding performance specifications of the HC monitoring system.) We have tentatively selected a level of 20 ppmv because: (1) it is within the range of values reported in our data base for hazardous waste incinerators and boilers and industrial furnaces burning hazardous waste; and (2) the level appears to be protective of human health based on risk assessments using the proposed methodology for 30 incinerators.[71]

The available data appear to indicate that the majority of devices can meet a HC limit of 20 ppmv when operating under good conditions (i.e., when CO is less than 100 ppmv). It appears, in fact, that many hazardous waste incinerators can typically achieve HC levels of 5 to 10 ppmv when operating generally at low CO levels. When incinerators emit higher HC levels typically exceed 100 ppmv, indicative of poor combustion conditions. As discussed in the October 26, 1989, supplemental notice to the boiler/furnace proposed rules, the available information on boilers and industrial furnaces is not quite as clear, however. Athough the data base indicates that boilers burning hazardous waste can easily meet a HC limit of 20 ppmv, the Agency has obtained data on various types of boilers burning various types of fossil fuels (not hazardous waste) that indicate that HC levels can exceed 20 ppmv when CO levels are less than 100 ppmv. See footnote 70. We are reviewing that data and obtaining additional information to determine if an alternative limit may be more appropriate for boilers. We specifically request comment on whether a HC concentration of 20 ppmv in fact represents good operating practice for boilers burning hazardous waste as the sole fuel or in combination with other fuels.

We also request comment on whether a HC concentration of 20 ppmv represents good operating practice for industrial furnaces. Preheater and precalciner cement kilns, for example, may not be able to readily achieve such a low HC concentration for the same reason that they typically cannot achieve CO levels below 100 ppmv. Normal raw materials such as limestone can contain trace levels of organic materials that oxidize incompletely as the raw material moves down the kiln from the feed end to the hot end where fuels are normally fired. Clearly, any HC (or CO) resulting from this phenomenon has nothing to do with combustion of hazardous waste fuel. Thus, an incinerator and a preheater or precalciner cement kiln with exactly the same quality of combustion conditions may have very different HC (and CO) levels. We request comment on: (1) the types of industrial furnaces for which a HC level 20 ppmv is representative of good combustion conditions; (2) whether alternative HC limits may be more appropriate for certain industrial furnaces; and (3) whether an approach to identify a site-specific HC limit representative of good operating practices may be feasible (e.g., where HC levels when burning hazardous waste would be limited to baseline HC levels without burning hazardous waste). In support of comments, we request data on emissions of CO and HC under baseline and hazardous waste burning conditions, including characterization of the type and concentration of individual organic compounds emitted.

As mentioned previously, some data on CO and HC levels from industrial boilers burning fossil fuels (not hazardous waste) appear to indicate that HC levels can far exceed levels considered to be representative of good combustion conditions (20 ppmv) even though CO levels are less than 100 ppmv. See footnote 70. If it appears that this situation can, in fact, occur for particular devices burning particular fuels, we would consider requiring both CO and HC monitoring for all such facilities irrespective of whether CO levels were less than 100 ppmv during the trial burn. Thus, under this scenario, the two-tiered CO controls proposed today would be replaced with a requirement to continuously monitor CO and HC for those particular facilities. We specifically request information on the types of facilities where HC levels may exceed 20 ppmv even though CO levels are less than 100 ppmv, and the need to continuously monitor HC for those facilities irrespective of the CO level achieved during the trial burn.

[70] See discussions in US EPA, "Background Information Document for the Development of Regulations for PIC Emissions from Hazardous Waste Incinerators," October 1989. (Draft Final Report)

[71] Memorandum from Shiva Garg, EPA, to the Docket, entitled "Supporting Information for a GOP-Based THC Limit", dated October 20, 1988.

F. Implementation of Tier I and Tier II PIC Controls

1. *Oxygen and Moisture Correction.* The CO limits for either format are on a dry gas basis and corrected to 7 percent oxygen. The oxygen correction normalizes the CO data to a common base, recognizing the variation among the different technologies as well as modes of operation using different quantities of excess air. In-system leakage, the size of the facility and the type of waste feed are other factors that cause oxygen concentration to vary widely in incinerator flue gases. Seven percent oxygen was selected as the reference oxygen level because it is in the middle of the range of normal oxygen levels for hazardous waste incinerators and it also is the reference level for the existing particulate standard under § 264.343(c). The correction for humidity normalizes the CO data from the different types of CO monitors (e.g., extractive vs. in situ). Our evaluation indicates that the above two corrections, when applied, could change the measured CO levels by a factor of two in some cases.

Measured CO levels should be corrected continuously for the amount of oxygen in the stack gas according to the formula:

$$CO_c = CO_m \times \frac{14}{21 - Y}$$

where CO_c is this corrected concentration of CO in the stack gas, CO_m is the measured CO concentration according to guidelines specified in Appendix C, and Y is the measured oxygen concentration on a dry basis in the stack. Oxygen should be measured at the same stack location that CO is measured.

2. *Formats of the CO Limit.* The CO limits under Tier I and Tier II would be implemented under two alternative formats. The applicant would select the preferred approach on a case-by-case basis. Under Format A, CO would be measured and recorded as an hourly rolling average. Under Format B, called the time-above-a-limit format, three parameters would be specified—a never-to-be-exceeded CO limit, and a base CO limit not to be exceeded for more than a specified time in each hour.

In developing these alternative formats, EPA considered three alternative methods:

- A level never to be exceeded;
- A level to be exceeded for an accumulated specified time within a determined time frame; and
- An average level over a specified time that is never to be exceeded.

The first alternative is the simplest and requires immediate shutdown of an incinerator when the limit is exceeded, regardless of how long the CO levels remain high. Short-term CO excursions or peaks (a few minutes duration) are typical of incenerator operation and can occur during routine operations; e.g., when a burner is adjusted. It is possible that during shutdown and start-up, the incinerator may momentarily have high CO emissions. Since the total mass emissions under such momentary CO excursions is not high, a never-to-exceed limit would impede incinerator operation while providing little reduction in health risk.

The second alternative, allowing the CO level to exceed the limit for a specified accumulative time within a determined time frame (e.g., x minutes in an hour), solves the problem associated with the first alternative. Incinerators would not be shut down by a single CO peak of high intensity yet they would be restricted from operation with several short interval CO peaks, or a single long duration peak.

The third alternative, allowing the CO level never to exceed an average level determined over a specified time, also avoids the problem of shutting off the waste feed each time an instantaneous CO peak occurs. A time-weighted average value (i.e., integrated area under the CO peaks over a given time period) also provides a direct quantitative measure of mass emissions of CO. For this reason, the use of a rolling average is EPA's preferred format. A combination of the first and second alternatives, with provisions to limit mass CO emissions per unit time, is also proposed as an alternative format. This alternative CO format has been proposed to reduce the cost of instrumentation from that required to provide continuous rolling average CO values corrected for oxygen. This format may be particularly attractive to operators of small or intermittently operated incinerators. The CO monitoring system needed for the first alternative requires continuous measurement and adjustment of the oxygen correction factor and continuous computation of hourly rolling averages. The instrumentation costs of such a system, consisting of continuous CO and oxygen monitors with back-up systems, a data logger and microprocessor, could be up to $91,000 and would require increased sophistication and operating costs over simpler systems. The only instrumentation needed for the alternative time-above-the-limit format is a CO monitor and a timer that can indicate cumulative time of exceedances in every clock hour, at the end of which it is recalibrated (manually or electronically) to restart afresh. Oxygen also would not have to be measured continuously in this format; instead, an oxygen correction value can be determined from operating data collected during the trial burn. Subsequently, oxygen correction values would be determined annually or at more frequent intervals specified in the facility permit.[72] We have not limited the use of this alternative CO format to any size or to any type or class of incinerators since we consider that this alternative format provides an equal degree of control of CO emissions to the rolling average format.

The alternative format would require dual CO levels to be established by the permit writer, the first as a never to exceed limit and the second a lower limit for cumulative exceedances of no more than a specified time in an hour. These limits and the time duration of exceedance shall be established on a case-by-case basis by equating the mass emissions (peak areas) in both the formats so that the regulation is equally stringent in both cases. The Background Document [73] provides the methodology and mathematical formulae showing how this can be done.

3. *Monitoring CO and Oxygen.* Compliance with the Tier I CO limit would require: (1) continuous monitoring of CO during the trial burn and after the facility is permitted; (2) continuous monitoring of oxygen during the trial burn and, under the 60-minute rolling average format, after the facility is permitted; and (3) measurement of moisture during the trial burn and annually (or as specified in the permit) thereafter. Compliance with the Tier II CO limits would require all the Tier I measurements and measurement of HC during the trial burn. Methods for measurements of CO and oxygen, (and THC) must be in accordance with the 3rd edition of SW–846, as amended. The methods are summarized in appendix C of the October 26, 1989, boiler/furnace supplemental notice (see 54 FR 43739–45), and are discussed in more detail in "Proposed Methods for Stack Emissions

[72] We believe that annual determinations of the oxygen correction factor will be appropriate in most cases because the concern is whether duct in-leakage has substantially changed over time. The fact that excess oxygen levels also change with waste type and feed rate should be considered in establishing the correction factor initially.

[73] US EPA, "Background Information Document for the Development of Regulations for PIC Emissions from Hazardous Waste Incinerators," October 1989 (Draft Final Report).

Measurements of CO, O_2, THC, HCl, and Metals at Hazardous Waste Incinerators", U.S. EPA, July, 1989 (Draft Final Report). If compliance with the CO standard is not demonstrated during the DRE trial burn, the CO test burn must be under conditions identical to the DRE trial burn.

4. *Monitoring HC.* Under Tier II, hydrocarbons (HC) would be monitored during the trial burn to ensure that the highest hourly average level does not exceed 20 ppmv. We believe that continuous HC monitoring should also be required over the life of the permit and an exceedance of the HC limit should be linked to automatic waste feed cutoff. This is because at high CO levels (e.g., greater than 100 ppmv) HC levels may or may not be high (e.g., greater than 20 ppmv). The concern is that, although HC levels during the trial burn may be less than 20 ppmv when CO exceeds 100 ppmv, operations over the life of the permit within the envelope allowed by the permit conditions may result in HC levels exceeding 20 ppmv. This concern was expressed by EPA's Science Advisory Board during its critique of the proposed PIC controls in the spring of 1989.[74] EPA specifically requests comments over whether continuous monitoring of HC should be required over the life of the permit under Tier II.

EPA had developed specifications for HC monitoring (see Appendix D of the October 26, 1989 boiler/furnace supplemental notice (54 FR 43743–45)) that would have required heated gas sampling lines and a heated flame ionization detector (FID) to keep as much of the HC in the vapor phase as possible. EPA reasoned that heated sampling lines were needed because the FID can detect HC only in the vapor phase—condensed organic compounds are not measured. Preliminary results of field testing of a hazardous waste incinerator conducted in July 1988 indicate that detected HC levels were 3 to 27 times greater with a heated FID system compared to an unheated system when CO levels ranged from 100 ppmv to 2760 ppmv.[75] The total mass of volatile, semivolatile, and nonvolatile organic compounds was also quantified during those tests using the Level I screening procedure.[76] The results indicate that the HC levels detected by an unheated FID were much lower than the levels determined by the Level I screening procedure.

Based on cursor discussions in October of 1988 with several hazardous waste incinerator operators, we had believed that such heated systems were in use at some facilities. A follow-up written survey [77] indicated, however, that all of the six incinerator facilities surveyed that use a FID to monitor HC used a system that incorporated gas conditioning—condensate traps accompanying gas cooling systems. Thus, the Agency has not been able to document operating experiences with a heated (i.e., not conditioned) gas sampling system. Further, we understand that, based on EPA tests using a heated FID at an incinerator (see footnote 66) and comments made during the SAB review of the PIC controls, a heated FID system can pose a number of problems: (1) the sample extraction lines may plug due to heavy particulate loadings and condensate organic compounds; and (2) semi and nonvolatile compounds may adsorb on the inside of the extraction lines causing unknown effects on measurements.

Given these concerns about the technical feasibility of requiring the use of heated FIDs at this time, we are proposing that gas conditioning be allowed. Such conditioning could involve gas cooling at the condensate trap to a level between 40 and 64 °F to reduce the moisture content of the sample gas entering the FID to less than 2 percent. To reduce operation and maintenance problems, the sampling lines and FID should probably still be heated. The sample gas cannot, however, be "bubbled" through a water column because this could remove water-soluble hydrocarbons. We specifically request comments on performance specifications for gas conditioning systems.

Allowing gas conditioning in the interim until unconditioned systems can be shown to be practicable virtually precludes the use of the health-based alternative to assess HC emissions under the Tier II controls. This is because a large, undetermined fraction of hydrocarbon emissions will be condensed to the trap and will not be reported by the FID. This is another reason that the Agency prefers the technology-based, 20 ppmv limit on hydrocarbons as the Tier II standard.

Although a FID system monitoring a conditioned gas will detect only the volatile fraction of organic compounds,[78] the Agency believes this is adequate for the purpose of determining whether the facility is operating under good operating conditions.[79] Available data indicate that when emissions of semi and nonvolatile organic compounds increase, volatile compounds also increase.[80] Thus, volatile compounds appear to be a good indicator for the semi and nonvolatile compounds that are often of greater concern because of their health effects. Given, however, that the good operating practice-based hydrocarbon limit of 20 ppmv was based primarily on test burn data using heated (i.e., unconditioned gas) FID systems,[81] the Agency considered whether to lower the recommended hydrocarbon limit when an unheated system is used for compliance monitoring. As discussed above, limited available field test data indicated that a heated system would detect two to four times the mass of organic compounds than a conditioned system. We believe, however, that the 20 ppmv hydrocarbon limit is still appropriate when a conditioned system is used because: (1) the data correlating heated vs conditioned systems are very limited; (2) the data on HC emissions are limited (and there apparently is confusion in some cases as to whether the data were taken with a heated or conditioned system); and (3) the risk methodology is not sophisticated enough to demonstrate that a HC limit of 5 or 10 ppmv using a conditioned system rather

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[74] Report of the Products of Incomplete Combustion Subcommittee, Science Advisory Board, U.S. EPA, "Review of the Office of Solid Waste Proposed Controls for Hazardous Waste Incinerators: Products of Incomplete Combustion", October 24, 1989.

[75] U.S. EPA, "Measurement of Particulates, Metals, and Organics at a Hazardous Waste Incinerator", November, 1988, (Draft Final Report). NTIS order number: PB 89–230668.

[76] The Level of Screening procedure is described in *IERL–RTP Procedure Manual: Level I—Environmental Assessment*, 2nd Edition, October 1978 (EPA 600/7–78–201). That procedure uses gravimetric and total chromatographical organic procedures to quantify the mass of semi and nonvolatile organic compounds.

[77] U.S. EPA, "THC Monitor Survey", June, 1989 (Draft Final Report).

[78] We also note that some of the water-soluble hydrocarbons may also be removed by the gas conditioning system.

[79] We request comment on whether it would be practicable to develop a site-specific correction factor for monitoring with a conditioned gas system by monitoring with an unconditioned system as well during the trial burn. The ratio of the unconditioned system THC level to the conditioned system THC level could then be used to correct the conditioned system THC values over the life of the permit. This approach may not be practicable, however, for reasons including the fact that the waste burned during the trial burn for some facilities (e.g., facilities handling multiple wastes) may not represent, with respect to THC emissions, the waste that will be burned over the life of the permit.

[80] U.S. EPA, *Measurement of Particulates, Metals, and Organics at a Hazardous Waste Incinerator*, November, 1988 (Draft Final Report). NTIS Order No. PB89–230668.

[81] Heated systems were often used during trial burns with acceptable results given the short duration of the tests and the test personnel available to handle operational problems.

than a limit of 20 ppmv is needed to adequately protect public health.

The HC monitoring method proposed in appendix D of the boiler/furnace supplemental notice (54 FR 43743) will be modified to allow an unheated, conditioned system and use of condensate trap(s) and other conditioning methods. Performance specifications for the gas conditioning system would be discussed above.

5. *Compliance with Tier I CO Limit.* There are a number of alternative approaches to evaluate CO readings during the trial burn to determine compliance with the 100 ppmv limit including: (1) the time-weighted average CO level (or the average of the hourly rolling averages); (2) the average of the highest hourly rolling averages for all trial burn runs; or (3) the highest hourly rolling average. The time-weighted average alternative provides the lowest CO level that could reasonably be used to determine compliance, and the highest hourly rolling average alternative provides the highest CO level that could reasonably be used. There may be other reasonable alternatives between these two extremes in addition to the one listed above.

We are proposing to use the most conservative approach to interpret trial burn CO emissions for compliance wtih the 100 ppmv Tier 1 limit—the highest hourly rolling average. (This approach is conservative because we are comparing the trial burn CO level to the maximum CO allowed under Tier I—100 ppmv.) We believe this conservative approach is reasonable given that compliance with Tier I allows the applicant to avoid the Tier II requirement to evaluate HC emissions to provide the additional assurance (or confirmation) that HC emissions do not exceed levels representative of good operating practice.

6. *Establishing Permit Limits for CO under Tier II.* The alternatives discussed above for interpreting CO trial burn data also apply to specifying the permit limit for CO under Tier II. For purposes of specifying a Tier II CO limit, however, the time-weighted average approach would be more conservative than the highest hourly average approach because it would result in a lower CO limit. We are proposing the conservative, time-weighted average approach for Tier II compliance because we are concerned that the highest hourly average approach may not be adequately protective. Although the highest hourly average (HHA) approach would be protective in theory because the applicant must demonstrate that the highest hourly average HC emissions do not exceed good operating practice-based levels, the HHA approach would allow the facility to operate continuously over the life of the permit at the highest CO levels that occurred during one hour of the trial burn.

We specifically request comments on how to interpret trial burn CO data to establish Tier II CO limits.

7. *Compliance with HC Limit of 20 ppmv.* The alternative approaches for determining compliance with the 20 ppmv HC limit under Tier II are identical to those discussed above for compliance with the Tier I CO limit. Again, we are proposing the most conservative approach—the highest hourly rolling average HC level during the (at a minimum) three test burns must not exceed 20 ppmv.

8. *Waste Feed Cutoff Requirements.* Today's proposal would require cutoff of the waste feed if the CO limit is exceeded. In addition, we are requesting comment on requiring continuous monitoring of HC. If continuous monitoring of HC is required, cut off of the waste feed would also be required if the HC limit is exceeded.

The regulations proposed today require that minimum permitted combustion temperatures be maintained after waste feed cutoff for the duration that the wastes remain in the combustion chamber. To comply with this requirement, the permit must specify the minimum combustion chamber temperature occurring during the trial burn for devices that may leave a waste residue in the combustion chamber after waste feed cutoff (e.g., devices burning wastes that are solids). We believe that PIC emissions from "smoldering" waste remaining in the combustion chamber should not pose unacceptable health risks provided that system temperatures are maintained.

An uninterruptible auxiliary burner of adequate capacity may be needed to maintain the temperature in the combustion chamber(s) and allow destruction of the waste materials and associated combustion gases left in the incineration system after the waste feed is cutoff due to an upset. The safe start-up of the burners using auxiliary fuel require approved burner safety management systems for prepurge, post-purge, pilot lights and induced draft fan starts. If these safety requirements preclude immediate start-up of auxiliary fuel burners and such start-up is needed to maintain temperatures (i.e., if the combustion chamber temperatures drop precipitously after waste feed is cut-off), the auxiliary fuel may have to be burned continuously on low fire during non-upset conditions. After cutoff, hazardous waste may not be used as auxiliary fuel unless the waste is exempt under existing § 264.340 (b) or (c) from the emissions standards because the waste is ignitable, corrosive, or reactive and contains insignificant levels of toxic constituents.

There is some concern that this requirement to maintain temperature in the combustion chamber after a waste feed cutoff may not be feasible in all cases (e.g., where the burner cannot be maintained in close proximity to the combustible vapor generation point because of an explosion hazard). EPA specifically requests comments on this issue, and what alternate approach should be used to reduce the possibility of PIC emissions from waste remaining in the chamber after a waste feed cutoff.

We request comment on several alternative approaches to allow restart of the waste feed: (1) restart after the hourly rolling average no longer exceeds the permit limit; (2) restart after an arbitrary 10 minute time period to enable the operator to stabilize combustion conditions; or (3) restart after the *instantaneous* CO level meets the hourly rolling average limit. This third alternative (i.e., basing restarts on the instantaneous CO levels) may be appropriate because it may take quite a while for the hourly rolling average to come within the permit limit while the event that caused the exceedance may well be over even before the CO monitor reports the exceedance. Under this alternative, the rolling average could be "re-set" when the hazardous waste feed is restarted either by: (1) basing the hourly rolling average on the CO level for the first minute after the restart (the same approach that would be used any time the waste feed is restarted for reasons other than a CO exceedance); or (2) assuming more conservatively given that CO levels may exceed the permit limit after the waste feed cutoff while residues continue to burn, that the hourly rolling average is equivalent to the permit limit (e.g., 100 ppmv) prior to the waste feed restart. A final refinement to this third alternative of allowing restarts after instantaneous CO levels fall below the permit limit would be not to reset the rolling average CO level and to require that the instantaneous CO level not exceed the (rolling average) permit limit (e.g., 100 ppmv) for the period after the restart and until the rolling average falls below the permit limit. Again, we specifically request comment on these alternative approaches to allow waste feed restarts.

When the automatic waste feed cutoff is triggered by a HC exceedance (i.e., if the final rule limits HC levels beyond the trial burn and requires continuous

HC monitoring), we propose to allow a restart only after the hourly rolling average HC level has been reduced to 20 ppmv or less. We are not considering the options discussed above for restarts after a CO exceedance given that HC is a better surrogate for toxic organic emissions than CO. Thus, we believe that a more conservative waste feed restart policy is appropriate after a HC exceedance.

G. Request for Comment on Limiting APCD Inlet Temperatures

We are requesting comment on whether to limit the temperature of stack gas entering a dry emissions control device (e.g., bag house, electrostatic precipitator (ESP)) to minimize formation of chlorinated dibenzodioxin and dibenzofurans (CDD/CDF). The same discussion is presented above in the section requesting comment on additional regulatory issues pertaining to boilers and industrial furnaces burning hazardous waste.

After conducting extensive emissions testing of municipal waste combustors (MWCs), the Agency has concluded that CDD/CDF can form on MWC flyash in the presence of excess oxygen at temperatures in the range of 480 to 750 °F.[82] Cooling the flue gases and operating the air pollution control device (APCD) at temperatures below 450 °F helps minimize the formation of CDD/CDF in the flue gas. Thus, the Agency has recently proposed to limit MWC stack gas temperatures at the inlet to the APCD to 450 °F. See 54 FR 52251 (December 20, 1989).

Given that some hazardous waste incinerators and boilers and industrial furnaces burning hazardous waste are equipped with dry particulate control devices, we request comment on the need to control gas temperatures to 450 °F to minimize CDD/CDF formation. Although available data indicate that CDD/CDF emissions from hazardous waste combustion devices are much lower than can be emitted from MWCs,[83] it may be prudent to limit temperatures in hazardous waste combustion devices as well.

PART FOUR; PERMIT PROCEDURES AND OTHER ISSUES

I. Impact on Existing Permits

Upon promulgation of today's proposed rule, EPA will use its authority to reopen existing permits to include conditions necessary to comply with these rules. This authority is found in 40 CFR 270.41(a)(3) (see 52 FR 45799 (December 1, 1987)), which allows EPA to initiate modifications to a permit without first receiving a request from the permittee, in cases where new regulatory standards affect the basis of the permit.

In addition, permit writers will be expected to continue to implement the appropriate controls on metals, HCl, and PIC emissions proposed here on a permit-by-permit basis without waiting for promulgation of the final rule. Because many incinerators are scheduled to be permitted in the interim and due consideration of the risk posed by metals, HCl, and PIC emissions is needed, this case-specific implementation will ensure adequate protection of public health. Permit writers can implement appropriate controls under the omnibus authority of section 3005(c)(3) of HSWA and codified at § 270.32(b)(2). The omnibus provision gives the permit writer the authority to establish permit conditions as necessary to protect human health and the environment. Like the proposed rule, the Agency's current guidance documents [84] Screening Limits for metals and HCl to demonstrate that emissions are acceptable, and if the Screening Limits are exceeded, the applicant must demonstrate by site-specific dispersion modeling that emissions will not result in exceedances of acceptable ambient levels. The PIC guidance document also uses the two-tiered approach proposed in today's rule to limit CO and HC concentrations in stack gas.

II. Waste Analysis Plans and Trial Burn Procedures

The proposed metals controls will impose added sampling and analyses requirements at hazardous waste incinerators burning wastes with levels of metals that are likely to exceed emission limits, or related metal feed rates. EPA anticipates that existing waste analysis plans, and trial burn procedures at many, if not all, facilities will need to be reviewed and modified.

A. Waste Analysis Plans

Existing rules require the owner or operator to conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit (see § 264.341(b)).

Compliance with the metals controls will probably require many operators to conduct additional analyses for Appendix VIII metals or to require the generator of the waste to provide information on the metal content of waste sent to the incinerator. There would be a requirement to keep records of such analyses. To show compliance with the feed rate limit requirements, there would be a need for sampling of blended wastes as fed to the incinerator, or for recordkeeping to show, by calculation, the amount of metals in wastes that are blended. Comments on the practicality of compliance with metals sampling, analysis, and recordkeeping are requested.[85]

EPA's best determination of appropriate metals sampling and analyses procedures are given in Appendix A. Matrix effects have been shown to be important in the analysis of metals in oils and solids. Accordingly, recommended sample preparation methods are given in Appendix A. Standardized protocols are not yet widely available, but EPA's experience indicates that published EPA Methods for individual metals and particulate matter work well. It is likely that any protocol will require metal analysis of waste feeds, residual streams (both solid and liquid), and flue gas. Operators may wish to sample flue gas both before and after air pollution control devices. EPA's present rules allow the use of equivalent methods of analyses upon a showing of substantial scientific validity.

B. Trial Burn Procedures

All samples must be analyzed according to the appropriate methods specified in "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," EPA publication SW-846, as incorporated by reference in 40 CFR 260.11. Sampling for metals must be done using the Multiple Metals train summarized in Appendix A. The Multiple Metals train and the methods to monitor CO, HCl, and THC are

[82] See US EPA, "Municipal Waste Combustion Study: Combustion Control of Organic Emissions", EPA/530-SW-87-021C, NTIS Order No. PB87-206090, US EPA, "Municipal Waste Combustion Study: Flue Gas Cleaning Technology", EPA/530-SW-87-021D, NTIS Order No. PB87-206108, and 54 FR 52251 (December 20, 1989).

[83] See discussions in US EPA, "Background Information Document for the Development of Regulations for PIC Emissions from Hazardous Waste Incinerators", October 1989. (Draft Final Report), and Engineering Sciences, "Background Information Document for the Development of Regulations to Control the Burning of Hazardous Waste in Boilers and Industrial Furnaces, Volume III: Risk Assessment", February 1987. (Available from the National Technical Information Service, Springfield, VA, Order No. PB 87 173845.)

[84] U.S. EPA, "Guidance on Metals and Hydrogen Chloride Controls for Hazardous Waste Incinerators," August 1989, and U.S. EPA, "Guidance on PIC Controls for Hazardous Waste Incinerators," April 1989.

[85] We note that we have requested comment earlier in the text on approaches other than waste analysis combined with feed rate limits to implement the controls on metals emissions. See also 54 FR 43760 c.3.

discussed in more detail in "Proposed Methods for Stack Emissions Measurement of Carbon Monoxide, Oxygen, Total Hydrocarbons, HCl, and Metals at Hazardous Waste Incinerators," as referenced above.

The analysis procedure consists of two steps: Preparation (called digestion) and the analysis itself. The digestion process is dependent on both the analysis procedure and the waste matrix. Appendix A lists the digestion methods and the proper analysis technique and waste matrix of each one. The analysis procedures are metal specific. For some metals, up to three methods are applicable depending on the precision of the detection limit desired. See Appendix A for the proper analysis methods to be used for each metal. In some cases, the analysis method includes its own digestion step and the listed digestion methods are not necessary.

Analysis for matrix effects (interference) should be performed by the Method of Standard Addition or other appropriate procedures.

III. Emergency Release Stacks

EPA is clarifying today that no emergency release stack openings are allowed while hazardous waste is in the incinerator unless the applicant has demonstrated during the trial burn that the performance standards of § 264.343 will be met while a dump stack is being used. When such "dump" stacks are used, combustion gases bypass the emissions control equipment, and this would cause violation of the permit requirements to operate the control equipment. Therefore, the use of emergency release stack openings while hazardous wastes remain in the combustion chamber would be a violation of the permit and subject to enforcement action as deemed appropriate by the Agency. During the opening of a dump stack, emissions of metals and HCl could pose unacceptable health risk. In addition, if temperatures at the inlet to the dump stack are not maintained at permit levels, HC emissions could also pose substantial health risk. While it is understood that there can be mitigating circumstances which require the use of emergency relief stacks, these instances should be minimized. Under the Preparedness and Prevention and Contingency Plan requirements of Subparts C and D, the applicant should address what they will do to prevent the use of the dump stack and the release of hazardous waste constituents into the air, and what they will do to minimize the hazard from such releases (such as backup systems, maintaining flame, temperature and combustion air to combust organics). See proposed § 270.62(b)(2)(vii).

IV. POHC Selection

One of the criteria for POHC selection for demonstration of DRE is degree of difficulty to incinerate the compound. There are a number of "incinerability indices" that could be used, but heat of combustion has been considered by many to be the best index currently available. EPA studies [86] indicate, however, that a ranking based on thermal stability under low oxygen (substoichiometric) conditions may correlate with field test data on DRE better than heat of combustion. The ranking was developed using lab-scale reactors to determine the temperature required to destroy 99 percent of a given POHC in two seconds under substoichiometric (⅓ stoichiometric oxygen) conditions. Mixtures of POHCs were tested together to ensure that adequate OH and H radicals were available for compounds that undergo biomoleculcar reactions. Modeling indicates that thermal decomposition in the flame gases is essentially complete. Thus, any unburned POHCs are most likely the result of small fractions of the waste escaping flame temperatures by several potential failure mechanisms (e.g., poor atomization). Once in the post-flame zone, the gas phase thermal decomposition kinetics controls the rate of POHC destruction. This would explain why the low oxygen thermal stability index ($TSLoO_2$) which simulates post-flame conditions, appears to correlate better with field test DRE data than heat of combustion, autoignition temperature, and thermal stability under excess oxygen conditions.

Although the $TSLoO_2$ has not been field validated, EPA believes it is a promising approach to predicting the relative stability of POHCs in the combustion environment likely to result in unburned POHCs (and low DRE). The $TSLoO_2$ index is presented in U.S. EPA, "Guidance on Setting Permit Conditions and Reporting Trial Burn Results: Volume II of Hazardous Waste Incineration Guidance Series", EPA/625/6–89/019, January 1989. Thermal stability values have been determined by actual testing for approximately 80 Appendix VIII compounds. These thermal stability values have been used to predict the thermal stability values for the remaining Appendix VIII organic compounds based on assumed reactions considering structural relationships of the compounds.

We note that some compounds that rank high on the heat of combustion index rank do not rank high on the $TSLoO_2$. For example, carbon tetrachloride ranks very high on the heat of combustion index but near the middle of the $TSLoO_2$. Given the current uncertainty about which index better represents incinerability, we recommend that the permit writer and applicant consider the $TSLoO_2$ as well as other indices when selecting POHCs and identifying compounds in the permit that an incinerator is allowed to burn. In fact, the $TSLoO_2$ index has been available to permit writers for over a year. Many permit writers have used the index to help select POHCs for trial burns needed to support permits issued by the RCRA-mandated deadline of November 1989 for existing facilities.

The Agency is continuing to validate the $TSLoO_2$ and to address other questions (e.g., are there sampling and analysis procedures for those compounds high on the $TSLoO_2$) and hopes to be able to be more definitive about a preferred index when today's proposed rule is promulgated. We specifically request comment on the use of the $TSLoO_2$ index for the purpose of POHC selection.

V. POHC Surrogates

A number of lab scale, pilot scale, and field tests have investigated the use of nontoxic tracer surrogates (one example is sulfur hexafluoride (SF_6)) for POHCs selected from appendix VIII of part 261. Sulfur hexafluoride, in particular, shows promise as a conservative tracer surrogate. It is readily available commercially, inexpensive, and nontoxic. Appendix VIII POHCs, especially when spiking is required to increase concentrations in the waste for DRE testing, are often difficult to obtain, expensive, and a health hazard to operators. Sampling and analysis techniques for SF_6 are well documented because it has been used for years as a tracer for monitoring ambient air. Sampling techniques for appendix VIII compounds (i.e., VOST and MM5) are complicated, expensive, and even for those with years of experience, prove to produce substantial numbers of measurements that do not meet QA/QC standards.

Given the substantial benefits of using SF_6 as a tracer compound, the Agency is conducting additional testing and analysis to answer remaining questions. For example, the DRE of SF_6 has been correlated to the DRE of only a few appendix VIII compounds, and

[86] Taylor, P., and Dellinger, R., "Development of a Thermal Stability Based Index of Hazardous Waste Incinerability", UDRI FY 88 Status Report for CR 813938, November 1988.

sometimes, under conditions that may not be representative of typical incineration operations. In addition, standard procedures are needed for feeding and stack sampling the tracer. The Agency hopes to be able to publish a Notice of Data Availability in the **Federal Register** later this year to present the results of the testing and to propose categorically that SF_6 is an acceptable surrogate for appendix VIII POHCs. Ideally, the proposal would be promulgated with the rest of today's proposal.

We note that we are proposing today to revise § 264.342(b)(1) and § 270.62 (b)(4), (b)(4)(i), and (b)(4)(ii) to delete the requirement that a POHC must be listed in Appendix VIII. We are proposing this change now to give permit writers and applicants the option of using nontoxic tracers for DRE testing where the applicant provides sufficient data to demonstrate that the tracer is an adequate surrogate.

We specifically request information pertaining to the use of SF_6 and other nontoxic tracer compounds as POHC surrogates.

VI. Information Requirements

Information requirements may be imposed on a case-by-case basis depending upon the complexity of risk analysis and dispersion analysis needed at a particular location. The added burden will be significantly increased over existing part B requirements only for facilities in unusually complex terrain situations or where representative meterological data are not available. All facilities intending to combust hazardous waste with amounts of metals that may exceed emission limits will be required to submit information needed for determining the terrain and urban/rural classification of the facility. Because the determination is based in part on using the concept of terrain-adjusted effective stack height, site specific parameters will be needed for all sites. Information needs are outlined below.

If available meterological data are not considered representative of the site, a screening model that does not require the use of site-specific meterological data cam be used. We have developed a screening model that may be appropriate in such situations. See appendix V of the "Guidance on Metals and Hydrogen Chloride Controls for Hazardous Waste Incinerators." We note, however, that a screening model that does not use site-specific meterological data is designed to be more conservative (i.e., predict higher ambient concentrations) than a "regulatory" model recommended by EPA's "Guideline on Air Quality Models (Revised)".

Reference information needed includes facility name, address, telephone number, and the number of hazardous waste combustion sources on site. Site information includes stack parameters and terrain parameters. The stack parameters consist of physical stack height, exhaust temperaturre, inner stack diameter, exit velocity, flow rate, latitude/longitude or UTM coordinates. Terrain parameters consist of maximum terrain rise (in meters for three distance ranges, 0–0.5 km, and 0–5 km). and shortest distance to fenceline. Waste firing information needed includes stack release identifications by incinerator, a number of incinerators, maximum waste feed rate by input location (nozzle, lance, ram, etc.), and metal feed rate for liquid wastes, solid wastes, and organometals. Additional parameters needed are the dimensions for all buildings within 5 building heights or the maximum projected building width of the stack. For these buildings, the following data are needed; the distance from the stack, distance from the nearest fenceline, building height, building length, and building width.

EPA requests comment on the recordkeeping and reporting burden associated with these information requirements.

VII. Miscellaneous Issues

EPA today proposes to amend § 264.345(a) to clarify that the incinerator must operate in accordance with the operating requirements specified in the permit whenever there is hazardous waste in the incinerator.

In addition, we propose to amend § 270.62(b)(8) to require that all data collected during any trial burn must be submitted within 90 days of completion of trial burn. This requirement is to ensure timely submission of trial burn data. Section 270.62(b)(10) would be revised to require that three runs must be passed for each set of permit conditions. This is to clarify that the runs are not to be averaged, but must be passed each time for all standards. Section 270.62(b)(10) does allow for one of the three runs to be disregarded if the Director believes there is sufficient reason. EPA's criteria for disregarding a run are discussed in U.S. EPA, "Guidance on Setting Permit Conditions and Reporting Trial Burn Results: Volume II of Hazardous Waste Incineration Guidance Series", EPA/625/6–89/019, January 1989.

EPA today clarifies § 264.340(c) which provides an exemption from all requirements other than waste analysis and closure for ignitable, corrosive or reactive waste containing insignificant concentrations of the hazardous constituents listed in appendix VIII, part 261. In the past, this has been interpreted to mean organics in appendix VIII. Now that EPA is proposing to control metals emissions and has a method to determine risks from metals, metals in appendix VIII should also be considered when granting this exemption. Insignificant concentrations can be taken from the feed rate screening levels that would be used to implement the metals controls. See appendix D of the October 26, 1989, boiler/furnace supplemental notice. Further, it is possible for a waste to be exempted for one type of appendix VIII constituent and not the other. For example, if the waste contains insignificant concentrations of metals but significant concentrations of organics, then the waste could be exempt from the requirement for metals, but not for organics (e.g., DRE, CO/HC limits).

Finally, we propose to note minor revisions to the following sections to conform with today's proposed controls: Specific part B information requirements for incinerators § 270.19 (a), (c)(1)(iii), (c)(3), (c)(6)(ii), (c)(7)(i), (c)(7)(ii), (c)(7)(iii), (c)(9)(i), (c)(9)(ii), (e), (f); Hazardous waste incinerator permits § 270.62 (b)(2)(i)(c), (b)(2)(i)(D), (b)(2)(i)(E), (b)(6)(i), (b)(6)(ii), (b)(6)(iii), (b)(6)(v), (b)(6)(viii), (b)(6)(ix), (c), (c)(1).

All of today's proposed amendments would be effective immediately upon promulgation of the final rule. Given that we believe that all of the substantive provisions are necessary to adequately protect public health and the environment and will, thus, be subject to implementation under the omnibus provision during the permitting process *before* promulgation, applicants should have ample time to comply. For example, permits under development when the final rule is promulgated should already incorporate the new controls under the omnibus provision.

VIII. Halogen Acid Furnaces

In the May 6, 1987, proposed rule (52 FR 17018–9), EPA proposed to add halogen acid furnaces (HAFs) to the list of industrial furnaces under § 260.10. We are today requesting comment on revisions we are considering to the HAF definition, and proposing under § 261.2(d) to list inherently waste-like materials that are fed to a HAF as hazardous waste.

HAFs burn halogenated secondary materials as an ingredient to produce halogen acid product, EPA proposed to

list HAFs as industrial furnaces for reasons discussed in the May 6, 1987, proposal. To ensure that the device was involved in *bona fide* production of acid as an integral component of a manufacturing process, the proposed definition required that: (1) The furnace must be located on-site at a chemical production facility; (2) the waste feed must be halogenated; and (3) the acid product must have at least 6% acid content. Based on comments on the proposal and further consideration by the Agency, we are considering revising the definition to better distinguish between HAFs and halogenated waste incinerators equipped with wet scrubbers to control halogen acid emissions and to better reflect industry practice.

To ensure that the device is an integral component of a chemical manufacturing process, we have proposed that a substantial fraction of the acid product be used on-site. Thus, we would add to the definition that at least 50% of the acid product be used on-site. In addition, we would require that any off-site waste fed to the HAF must be indigenous to the chemical production industry. Thus, the waste must be generated by a SIC 281 (inorganic chemicals) or SIC 286 (organic chemicals) process.

To ensure that the waste is burned as a *bona fide* ingredient to produce a halogen acid product, we would require that any waste fed to the HAF must have an as-generated halogen content of at least 20%.

To better reflect industry practice, we would require that the acid product have an halogen acid content of 3% rather than 6%. We believe that this would still clearly distinguish an incinerator halogen acid scrubber water from the acid product of an HAF because incinerator scrubber water has an acid content well below 1%.

Finally, we are proposing pursuant to § 261.2(d)(2) to list hazardous waste fed to a HAF as inherently waste-like material. Materials fed to the HAFs are usually the residual still bottoms no longer suitable for use as feedstock to make new chemical products. Many are listed wastes, for example the generically listed F024. These materials contain dozens of appendix VIII constituents not ordinarily found in the raw materials that are normally used to produce chlorine. See the various listing background documents for the listed wastes from chlorinated organic production, as well as appendix VII of part 261 for these listings. Other than for their chlorine content, these organic toxicants do not contribute to hydrochloric acid production; they are destroyed (assuming the HAF operates efficiently). Thus, these toxicants (which by volume comprise the greater part of these wastes) are discarded by thermal combustion. Second, inefficient combustion of the halogenated organic compounds in wastes fed to a HAF can pose the same risks to human health and the environment as combustion of those wastes in an incinerator, boiler, or other industrial furnace. We thus believe that the hazardous materials burned in these devices are inherently wastelike.

We note, that to the best of EPA's knowledge, all of these materials are presently regulated as hazardous wastes, because the devices in which they are burned are either classified as incinerators or burn partially for energy recovery. Given, however, that the wastes are used as an ingredient to produce the acid product, the HAF would not be subject to regulation if the wastes were not burned partially for energy (or materials) recovery. Halogenated wastes with a heating value of less than 5,000 Btu/lb could be considered to be burned solely as an ingredient in a HAF. Thus, we propose to list as inherently wastelike material any secondary material that is identified or exhibits a characteristc of a hazardous waste provided in subparts C or D of part 261. See proposed § 261.2(d)(2).

PART FIVE: ADMINISTRATIVE, ECONOMIC AND ENVIRONMENTAL IMPACTS

I. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to achieve or retain final authorization, the HSWA applies in authorized States in the interim.

Today's rule is proposed pursuant to sections 3004 and 3005 of RCRA. Thus, as a non-HSWA rule, it is not effective in authorized States until such time as the State is authorized to implement them. However, the EPA has authority under section 3005(c)(3), the HSWA omnibus provision codifed at 40 CFR 270.32(b)(2), to impose any permit condition deemed necessary to protect human health and the environment. This provision can be invoked whenever a federal RCRA permit is issued (including federal permits implementing HSWA provisions that are issued concurrently with permits issued by an authorized State for the same unit). Thus, all federal permits—including those incorporating the HSWA corrective action requirements—could include conditions based on EPA's omnibus authority. The EPA has decided that the requirements in today's rule relate to permit conditions deemed necessary to protect human health and the environment and that such conditions are needed for all future permits to minimize risks from toxic emissions of PICs, metals, and acid gases. So, until such time as the authorized States are able to impose these new requirements in permits they issue, EPA can impose them under the direct authority of § 270.32(b)(2) in authorized and unauthorized States, effective the date of promulgation of this rule, whenever a Federal RCRA permit (or Federal portion of a RCRA permit) is issued with respect to the facility. Prior to the effective date of these regulations, permit writers may impose these same conditions (or others) at their discretion, in Federal permits pursuant to the same authority. (See part Four, I. Impact on Existing Permits. The metals/HCl and PIC guidance documents can be used to implement these requirements prior to promulgation of the rule).

B. Effect on State Authorizations

As noted above, today's rule proposes standards that would be effective via omnibus authority in all States regardless of their authorization status. Nonetheless, the authorized States must also revise their program and adopt equivalent requirements under their State law by the deadlines set forth in § 270.21(e).

Section 271.21(e)(2) requires that States that have final authorization must modify their programs to reflect Federal program changes and must subsequently submit the modifications to EPA for approval. The deadline by which the State must modify its program to adopt this proposed regulation will be determined by the date of promulgation of the final rule in accordance with § 271.21(e). These deadlines can be extended in certain cases (40 CFR 271.21(e)(3)). Once EPA approves the modifications, the State requirements become subtitle Cv RCRA requirements.

States with authorized RCRA programs may already have requirements similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being proposed today to determine whether they meet the tests for authorization. Thus, a State is not authorized to carry out these requirements in lieu of EPA until the State program modification is submitted to EPA and approved. Of course, States with existing standards may continue to administer and enforce their standards as a matter of State law. In fact, EPA encourages States with similar standards or with their own omnibus authority to impose these new requirements as soon as possible.

States that submit their official application for final authorization less than 12 months after the effective date of these standards are not required to include standards equivalent to these standards in their application. However the State must modify its program by the deadlines set forth in § 271.21(e). States that submit official applications for final authorization 12 months or more after the effective date of those standards must include standards equivalent to these standards in their application. Section 271.3 sets forth the requirements a State must meet when submitting its final authorization application.

II. Regulatory Impact Analysis

A. Purpose and Scope

EPA has determined that today's proposed rule is not a major rule as defined by Executive Order 12291. This section of the preamble discusses the results of the cost impacts and risk analyses of the proposed rule. EPA has also assessed small business impacts resulting from the proposed rule, as required under the Regulatory Flexibility Act.

The costing analysis and risk assessment were constrained by data availability. The major limitations that should be considered when reviewing the results are summarized below:

- The main focus of the Regulatory Impact Analysis (RIA) was the analysis of the proposed 1×10^{-5} [87] risk standard; however, a less detailed analysis of an alternative (1×10^{-6}) *de minimis* risk standard was also performed.
- Because of data limitations, the RIA evaluated only seven of the ten toxic metals covered by today's proposed rule. Waste characterization data by RCRA code could not be located for thallium, antimony, and silver.
- At this time, EPA was unable to complete a detailed analysis of the chlorine content in differnt wastes currently being incinerated. As a surrogate, EPA calculated an average chlorine concentration in all hazardous waste combusted using available test burn data.
- The RIA estimated only the incremental costs of the proposed CO monitoring that includes a continuous oxygen monitor and a data-logger for continuous oxygen corrections. Because of time and resource constraints, the analysis did not consider the proposed alternative requirement (a CO monitor and a timer) which could be less costly.
- There was insufficient information to quantify the potential human risks posed by PICs or total residual hydrocarbons at the present time.
- EPA did not perform an extensive economic impact analysis. A prelimary estimate of economic impact was made by completing a financial ratio test.

B. Affected Population

Currently available information in EPA's Hazardous Waste Data Management System (HWDMS) lists 227 active hazardous waste incinerators (approximately 207 noncommercial and 20 commercial) that will be subject to the proposed requirements.[88] These incinerators are widely dispersed throughout the country (41 states plus Puerto Rico). Texas has the most incinerators with 27 facilities (12 percent), followed by Louisiana and Ohio, each with 17 facilities (7 percent), and California with 15 facilities (7 percent). Thirty-eight states, each with between 1 and 12 incinerators, together account for 67 percent of the total.

Information on the characteristics of each incinerator (e.g., type of combustor, existing air pollution controls, and description of the type and quantity of waste combusted) was not readily available. As a result, EPA relied on data reported in the 1982 Hazardous Waste Incinerator Mail Survey, which contains information (from 1981) on a sample of 110 nonconfidential facilities comprising 152 units.[89] The survey responses for these incinerators were examined for completeness regarding necessary information and for deletion of facilities no longer active. Based on this evaluation, a *subset* of these facilities—82 facilities (74 noncommercial and 8 commercial), 112 units—were selected as the sample database for this analysis. The results of the sample were then extrapolated to the total population of 227 hazardous waste incinerator sites (310 estimated units). Implicit in the extrapolation is the assumption that the distribution of incinerators and waste characteristics (e.g., number of units, type of combustor, wastes combusted, current controls, and stack data) is the same in the sample as it is in the population.

According to the Mail Survey data for the 112 incinerator units evaluated, most hazardous waste incinerators are liquid injectors (54 percent). The remaining incinerator units are classified as multiple chamber (12 percent), rotary kiln (8 percent), controlled air (8 percent), and other (19 percent).

The Mail Survey data for the sample facilities/units show that approximately 42 percent of the hazardous waste incinerators did not have air pollution control devices (APCDs) in place in 1981. Most of the remaining incinerator units (48 percent) had treatment trains that included a wet scrubber. Very few (approximately 29 percent) had other technologies, such as electrostatic precipitators (ESPs), venturi scrubbers, and fabric filters, used to capture particulates.

The facilities evaluated fall into 40 different industrial categories, as defined by the four-digit Standard Industrial Classification (SIC) codes (see table 4). Most industrial SIC codes account for less than 2 percent of the facilities. The SICs with the largest percentage fractions of hazardous waste incinerators are:

[87] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in section I.D. of part three of the text, the Agency requests comment on alternative risk thresholds.

[88] USEPA, HWDMS, Version 6.5, October 9, 1987.

[89] The Mail Survey also contains data for an additional 15 confidential facilities (18 units), but this information was not used in this analysis.

- 2821 Plastics Material (10 percent).
- 2869 Industrial Organic Chemicals (10 percent).
- 4953 Refuse (Waste Management) Systems (8 percent).
- 7391 Research and Development Laboratories (7 percent).
- 2865 Cyclic Crudes and Intermediates (5 percent).
- 2879 Agricultural Chemicals (5 percent).

An estimated 1.0 million kkg of hazardous waste were combusted in incinerators in 1986.[90] As shown in Table 4, the majority of the waste burned by hazardous waste incinerators is concentrated in six industrial SIC codes:

- 2819 Industrial Inorganic Chemicals (46 percent).
- 2879 Agricultural Chemicals (13 percent).
- 2833 Medicinal Products (7 percent).
- 2865 Cyclic Crudes and Intermediates (6 percent).
- 2869 Industrial Organic Chemicals (6 percent).
- 2834 Pharmaceutical Preparations (5 percent).

The hazardous waste analyzed is characterized by almost 60 different RCRA codes. Two waste codes account for the majority (71 percent) of hazardous waste combusted: D001 (ignitable wastes) and X182 (a mixture of U008—acrylic acid, U112—ethyl acetate, U113—ethyl acrylate, and P003—acrolein). This analysis determined that approximately 44 percent of the hazardous waste combusted contains the metals of concern for today's rule and roughly 37 percent of the hazardous waste contains chlorine.

C. Costing Analysis

Today's rule proposes limits for emissions of toxic metals, hydrogen chloride (HCl), and carbon monoxide (CO) as a means of controlling total unburned hydrocarbons (THCs) from hazardous waste incinerators. The incremental costs of compliance can be grouped into two major categories: costs to demonstrate compliance with the proposed standards and costs to reduce emissions if a facility cannot show compliance with the pollutant-specific limits. The methodology and engineering unit costs used by EPA to estimate the incremental compliance costs attributable to each of the three standards are discussed below, followed by a presentation of results. The costing analysis was performed for the subset of 82 facilities selected from the Mail Survey; results were extrapolated to the population of 227 facilities.

As a sensitivity analysis, EPA also completed a preliminary assessment of the incremental compliance costs associated with an alternative *de minimis* cancer risk level of 1×10^{-6}. This section also presents the unit cost estimates used in the sensitivity analysis and the total predicted compliance costs under this alternative scenario.

TABLE 4.—DISTRIBUTION OF HAZARDOUS WASTE INCINERATORS AND HAZARDOUS WASTE COMBUSTED BY SIC

SIC	Description	Facilities		Quantity of hazardous waste combusted	
		No.	Percentage	(KKG/Year)	Percentage
2231	Broad woven fabric mills	3	1	1	0
2282	Yarn texturizing mills	3	1	14	0
2421	Sawmills and planing mills	3	1	3	0
2491	Wood preserving	3	1	105	0
2511	Wood household furniture	6	2	388	0
2661	Building paper/board mills	3	1	268	0
2813	Industrial gases	3	1	7,177	1
2819	Industrial inorganic chem.	8	4	493,167	48
2821	Plastic material	22	10	28,847	3
2822	Synthetic rubber	3	1	408	0
2824	Synthetic org. fibers	6	2	190	0
2833	Medicinal products	3	1	69,375	7
2834	Pharmaceut. preparations	3	1	47,392	5
2844	Perfumes/cosmetics	3	1	1,177	0
2851	Paints/allied products	3	1	4,491	0
2861	Gum and wood chemicals	3	1	2,001	0
2865	Cyclic crudes, org. pigments	11	5	69,227	7
2869	Ind. organic chemicals	22	10	66,409	6
2873	Nitrogenous fertilizers	6	2	26,956	3
2879	Pesticides/agric. chem.	11	5	141,640	14
2891	Adhesives/sealants	3	1	242	0
2892	Explosives	3	1	1,459	0
2899	Chemical preparations	6	2	60	0
2911	Petroleum refining	6	2	2,897	0
3079	Misc. plastics	3	1	242	0
3229	Pressed/blown glass	3	1	4,493	0
3339	Prim. smelting nonferrous	3	1	651	0
3412	Metal shipping barrels, etc.	3	1	20	0
3433	Heating equipment	3	1	9	0
3466	Crowns and closures	6	2	79	0
3483	Ammunition	3	1	788	0
3531	Construc. machinery equip.	3	1	5,041	0
3672	Cathode ray TV tubes	3	1	3,877	0
3721	Aircraft	3	1	99	0
4953	Refuse systems	18	8	34,596	3

[90] EPA developed this estimate based on the Mail Survey data for the subset of facilities analyzed. Because capacity conditions have changed dramatically since 1981, the waste figures were scaled up to 1986 (the baseline for this analysis) using different factors for commercial (1.27) and noncommercial (1.13) incinerators. The commercial scaling factor was based on an annual survey of commercial capacity conducted by EPA (USEPA, Office of Policy Analysis, "Survey of Selected Firms in the Commercial Hazardous Waste Management Industry"). Because a similar type of annual survey could not be located for noncommercial facilities, the ratio of industrial production in 1986 versus 1981 was used as a scaling factor. (Source: Board of Governors of the Federal Reserve System, total industrial index).

TABLE 4.—DISTRIBUTION OF HAZARDOUS WASTE INCINERATORS AND HAZARDOUS WASTE COMBUSTED BY SIC—Continued

SIC	Description	Facilities		Quantity of hazardous waste combusted	
		No.	Percentage	(KKG/Year)	Percentage
7391	Research/develop. labs	17	7	1,333	0
8062	Gen. med./surg. hospitals	3	1	42	0
8221	Colleges, universities	6	2	120	0
9661	Space research & technology	3	1	364	0
9999	Nonclassifiable establish.	8	4	19,716	2
Total [1]		227	100	1,035,362	100

[1] Numbers may not total because of rounding.

1. Costing Methodology and Unit Costs of Control

Toxic Metals Limits. As discussed, EPA is proposing a site-specific risk analysis to ensure that emissions of metals do not pose unacceptable increased risks to human health. EPA is also proposing to allow permit writers and applicants to demonstrate compliance with the proposed risk-based standards using a conservative screening analysis for feed rates and emissions. In conducting this costing analysis, EPA assumed that each facility would attempt to show compliance in a sequential fashion, as shown in Figure 1.

EPA assumed that all hazardous waste incinerator operators would first attempt to demonstrate compliance with the proposed standards using the Feed Rate Screening Limits. Prior to the Feed Rate Screening analysis, EPA assumed that all incinerator operators would incur costs to analyze the toxic metal constituents as part of the Waste Analysis Plan for the permit. In addition, the Feed Rate Screen would require incremental analysis of metals in the waste feed as part of a trial burn. For both the waste characterization and the feed analysis, the facilities will not incur additional costs for sampling, which is already conducted under existing regulations.

EPA assumed that all facilities passing the Feed Rate Screen would be awarded a permit and would not incur additional permitting expenditures. The failing facilities would then attempt to demonstrate compliance using the Emissions Screening test. The Emissions Screen would require sampling and analysis of metals in the stack exhaust gas.

In the event that a facility would fail to satisfy the requirements of the Emissions Screen, the facility would conduct a Site-Specific Risk Assessment. If the risk assessment predicted that the facility would pose an aggregate lifetime cancer risk to the maximum exposed individual (MEI) in excess of 1×10^{-5} [91] (summed across all carcinogens emitted by the facility) or an increased likelihood of adverse (noncancer) health effects, the costing analysis assumed that the incremental emission reductions would be achieved using APCDs.[92] This latter assumption may result in an overestimate of compliance costs because incinerator operators in some situations may be able to modify their combustion practices (e.g., blending) at little or no incremental cost to meet the standards.

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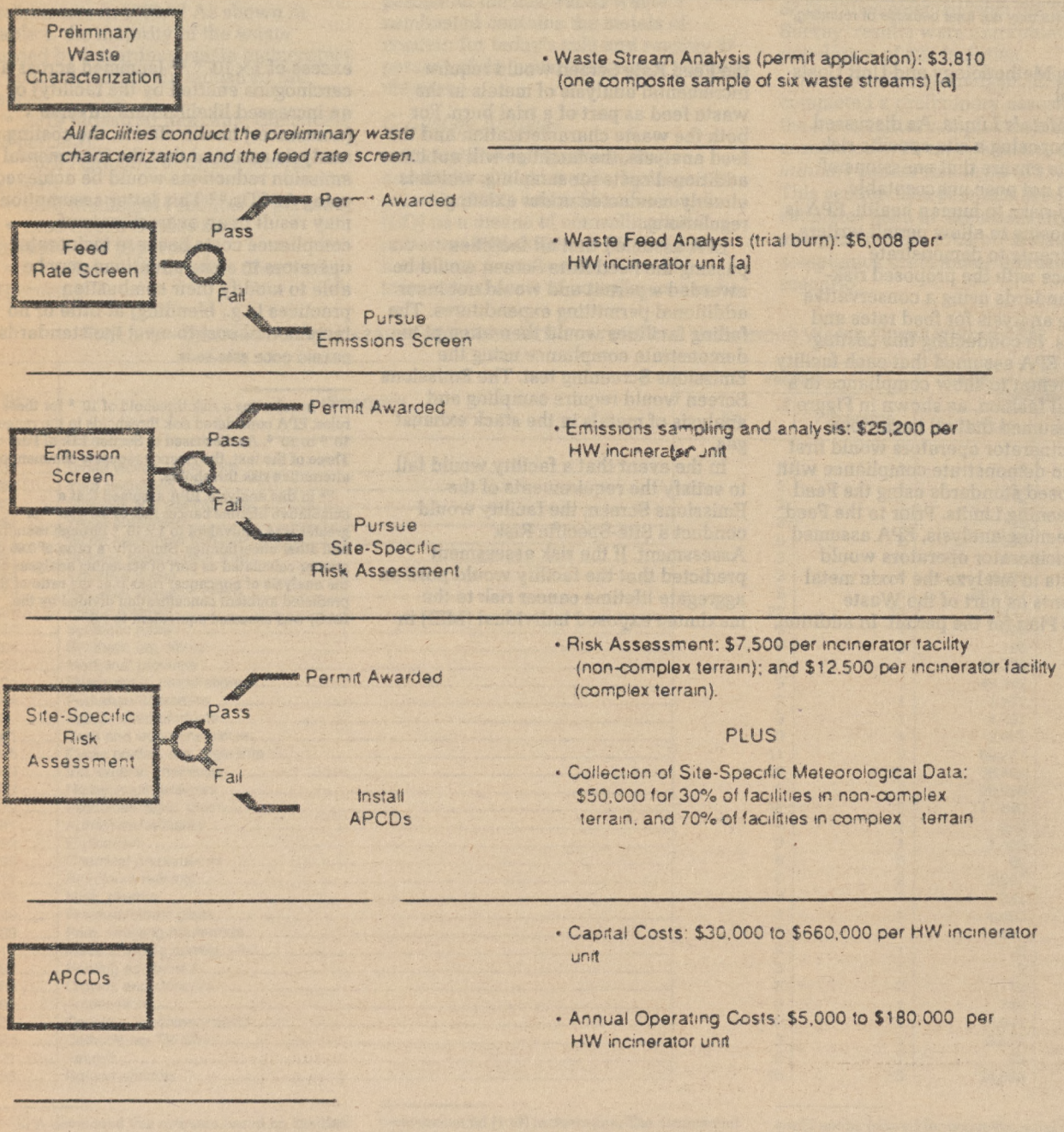
[91] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in Section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

[92] In this analysis, EPA assumed that a cumulative lifetime cancer risk of 9.5×10^{-6} or greater was equivalent to 1×10^{-5} through rounding and other uncertainties. Similarly, a ratio of 0.95 or greater calculated as part of screening analyses or the analysis of noncancer risks (i.e., the ratio of the predicted ambient concentration divided by the RAC) was assumed equivalent to 1.0.

Figure 1

Overview of Costing Approach: Proposed Metals Limits



[a] Samples are already collected under existing regulations; therefore, there is no incremental cost associated with sampling

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Figure 1 has also summarized the unit costs associated with the metals costing analysis. As shown, the estimated incremental unit cost of completing the preliminary waste characterization analysis as part of the permit for six blended waste streams is $3,810.[93] [94] The additional analysis costs for the Feed Rate Screen are approximately $6,000 per hazardous waste incinerator unit; the incremental sampling and analysis costs for the Emissions Screen are $25,200 per hazardous waste incinerator unit.[95] The risk assessment costs range from $7,500 for a facility in noncomplex terrain to $12,500 for a facility in complex terrain.[96] In addition, EPA assumed that 30 percent of the hazardous waste incinerators in noncomplex terrain and 70 percent of the hazardous waste incinerators in complex terrain would need to gather site-specific meteorological data at a cost of $50,000.[97] EPA requests comment on the reasonableness of the risk assessment cost estimates.

Because the collection of site-specific data could take as long as one year, EPA recommends that the nearest STAR data be used until the site-specific data can be gathered. At that time, the permit could be reported, and the site-specific data used.

For each hazardous waste incinerator that was esimated to pose an aggregate lifetime cancer risk to the MEI in excess of 1×10^{-5} and/or an increased likelihood of noncancer effects, a best engineering estimate was developed for a treatment train and the associated costs needed to meet the estimated risk reduction level. The APCD capital costs ranged from $30,000 to $660,000 per incinerator unit ($40,000 to $660,000 per incinerator facility), depending on the facility type, size, existing equipment, and the amount of risk reduction required; annual operating costs ranged from $5,000 to $180,000 per incinerator unit ($10,000 to $180,000 per incinerator facility).[98]

EPA assigned the costs for the preliminary waste characterization and completion of the Feed Rate Screen to all hazardous waste incinerators combusting wastes containing metals. The allocation of subsequent costs depended on the success with which each incinerator passed or failed each of the screens and the risk assessment. The costs of gathering additional meteorological data were randomly assigned among those facilities performing a risk assessment.

The decision rules discussed in part Three of today's proposed rule were used to predict which facilities would fail the Feed Rate, Emissions, Site-Specific Risk Assessment tests for carcinogenic and noncarcinogenic metals. The allowable screening limits were selected for each facility as a function of terrain (complex and noncomplex), terrain adjusted effective stack height, and land usage (rural versus urban). EPA identified the terrain for each incinerator analyzed. Effective stack height was calculated using information from the Mail Survey. Information on land usage was not readily available; therefore, the more conservative screening limits were used, as directed by today's proposed rule.

To complete the screening analyses and the risk assessment for the selected toxic metals, facility-specific information in the following parameters was needed: metal constituent concentrations in the waste; quantity of each metal emitted; a point estimate of the maximum ambient air concentration outside of the fenceline of the incinerator, and health risk factors (either unit cancer risk numbers or acceptable Reference Air Concentration levels (RACs) for noncancer effects). The analytical approaches used to gather these data are discussed later in the Risk Assessment section.

HCl Limits. Identical to the proposed approach for regulating metals, EPA is proposing a site-specific risk analysis to ensure that HCl emissions do not pose unacceptable risks. Again, EPA is proposing conservative Feed Rate and Emissions Screening Limits for HCl to simplify the permitting process. These HCl limits differ from those established for metals only in that they provide standards relating to both short-term and long-term human health effects.

The costing analysis assumed, as it did for metals, that all hazardous incinerator facilities would first attempt to demonstrate compliance with the proposed HCl standard by performing the Feed Rate Screen; all facilities failing the first screen would then opt for the Emissions Screen and any facilities failing the second screen would undertake the Site-Specific Risk Assessment (see Figure 2). If the risk assessment predicted risks to human health above the acceptable levels, the costing analysis assumed that APCDs would be installed to reduce HCl emissions. For some facilities this may be a conservative (high cost) option because there may exist lower cost options (e.g., pretreatment and waste blending) that the Agency was not able to consider within the scope of this analysis.

EPA believes that there would be no incremental costs attributable to the preliminary waste characterization, the Feed Rate Screen or the Emissions Screen for HCl, because the sampling and analysis of chlorine required for each of these tests is already performed under the permitting conditions of existing subpart O of the Subtitle C regulations for hazardous waste incinerators. The incremental costs for performing a Site-Specific Risk Assessment for HCl are equivalent in magnitude to costs for a metals risk assessment; however, facilities conducting a metals risk assessment were not expected to incur additional cost.

For each incinerator that failed to meet the baseline HCl emission standards, considering both short-term and long-term effects, the cost analysis developed a best engineering estimate of the treatment train and the associated costs needed to meet the estimated risk reduction.[99] A detailed facility-specific analysis was not performed. The APCD capital costs for HCl ranged from $17,000 to $430,000 per incinerator unit; depending on the type of combustor, size, existing control equipment, and the amount of risk reduction required; annual operating costs ranged from $1,000 to $154,000 per incinerator unit (see Figure 2).

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[93] In assigning the costs for the waste characterization, it was assumed that ten waste streams are blended to one. This decision rule is limited because the 10-to-1 blending assumption will not necessarily be representative for all incinerators. After blending has been assumed, the waste characterization unit costs were then allocated as follows: 0 to 6 blended streams (unit costs remain the same); 7 to 12 blended streams (unit costs are multiplied by two); 13 to 18 blended streams (unit costs are multiplied by three). Information on the number of waste streams combusted at each HW incinerator was found in the Mail Survey.

[94] Memorandum to Frank Smith, USEPA, from Bruce Boomer, MRI, "Sampling and Analysis Cost Impact of Draft Proposed Incineration Regulations for Metals; MRI Project No. 9029-L-12," July 31, 1987.

[95] Ibid.

[96] Versar Inc., "Air Dispersion Modeling as Applied to Hazardous Waste Incinerator Evaluations: Draft Report," May 13, 1987.

[97] Ibid. Estimates of the percentage of facilities requiring additional meteorological data estimated by Versar Inc.

[98] Memorandum to Temple, Barker, & Sloane, Inc. from Doucet & Mainka, P.C., "Hazardous Waste Incenerator Mini-RIA: APCD Cost Increments for One Percent Chrome VI Scenario," September 28, 1987.

[99] Ibid.

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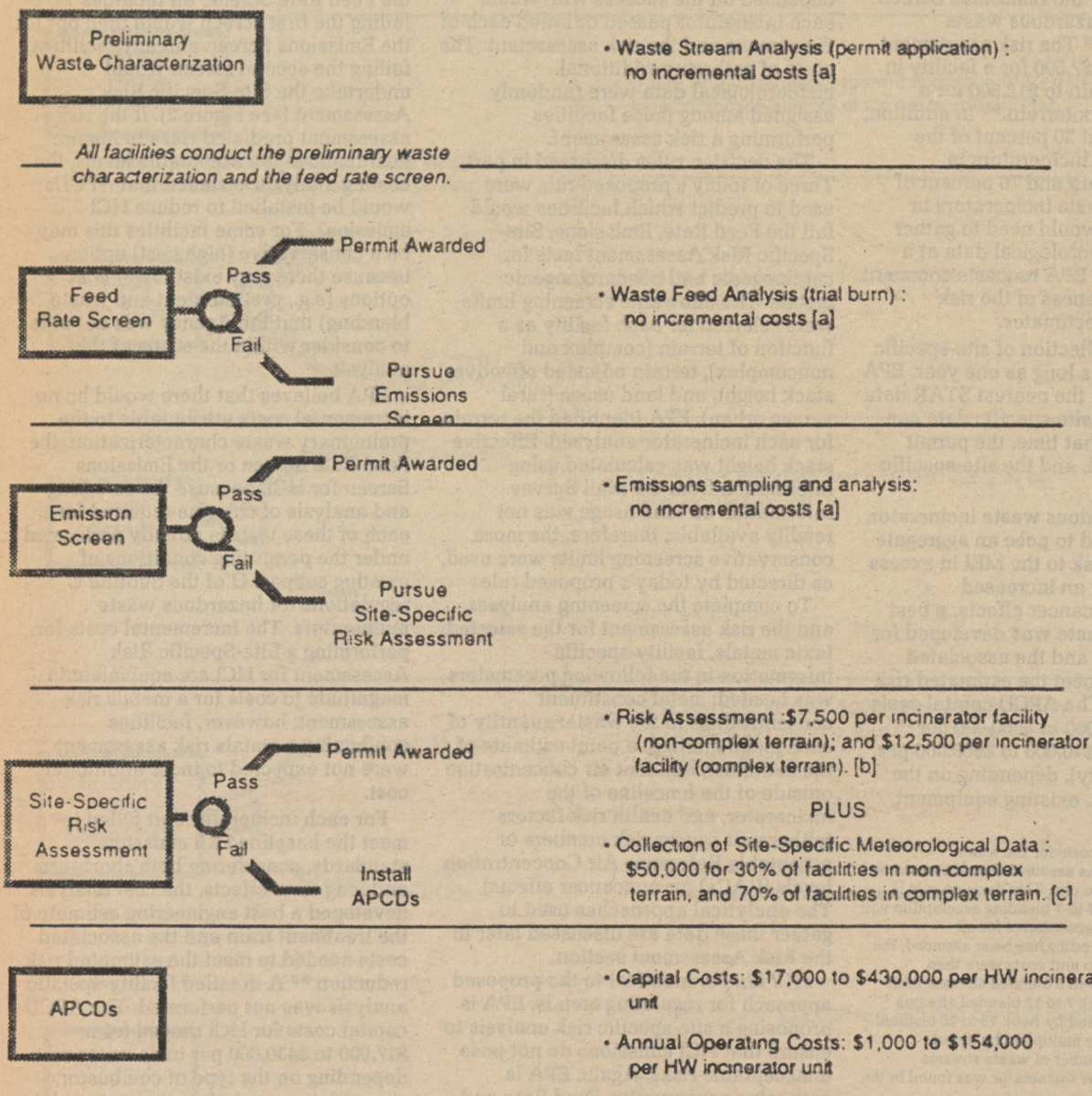
Figure 2

Overview of Costing Approach: Proposed HCl Limits



[a] Sampling and analysis of chlorine is already conducted under the permitting conditions of existing Subpart O of the Subtitle C regulations for HW incinerators.

[b] No additional risk assessment costs were assigned to a facility in the costing analysis if it was already conducting a risk assessment for metals.

[c] No additional data gathering costs were assigned to a facility if it was already performing this work for the metals risk assessment.

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The decision rules discussed in part Three of today's rule were used to predict which facilities would fail the Feed Rate, Emission, and Site-Specific Risk Assessment tests. The Risk Assessment section below provides more detail on the information needed to complete these tests, specifically: the quantity of chlorine emitted; a point estimate of the maximum short- and long-term ambient concentration outside the fenceline of the incinerator, and health risk factors (short-term and long-term RACs).

CO Limits. EPA believes that hazardous waste incinerators should operate at a high combustion efficiency to ensure that HCs do not pose an unacceptable risk to human health. Because CO is one of the best available indicators of combustion efficiency, EPA is proposing limits on CO emissions. In particular, EPA is proposing a CO limit of 100 ppmv. If a facility cannot meet the proposed CO limit, higher limits will be acceptable provided that HC emissions are not associated with unacceptable human health risks or do not exceed a good operating practice-based limit. EPA is proposing a tiered approach for determining how HC are regulated. This approach is similar to that being proposed for metals and HCl. Accordingly, the costing methodology for PICS also resembles the analysis completed for metals and HCl (see Figure 3).

Tier I is a 100 ppmv CO limit. If a facility can demonstrate compliance with this standard, this will be the permit limit. There is no incremental cost associated with this demonstration because emissions information is already generated as part of the trial burn.

If a higher CO limit is sought as a permitting condition, the facility must demonstrate that HC levels are acceptable under Tier II. Although the Agency is proposing a health-based approach to limit HC, it is requesting comment on limiting HC to a technology-based level of 20 ppmv. As discussed previously in today's notice, the Agency now prefers the technology-based approach. Nonetheless, we have projected implementation costs for the health-based alternative because the costs would be higher. Under the health-based approach, the facility would be required to demonstrate that HC emissions do not pose a cancer risk greater than 1×10^{-5} [100]. The facility can compare HC emissions with Screening Limits that the Agency has established or it can conduct site specific dispersion modeling. The incremental cost of performing the Tier II analysis is the sampling and analysis required to determine emissions of THCs. The Agency has estimated a typical incremental cost for this test at $6,500 per incinerator unit.[101]

If, under the risk-based alternative to assessing HC emissions, a facility fails Tier II using the decision rules discussed in part three of today's proposed rule, a Site-Specific Risk Assessment would be performed. The cost of the risk assessment is the same as that for metals and HCl. However, no incremental cost was assigned to a facility in this analysis if it was already incurring risk assessment costs for either chlorine or metals.

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[100] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in Section I.D. of part three of the text, the Agency requests comment on alternative risk thresholds.

[101] USEPA, Office of Solid Waste, internal analysis.

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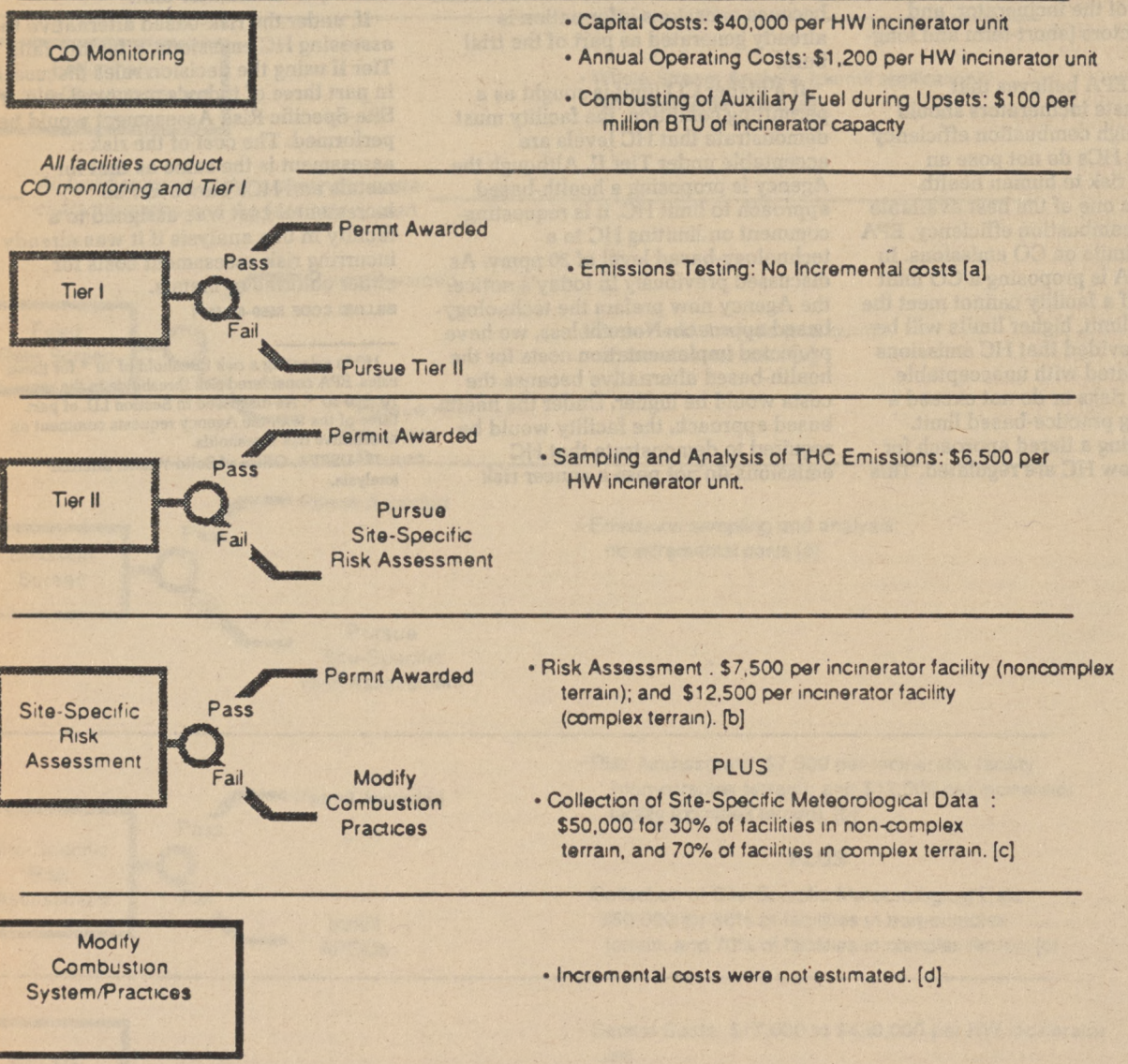
Figure 3

Overview of Costing Approach: Proposed CO Limits



[a] Emissions testing for CO is already performed under the permitting conditions of existing Subpart O of the Subtitle C regulations for HW incinerators.

[b] No additional risk assessment costs were assigned to a facility in the costing analysis if it was already conducting a risk assessment for metals and/or chlorine.

[c] No additional data gathering costs were assigned to a facility if it was already performing this work for the metals and/or chlorine risk assessment.

[d] Incremental costs were not estimated because (1) there was insufficient information on the technical response, and (2) a small number of facilities (approximately five) were expected to incur costs.

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For those facilities with HC concentrations higher than allowed, EPA assumed that the incinerator operator would modify the combustion system and/or practices to reduce CO (and HC) levels. EPA did not develop estimates of the costs associated with combustion modification because (1) there was insufficient available information to estimate the appropriate technical response, (2) very few facilities were expected to incur costs (approximately five facilities), and thus, (3) the incremental compliance costs were not anticipated to be significant at either the national or individual industry sector level.

To demonstrate compliance with the final permitted CO levels, this analysis assigned additional monitoring costs to each incinerator. The CO monitoring program included a continuous oxygen monitor and a data-logger for continuous oxygen correction. The capital costs were estimated at approximately $40,000 per incinerator unit; annual operating costs were estimated at roughly $1,200 per incinerator unit.[102] Because of time and resource constraints, this analysis did not include the proposed alternative CO format described in today's proposed rule, although it is expected to provide a lower-cost alternative.

The costing analysis also included the incremental expenses associated with combustion of auxiliary fuel during periods of upset, as required in today's proposed rule. The annual incremental cost of the auxiliary fuel was estimated at roughly $100 per 10^6 Btu of incinerator capacity based on 50 upsets of one-hour duration per year.[103] This cost was assigned to all incinerator units.

Because of data limitations, this analysis was unable to estimate emissions of CO and THCs for the facilities analyzed in the Mail Survey. As a result, it was not possible to quantify the number of facilities that would pass Tier I, Tier II, and the Site-Specific Risk Assessment using the methods employed in the metals and HCl analysis. Alternatively, a decision tree analysis was used to obtain approximate estimates regarding the numbers of facilities that might be subject to incremental impacts and costs associated with the proposed CO standards.

Figure 4 illustrates the decision tree. Based on available engineering opinion, the Agency believes that the only facilities that would be unable to meet the proposed CO limits would be fluid bed incinerators and incinerators feeding 10 percent or more of their waste in large containers. The Agency estimates that a subset of 19 facilities (6 fluid bed and 13 burning containerized wastes) would be in this category and assumed to pursue Tier II.

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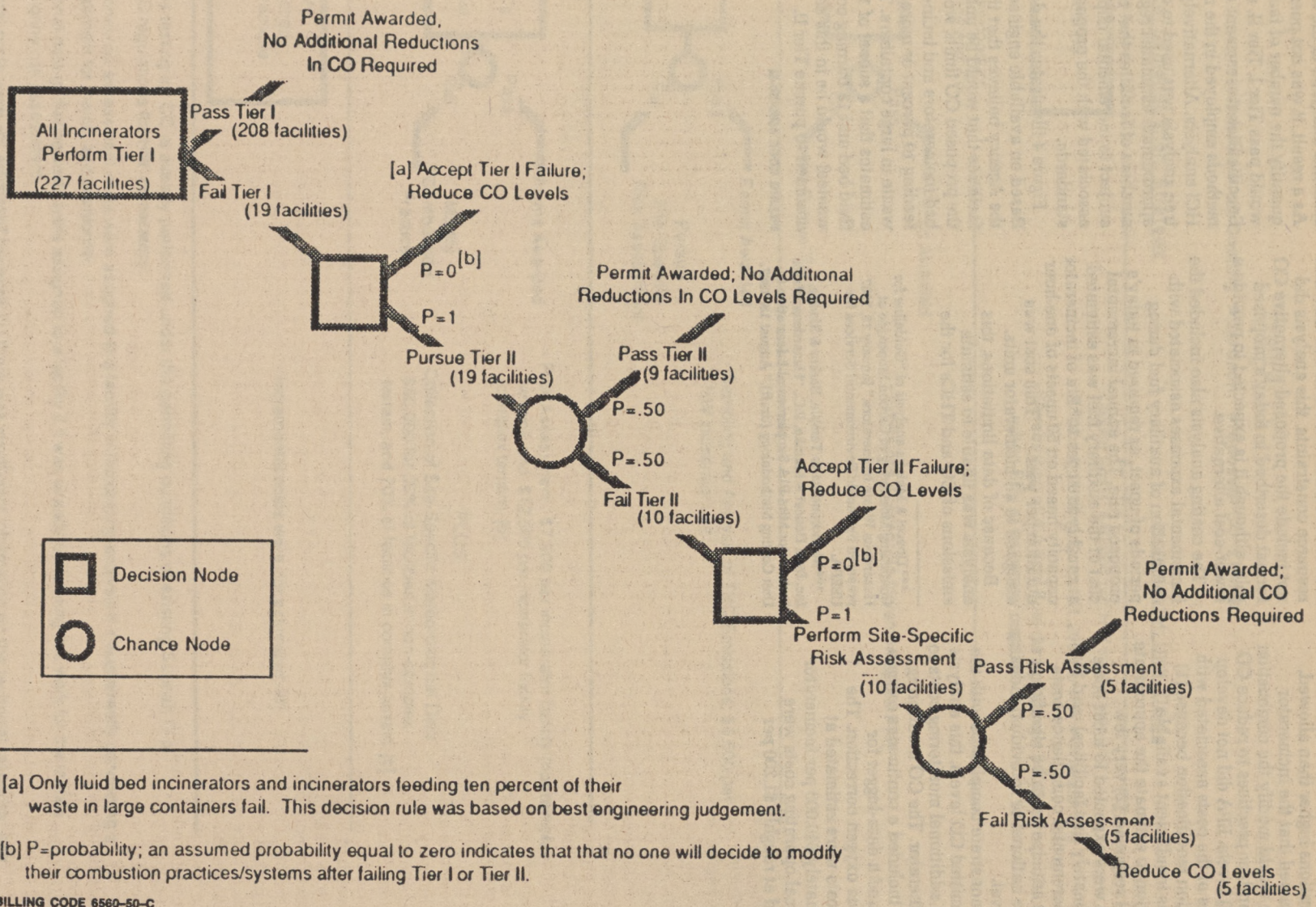
[102] Doucet & Mainka analysis of "Guideline for Continuing Monitoring of Carbon Monoxide at Hazardous Waste Incinerators," January 13, 1987 prepared by Pacific Environmental Services for USEPA.

[103] Memorandum to Temple, Barker & Sloane, Inc. from Doucet & Mainka, P.C., "Hazardous Waste Incinerator Mini-RIA Supplemental Information to Unit Costing Methodology (draft)," August 18, 1987.

Figure 4

Decision Tree for Determining Compliance with the CO Standards



[a] Only fluid bed incinerators and incinerators feeding ten percent of their waste in large containers fail. This decision rule was based on best engineering judgement.

[b] P=probability; an assumed probability equal to zero indicates that that no one will decide to modify their combustion practices/systems after failing Tier I or Tier II.

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For purposes of determining order-of-magnitude costs, EPA subjectively determined that half of these facilities, randomly assigned, would pass Tier II (i.e., would be permitted without further costs). The remaining half would perform the Site-Specific Risk Assessment to determine whether emission control would be required. The risk assessment costs were assigned to these facilities (randomly) only if they were not already conducting a risk assessment to demonstrate compliance with either the metals or HCl standards.

The decision tree analysis continued by assuming that half of the facilities performing the Site-Specific Risk Assessment would pass; the other half would be subject to expenditures to meet the *de minimis* risk levels. As discussed above, this analysis did not estimate the costs of emissions controls for THCs, although the Agency believes the number of facilities that would be required to do so is small, probably less than ten.

Sensitivity Analysis

As an alternative to the proposed *de minimis* cancer risk level of, 1×10^{-5} EPA completed a very preliminary analysis of the cost impacts of establishing a *de minimis* cancer risk level of 1×10^{-6}. A change in the proposed *de minimis* cancer risk level would change the compliance costs for meeting the proposed metals and CO standards. The methodology used to estimate the incremental compliance costs associated with each of these standards is discussed below.

Metals Standards. The metals standards in today's proposed rule would necessitate expenditures in five areas: preliminary waste characterization; the Feed Rate Screen; the Emissions Screen; the Site-Specific Risk Assessment; and APCDs. The cost analysis assumed that all facilities would perform the preliminary waste characterization and the Feed Rate Screen; therefore, the alternative *de minimis* standard would not change these costs. A more stringent risk-based standard would, however, increase compliance costs in the other two areas.

To identify the additional facilities that would fail the Feed Rate and Emission Screens under a more stringent *de minimis* risk level, the risk-based Screening Limits developed by EPA were used with one adjustment. The Screening Limits for the carcinogenic metals were reduced by an order of magnitude to reflect the 1×10^{-6} standard. Additional facilities predicted to fail the Site-Specific Risk Assessment were identified by comparing the estimated lifetime cancer risk to the MEI for each incinerator facility against the alternative risk level of 1×10^{-6}.

The incremental compliance costs associated with more facilities conducting the Emission Screen and the Site-Specific Risk Assessment were estimated using the unit cost estimates described above. An engineering analysis to identify the appropriate APCD at each hazardous waste incinerator facility failing the risk assessment has not been completed at this time. As a result, EPA approximated the incremental APCD costs for two groups of incinerator facilities:

- *Facilities already failing the risk assessment at 1×10^{-5}.* The costing analysis assumed that to meet the 1×10^{-6} standard these facilities would incur APCD costs at least twice the estimated costs to meet the 1×10^{-5}.
- *Facilities failing only the 1×10^{-6} standard.* The costing analysis assumed that these additional facilities would experience APCD costs similar to those estimated for the facilities failing the 1×10^{-5} standard. The average APCD expenditure for the proposed 1×10^{-5} standard was calculated and applied to those facilities failing only the alternative 1×10^{-6} standard.

There are limitations to the APCD cost calculations. For example, the costing analysis assumes that the control requirements for the new facilities in the analysis are identical to those in the 1×10^{-5} analysis. In addition, the facilities already failing the risk assessment at the proposed standard may incur much higher APCD costs to achieve the 1×10^{-6} risk standard.

CO Standards. Under the health-based alternative for assessing THC emissions, a more stringent *de minimis* risk standard would increase compliance costs for facilities attempting to demonstrate that CO emissions in excess of 100 ppm (the proposed standard) are not associated with unacceptable human health risks. In particular, a more stringent risk standard would increase the number of facilities needing to complete the Site-Specific Risk Assessment (i.e., more facilities failing Tier II) and modify combusion practices to reduce CO emissions to an acceptable level (i.e., more facilities failing the risk assessment).

As discussed above, a decision tree analysis was used to estimate the number of facilities that would be subject to incremental costs and impacts associated with the proposed CO standards. The decision tree was modified to reflect the 1×10^{-6} standard by increasing the probability of failing Tier II and the risk assessment from P=0.50 to P=0.75 (See Figure 3). The incremental compliance costs associated with more facilities conducting the Site-Specific Risk Assessment, as well as more facilities needing to modify their combustion practices, were estimated using the unit costs described above.

2. Results

Proposed standards. The Agency estimates the total annualized compliance costs associated with today's proposed requirements for existing hazardous waste incinerators at approximately $6.2 million. Total incremental capital costs are approximately $34 million; the total incremental annual operating and maintenance costs are roughly $3 million. These nationwide costs were extrapolated from the subset of 82 facilities analyzed to the current population of 227 hazardous waste incinerators. Capital costs were annualized at a (historical) real discount rate of 3.7 percent over a period of 15 years; one-time costs (e.g., preliminary waste characterization costs) were annualized over the assumed life of the permit (ten years).

The total estimated compliance costs for today's proposed rule are summarized in Table 5. As shown, the potential need for APCDs to reduce chlorine and metal emissions accounts for half of the estimated costs. An additional 27 percent is explained by the proposed requirements for CO monitoring and combustion of auxiliary fuel during periods of combustion upset. The Feed Rate and Emissions Screens account for 17 percent of the total costs. The remining cost components contribute 3 percent or less to the estimated incremental compliance.

Because of substantial uncertainties inherent in the accuracy of available data and the general nature of the engineering costing and risk assessment approaches utilized, the Agency urges caution in the interpretation and application of these results.

Sensitivity analysis. Table 6 summarizes the estimated total and incremental annual compliance costs associated with the alternative *de minimis* cancer risk of 1×10^{-6}. The incremental costs are presented against the baseline (i.e., before regulation) and the proposed *de minimis* risk level of 1×10^{-5}.[104]

[104] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

As indicated in Table 6, the more stringent risk-based standards for carcinogens results in a higher total annual compliance cost of approximately $9.7 million. This is an increase of roughly $3.4 million over the proposed 1×10^{-5} risk standard. Almost all of the increase in cost (approximately 97 percent) can be attributed to more facilities needing to control further emissions of carcinogenic metals. In the sensitivity analysis, an estimated total of 53 existing hazardous waste incinerator facilities (or an increase of 22 facilities over the estimated 31 facilities requiring APCDs to meet the 1×10^{-5} standard) would need to reduce metal emissions below current conditions.

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Table ~~4-1~~ 5

SUMMARY OF INCREMENTAL COMPLIANCE COSTS: PROPOSED STANDARDS

(thousands of 1986 dollars)

Compliance Cost Component	Capital and One-Time Costs	Operating and Maintenance Costs	Annualized Costs[1]	Percentage of Total Annualized Costs	Number of Facilities Performing Analysis[2]
Metal Standards					
Preliminary Waste Characterization	$ 717	N/A	$ 87	1%	167
Feed Rate Screen	1,440	N/A	175	3	167
Emission Screen	4,913	N/A	596	10	131
APCDs	5,980	$1,401	1,928	31	31
Subtotal	$13,050	$1,401	$2,786	45%	
HCL Standards					
Preliminary Waste Characterization[3]	$ 0	N/A	$ 0	0%	199
Feed Rate Screen[3]	0	N/A	0	0	199
Emission Screen[3]	0	N/A	0	0	166
APCDs	4,378	$ 811	1,197	19	45
Subtotal	$ 4,378	$ 811	$1,197	19%	
CO Standards					
Tier I[4]	$ 0	N/A	$ 0	0%	19
Tier II	198	N/A	24	<1	10
Modify Combustion[5]	N.A.	N.A.	N.A.	N.A.	5
CO Monitoring (including auxiliary fuel costs)	12,000	$ 620	1,657	27	227
Subtotal	$12,198	$ 620	$1,699	27%	
Site-Specific Risk Assessment[6]	$ 3,958	N/A	$ 481	8%	98
Total	$33,584	$2,832	$6,163	100%	

N/A = Not applicable.
N.A. = Not available.

[1]Capital costs were annualized at a (historical) real discount rate of 3.7 percent over the estimated life of the equipment (15 years). One-time costs (e.g., preliminary waste characterization) were annualized over the assumed life of the permit (10 years).
[2]Based on recent information provided by HWDMS, there are currently 227 HW incinerators nationwide.
[3]There are no incremental costs because these tasks are already performed as part of the trial burn.
[4]There are no incremental cots for Tier I, which is already performed as part of the trial burn.
[5]A costing analysis was not completed for this category at the present time because (1) there was no available information on the technical response, (2) few facilities (five) were expected to incur costs, and (3) this proposed requirement was not expected to result in significant national expenditures.
[6]These costs may apply to one or all three of the proposed standards.

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Table V-26

SENSITIVITY ANALYSIS: SUMMARY OF TOTAL AND INCREMENTAL COMPLIANCE COSTS FOR 1 x 10^{-6} DE MINIMIS RISK

(thousands of 1986 dollars)

Compliance Cost Component	Annualized Cost[1]		Number of Facilities Performing Analysis[2]	
	Total[3]	Increment Over 1 x 10^{-5} Proposed Standard	Total	Increment Over 1 x 10^{-5} Proposed Standard
Metal Standards				
Preliminary Waste Characterization	$ 87	$ 0	167	0
Feed Rate Screen	175	0	167	0
Emission Screen	657	61	153	22
APCDs	5,259	3,334	53	22
Subtotal	$6,178	$3,395		
HCl Standards				
Preliminary Waste Characterization[4]	$ 0	$ 0	199	0
Feed Rate Screen[4]	0	0	199	0
Emission Screen[4]	0	0	166	0
APCDs	1,197	0	45	0
Subtotal	$1,197	$ 0		
CO Standards				
Tier I[5]	$ 0	$ 0	227	0
Tier II	24	10	19	9
Modify Combustion[6]	N.A.	N.A.	11	6
CO Monitoring including auxiliary fuel costs)	1,676	0	227	0
Subtotal	$1,702	$ 10		
Site-Specific Risk Assessment[7]	$ 572	$ 92	134	36
TOTAL	$9,650	$3,487		

N.A. = Not available.

[1] Includes annual O&M costs, if any, plus annualized capital or other one-time cost(s). Capital costs were annualized at a (historical) real discount rate of 3.7 percent over the estimated life of the equipment (15 years). One-time costs (e.g., preliminary waste characterization) were annualized over the assumed life of the permit (10 years).

[2] Based on recent information provided by HWDMS, there are currently 227 facilities with one or more HW incinerators nationwide including Puerto Rico.

[3] Total capital costs for all requirements in the sensitivity analysis were approximately $45 million (roughly $11 million more than the total capital costs estimated for compliance with a 1 x 10^{-5} de minimis risk standard). Total O&M costs were approximately $5.3 million (roughly $1.5 million more than the total O&M costs estimated for compliance with a 1 x 10^{-5} de minimis risk standard).

[4] There are no incremental costs because these tests are already performed as part of the trial burn.

[5] There are no incremental costs for Tier I, which is already performed as part of the trial burn.

[6] A costing analysis was not completed for this category at the present time because (1) there was no available information on the technical response, (2) few facilities (five) were expected to incur costs, and (3) this proposed requirement was not expected to result in significant national expenditures.

[7] These costs may apply to one or all three of the proposed standards.

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D. Economic Impact Analysis

A preliminary economic impact analysis was conducted for the subset of facilities evaluated from the Mail Survey based on the compliance costs for the proposed and alternative (sensitivity analysis) standards described above. Results were also extrapolated to the population of existing hazardous waste incinerators. The methodology and results of this analysis are detailed below.

1. Methodology

Based on a review of alternative analytical approaches and available financial data, first order economic impacts were approximated by calculating (1) the ratio of annual incremental compliance costs to average gross profit before tax and (2) the ratio of annual incremental compliance costs to the average cost of production for affected facilities at the four-digit industry level of the standard industrial classification (SIC) system. These ratios were used to identify the potential increase in production price and the reduction in gross profitability for affected industries resulting from compliance with the proposed requirements.

Implicit in the ratio calculations is the assumption that each facility absorbs the costs of compliance. Although the decision to pass through costs is a function of market response (i.e., the price elasticity of demand for the facility's product), this effect could not be quantified because of time and resource constraints. However, the assumption that all costs would be absorbed will provide, in general, a conservative estimate of predicted impact. This is particularly conservative for commercial hazardous waste incinerators which, given the seemingly extreme inelastic demand for incineration capacity in recent years, will probably be able to pass the incremental compliance costs through to the customer.

The average cost of production and gross profit at the four-digit SIC code level were calculated using data from the 1984 U.S. County Business Patterns and the 1984 Annual Survey of Manufacturers. In particular, these sources were used to derive an estimate of average net cash flow from operations (CFO), taken as a crude measure of gross profit, and average cost of production (COP) at the four-digit SIC level.

The financial ratio analysis was performed on a facility basis using only average industry financial data. It was impossible to consider variability in financial impact by plant size, productivity or other measure of impact because the necessary data were not available within the scope of this effort. The use of average industry data could substantially understate adverse impact for some individual facilities.

Using the annualized compliance costs estimated for each facility and the average industry financial data, the two financial ratios described above were calculated to assess impact. Adverse economic impact was indicated if either (1) the compliance costs increased production costs by more than 1 percent or (2) compliance costs accounted for more than 1 percent of net cash flow from operations. These thresholds are more conservative than those used in many recent EPA analyses. Generally, EPA has identified significant impact when either the ratio of compliance costs to COP or the ratio of compliance costs to CFO is greater than 5 percent.

2. Results

Proposed standards. Table 7 summarizes the distribution of economic impact for each of the financial ratios calculated. As shown, the proposed regulations will not impose an undue economic burden on the majority of all hazardous waste incinerator facilities. Based on the COP ratio, 6 percent of all hazardous waste incinerator may experience adverse economic impacts because of predicted average increases in production costs between 1 percent and 2 percent. The CFO ratio indicates that approximately 12 percent of hazardous waste incinerators may witness decreases in their gross profitability ranging between 1 percent and 4 percent. None of the calculated financial ratios exceeds 4 percent or the 5 percent hurdle rate generally used by EPA to determine significant impact.

TABLE 7.—DISTRIBUTION OF ECONOMIC IMPACT: PROPOSED STANDARDS

Number of Affected Entities with Hazardous Waste Incinerators

Impact ratio	0–0.99 percent	1–1.99 percent	2–2.99 percent	3–3.99 percent	4–4.99 percent	Total (/*/)
Cost of compliance/cash flow from operations	199 (88%)	11 (5%)	14 (6%)	3 (1%)	0	227 (100%)
Cost of compliance/cost of production	213 (94%)	14 (6%)	0	0	0	227 (100%)

* Numbers may not sum because of rounding.

Table 8 presents the distribution of economic impact by SIC for those facilities exceeding the 1 percent threshold. The COP ratio shows potential significant impact for 14 facilities in four SIC categories. The CFO ratio indicates impact for almost twice as many facilities distributed among nine different SIC codes. No one SIC category appears to dominate, although there are higher predicted impacts for SIC 2873 (Fertilizers, Nitrogenous).

TABLE 8.—Distribution of Economic Impact by SIC: Proposed Standards [1]

Number of Affected Facilities

SIC	Cost of compliance/cash flow from operations			Cost of compliance/cost of production
	1–1.99 percent	2–2.99 percent	3–3.99 percent	1–1.99 percent
2421 (Saw mills and planing mills)			3	
2511 (Wood household furniture)	3			

TABLE 8.—Distribution of Economic Impact by SIC: Proposed Standards [1]—Continued

Number of Affected Facilities

SIC	Cost of compliance/cash flow from operations			Cost of compliance/cost of production
	1–1.99 percent	2–2.99 percent	3–3.99 percent	1–1.99 percent
2813 (Industrial gases)		3		3
2821 (Plastics material)	3			
2851 (Paints and allied products)		3		3
2873 (Fertilizers, nitrogeneous)		6		6
3229 (Gases)	3			
3672 (Cathode ray picture tubes TV)		3		3
9999 (Nonclassifiable establishments)	3			
Total facilities [2]	11	14	3	14

[1] Results are summarized only for those facilities exceeding the 1 percent threshold for each calculated financial ratio.
[2] Numbers may not sum because of rounding.

Sensitivity analysis. The results of the financial ratio tests for the sensitivity analysis are summarized in table 9. Similar to the results for the proposed standards, the majority of facilities are not predicted to incur adverse economic impact. Based on the COP ratio results, an estimated 20 facilities (approximately 9 percent of the total population) would face incremental compliance costs representing between 1 percent and 4 percent of production costs. The CFO ratio calculations indicate a larger fraction of facilities (39 facilities or roughly 17 percent of the total population) that could be subject to adverse financial conditions if the proposed requirements are enacted. Although most of these 39 facilities are not predicted to incur compliance costs representing more than 4 percent of either net cash flow or production costs, an estimated 6 facilities could face compliance costs that are greater than 6 percent of net cash flow. Table 10 presents the distribution of economic impact by SIC for those facilities exceeding the 1 percent threshold.

TABLE 9.—Distribution of Economic Impact: Sensitivity Analysis

Number of Affected Entities with Hazardous Waste Incinerators (percent of total)

Impact ratio	0–0.99 percent	1–1.99 percent	2–2.99 percent	3–3.99 percent	4–4.99 percent	5–5.99 percent	6–6.99 percent	Total [a]
Cost of compliance/cash flow from operations	188	22	0	11	0	0	6	227
Cost of compliance/cost of production	207	11	6	3	0	0	0	227

[a] Numbers may not sum because of rounding.

TABLE 10.—Distribution of Economic Impact by SIC: Sensitivity Analysis [1]

Number of Affected Facilities

SIC	Cost of compliance cash flow from operations						Cost of Compliance Cost of Production		
	1–1.99 percent	2–2.99 percent	3–3.99 percent	4–4.99 percent	5–5.99 percent	6–6.99 percent	1–1.99 percent	2–2.99 percent	3–3.99 percent
2421 (Saw mills and planing mills)		3							
2511 (Wood household furniture)	6								
2813 (Industrial gases)			3						3
2819 (Inorganic chemicals)	3								
2821 (Plastics material)	3								
2851 (Paints and allied products)		3					3		
2873 (Fertilizers nitrogeneous)						6		6	
2879 (Pesticides)	3						3		
3229 (Gases)	3						3		
3339 (Primary smelting)	3								
3672 (Cathode Ray picture tubes TV)			3				3		
9999 (Nonclassifiable establishments)	3								
Total facilities	22	0	11	0	0	6	11	6	3

[1] Results are summarized only for those facilities exceeding the 1 percent threshold for each calculated financial ratio.
[2] Numbers may not sum because of rounding.

F. Risk Assessment

1. Methodology

A comparative risk assessment was performed under existing baseline and post-compliance conditions for the 82 hazardous waste incinerator facilities evaluated from the Mail Survey, and results were assessed considering both the proposed *de minimis* cancer risk standard of $1 \times 10-5$ [105] and the alternative standard of $1 \times 10-6$ evaluated in the sensitivity analysis. The risk assessment was performed for both metals and HCl, but there was insufficient information to quantify either the baseline or controlled human health risks posed by total residual hydrocarbons at the present time.

For the carcinogenic metals analyzed (arsenic, cadmium, and hexavalent chromium), two measures to risk were estimated: lifetime cancer risk to the maximum exposed individual (MEI) and the annual cancer incidence attributable to all metals at each facility. For the noncarcinogens evaluated (HCl, lead, barium, and mercury), the Agency identified which facilities may present an increased likelihood of noncancer effects by exceedances of health threshold limits, but the total number of cases could not be calculated for these pollutants. Throughout, EPA's risk estimates considered exposure through inhalation only; other exposures (e.g., ingestion) were not evaluated.

To estimate the lifetime MEI cancer risks and any exceedances of acceptable Reference Air Concentrations (RACs), data were needed on the following: the quantity of HCl and metals emitted by each hazardous waste incinerator facility; a point estimate of the *maximum* ambient air concentration outside the fenceline of the incinerator facility; and pollutant-specific health risk factor (either unit cancer risk numbers developed by EPA's Carcinogen Assessment Group or the RACs for noncancer effects). These data were also used in the various screening analyses described above to demonstrate compliance with the proposed HCl and metals standards. To predict the incidence of cancer, two additional pieces of information were required: estimates of the ambient air concentrations over a 50 km fallout radius from the facility, and estimates of the number of exposed persons at the various emission concentrations throughout the fallout area. The steps taken to gather the necessary data for the risk assessment are detailed below.

Emissions (metals). EPA approximated metals emissions by facility utilizing estimates of (1) the quantity of hazardous waste combusted by RCRA code, (2) the estimated fraction of metals in each RCRA code, (3) the fraction of each metal segregated as bottom ash and stack emissions, and (4) metal removal efficiencies for in-place APCDs.

EPA obtained data on the quantity of hazardous waste combusted by RCRA code from the Mail Survey. The toxic constituent profiles for each RCRA code were developed by EPA using readily available information from several sources, including the W–E–T model and various sampling efforts conducted by the Agency to develop the toxic constituent profiles.[106] Waste characterization data by RCRA code could not be located for thallium, antimony, and silver, therefore, these pollutants could not be addressed in this analysis. In addition, this analysis could characterize only the fractions of *total* chromium by RCRA code. Based on available results from recent and ongoing analyses of combustion sources, EPA assumed for the present that 1 percent of total chromium waste feed and stack emissions would be of the hexavalent (carcinogenic) species and that the remaining 99 percent would be trivalent.[107] It was assumed that all waste streams are combusted simultaneously on an annual average basis because of limited data on this topic.

To quantify total annual toxic metals emissions for each facility, EPA combined the estimated quantities of each metal combusted annually at each incinerator analyzed in the Mail Survey and engineering estimates on partitioning and removal efficiencies of in-place APCDs by metal. The APCD removal efficiencies were quantified by pollutant for each hazardous waste incinerator using the best engineering judgement and information on inplace controls from the Mail Survey. Partitioning coefficients were developed by pollutant for solid waste incinerators to estimate the proportion of metals segregated as bottom ash and stack emissions. The analysis assumed that there is no partitioning in liquid injectors (i.e., all metals are vaporized).

Emissions (HCl). To estimate HCl emissions, EPA collected information on the same critical elements used in the assessment of metals emission rates (i.e., quantity of hazardous waste combusted by RCRA code, partitioning, and removal efficiencies of inplace (APCDs). The waste data by RCRA code were obtained from the Mail Survey.

To approximate the quantity of chlorine incinerated, EPA first identified RCRA codes that could potentially contain chlorine. This list of RCRA codes was compiled by (1) reviewing waste sampling data (by RCRA code) in a supporting document to the existing RCRA regulations for hazardous waste incinerators and (2) identifying additional RCRA codes that could contain chlorine based on their waste characteristics.[108]

To determine the chlorine content, EPA calculated the average (arithmetic) chlorine concentration in all waste combusted in hazardous waste incinerators using available test burn data (89 data points) for 23 incinerators units located throughout the United States.[109] The total quantity of chlorine being combusted was calculated by multiplying the quantity combusted of RCRA codes potentially containing chlorine at each incinerator by the estimated average chlorine level (roughly 8 percent). A more detailed analysis of chlorine was not performed in this analysis because of time and resource constraints.

HCl emissions were calculated assuming that all chlorine converts to HCl. In addition, the removal efficiencies afforded by in-place controls were considered. The analysis assumed that no partitioning would occur for HCl (i.e., all HCl formed during the combustion process would be emitted as a gas). The analysis calculated emissions by assuming conservatively that all waste types reported in the Mail Survey would be

[105] In selecting a risk threshold of 10^{-5} for these rules, EPA considered risk thresholds in the range of 10^{-4} to 10^{-6}. As discussed in section I.D. of Part Three of the text, the Agency requests comment on alternative risk thresholds.

[106] The sampling efforts included: Versar, "Hazardous Waste and Virgin Oil Assessment of Baseline Metal Content," April 1986; Mitre, "Hazardous Waste Stream Trace Metal Concentrations and Emissions," 1983; and Environ, "Characterization of Waste Streams Listed in 40 CFR Section 261," 1983. These particular studies were selected because they reported pollutant concentrations by RCRA code.

[107] Analysis conducted by EPA's Office of Air Quality Planning and Standards (coal-fired boilers) and Office of Water (sludge incineration). However, more recent tests of hazardous waste combustion indicate that hexavalent chromium may represent as much as 10% of the total chromium emissions (see Part Three, II.B. of today's preamble).

[108] USEPA, Waste Treatment Branch, Office of Solid Waste and Emergency Response, "Supporting Documentation for the RCRA Incinerator Regulations, 40 CFR 264, Subpart O Incinerators," Peer Consultants, Inc. for the Office of Solid Waste and Emergency Response, October 1984. (NTIS order No. PB86–110293)

[109] USEPA, Office of Research and Development, Center for Environmental Research Information, "Handbook Permit Writer's Guide to Test Burn Data, Hazardous Incineration," EPA–625/6–86/012.

combusted simultaneously on an annual average basis. This assumption could result in an underestimate of the potential risks from short-term exposures, as well as compliance costs.

Ambient Concentrations (Metals and HCl). EPA predicted maximum and area-wide ambient concentrations of the metals and HCl emitted from each facility using dispersion modeling. It was outside the scope of this analysis to estimate maximum ambient concentration performing site-specific dispersion modeling. As a result, this analysis used the predicted ambient concentrations generated from 10 hypothetical facilities evaluated at each of 24 sites, which were located in widely varying terrain (see the discussion in Part Three of today's proposed rule).[110] EPA performed the dispersion modeling using 16 wind directions and 15 ring distances, ranging from 0.2 km to 50 km. Ambient concentrations were estimated separately for long-term and short-term exposures.

Health Risk Factors. The unit cancer risk values were provided by EPA's Carcinogen Assessment Group and are listed in Appendix B of today's proposed rule. The RAC's for the noncarcinogens were provided by EPA's Office of Solid Waste and are also summarized in Appendix B of today's proposed rule. The RACs represent 25 percent of the Reference Doses (RfDs) for all pollutants except lead; existing background levels are assumed to account for the remaining 75 percent of the RfD. The lead RAC is defined as 10 percent of the National Ambient air Quality Standard (ANAQS) that has been promulgated for lead under the Clean Air Act; background exposures take up the remaining 90 percent of the NAAQS standard. These risk factors consider only long-term effects and incorporate standard EPA exposure assumptions (e.g., the average exposed individual will weigh 70 kg, will inhale 20 cubic meters of air each day, and will be exposed continuously to the estimated ambient pollutant concentration for 70 years).

Population Exposed. Data on the number of exposed individuals in the vicinity of each facility analyzed was obtained from U.S. Census data available from the Office of Toxic Substances' Graphical Exposure Modeling System (GEMS). The population data were first obtained in the block grid/enumeration district level and then summed to correspond with the geographic segments used in the dispersion modeling.

2. Results

Proposed Standards. Table 11 shows the Agency's estimates of the effect of today's proposed rule on MEI cancer risk levels for metals at metal-burning incinerators. The highest lifetime cancer risk estimated in the baseline is roughly 5.0×10^{-5}, with approximately 22 sites (13 percent of all facilities burning metals) posing risks within this 10^{-5} range under baseline conditions. The remaining 87 percent are estimated to be currently operating under conditions posing less than a one in 100,000 lifetime risk of causing cancer to the maximum exposed individual. The principal effect of today's rule as it relates to carcinogenic metals would be to cause an estimated 22 facilities to reduce their emission rates to levels at or below the 1×10^{-5} risk level.

The estimated annual baseline cancer incidence for the three carcinogenic metals, aggregated across all 167 sites at which EPA estimates such metals are burned, is approximately 0.03 or roughly two cases in 70 years nationwide. The incidence results in a given year are summarized in Table 12 by pollutant. As shown, hexavalent chromium accounts for over half of the predicted annual cancer incidence, with cadmium and arsenic contributing approximately 34 percent and 13 percent, respectively.

TABLE 11.—DISTRIBUTION OF INCINERATOR FACILITIES BY ESTIMATED LIFETIME MEI CANCER RISKS FOR INCINERATORS BURNING METAL-BEARING WASTES: BEFORE AND AFTER COMPLIANCE [1]

Lifetime MEI cancer risks	Number of HW incinerator facilities (percentage of total) [2]	
	Baseline	After compliance
1.00E-02	0	0
1.00E-03	0	0
1.00E-04	0	0
1.00E-05	22 (13%)	0
1.00E-06	28 (17%)	50 (30%)
1.00E-07	47 (28%)	47 (28%)
1.00E-08	36 (22%)	36 (22%)
1.00E-09	20 (12%)	20 (12%)
1.00E-10	8 (5%)	8 (5%)
1.00E-11	3 (2%)	3 (2%)
1.00E-12	3 (2%)	3 (2%)
Total facilities burning metals [3]	167—(100%)	167—(100%)

[1] Results for three metals: arsenic, cadmium, and hexavalent chromium. Compliance based on meeting a 1.00E-05 MEI cancer risk level.
[2] Based on available information, EPA estimates that 167 or about 75 percent of the 227 facilities burn metal-bearing wastes.
[3] Numbers may not sum to total because of rounding.

TABLE 12.—ESTIMATED EXCESS ANNUAL AND LIFETIME CANCER INCIDENCE FOR INCINERATORS BURNING METAL-BEARING WASTES: BEFORE AND AFTER COMPLIANCE [1]

Pollutant	Number of cases per year (percentage of total)		Cases per 70 years	
	Baseline (percent)	After compliance [1]	Baseline	After compliance
Arsenic	0.005 (13)	0.003	0.318	0.184
Cadmium	0.012 (35)	0.007	0.824	0.509
Chromium (VI)	0.018 (52)	0.009	1.248	0.603
Total [2]	0.034	0.019	2.39	1.297

[1] Compliance based on meeting a 1.00E-05 MEI cancer risk level.
[2] Numbers may not sum because of rounding.

After compliance with the proposed 1×10^{-5} *de minimis* cancer risk level for individual sites, EPA conservatively estimates that the annual cancer incidence for these incinerated metals could be reduced from 0.03 to 0.02, or a reduction from approximately two lifetime cancer cases to one lifetime cancer case nationwide in a 70-year period. These calculations were based on the risk reduction needed to meet the proposed risk-based standards and may have been understated. The actual environmental protection afforded by the recommended control technologies at each affected facility could be higher.

The risk assessment also estimated exceedances of the RACs for lead and HCl (short-term and long-term). The predicted ambient air concentrations of the other noncarcinogenic pollutants analyzed (barium and mercury) did not exceed the RACs for these two pollutants at any of the sample facilities modeled. Table 13 summarizes the number of incinerator facilities for which exceedances of the lead and HCl RACs are estimated. It also slows the range of estimated percent reductions in emissions necessary for these facilities to meet the RACs. The number of exceedances is highest for HCl (short-term effects), followed by lead. There is also overlap among the facilities failing the lead or HCl RACs. Approximately 22

[110] Detailed information on the dispersion coefficients used in the risk assessment can be found in: Memorandum from Versar to TBS, "Modeling Summary of Flat and Rolling Terrian Incinerator Sites," May 20, 1987; Memorandum from Versar to TBS, "Modeling Summary of the High Terrain Incinerator Site," June 12, 1987; Memorandum from Versar to TBS, "Modeling Results of Short-Term MEI Concentrations for Hazardous Waste Incinerators", July 15, 1987.

of the 48 facilities are exceeding both the lead and short-term HCl RACs. All of the facilities not complying with the long-term HCl RAC are also exceeding the lead RAC. Under 100 percent compliance with the proposed risk-based standards for lead and HCl, there will be no exceedances of the RACs.

TABLE 13.—ESTIMATED INCREASED LIKELIHOOD OF NONCANCER EFFECTS: EXCEEDANCES OF THE LEAD AND HCL RACS BEFORE AND AFTER COMPLIANCE

Pollutant	Number of HW incinerator facilities exceeding the RAC		Percent reduction in emissions necessary to comply with RAC
	Baseline	After compliance	
Lead	31	0	19–91
HCl (short-term)[1]	48	0	5–78
HCl (long-term)[2]	18	0	20–99

[1] 22 of the 48 facilities do not comply with either the lead or the short-term HCl standard.
[2] All of the facilities unable to comply with HCl standard also do not comply with the lead standard.

Sensitivity Analysis. The alternative *de minimis* risk standard evaluated in the sensitivity analysis (1×10^{-6}) will have an impact only on the cancer risk estimates for metals. Table 14 shows the Agency's estimate of the effect of the alternative standard on MEI cancer risk levels for metals at metal-burning incinerators. The more stringent standard would cause an estimated 50 facilities to reduce their emission rates for carcinogenic metals to levels at or below a 1×10^{-6} risk level. This is an increase of 28 additional facilities above the proposed standard; however, six of these facilities are already predicted to need controls to reduce emissions of noncarcinogenic metals.

As discussed above, the estimated annual baseline cancer incidence for the three carcinogenic metals, aggregated across all 167 sites at which EPA estimates metals are burned, is approximately 0.03 or roughly two cases nationwide in 70 years (see Table 15). A more stringent *de minimis* risk standard of 1×10^{-6} would lower the estimated annual cancer incidence to approximately 0.01 or about one case nationwide in 70 years. These after compliance calculations were based on the percent reduction in emissions needed to meet the alternative risk-based standard.

TABLE 14.—DISTRIBUTION OF INCINERATOR FACILITIES BY ESTIMATED LIFETIME MEI CANCER RISK FOR INCINERATORS BURNING METAL-BEARING WASTES: BEFORE AND AFTER COMPLIANCE [1]

Aggregate lifetime MEI cancer risks	Number of HW incinerator facilities (percentage of total)[2]	
	Baseline (percent)	After compliance (percent)
1.00E-02	0	0
1.00E-03	0	0
1.00E-04	0	0
1.00E-05	22 (13)	0
1.00E-06	28 (17)	0
1.00E-07	47 (28)	97 (58)
1.00E-08	36 (22)	36 (22)
1.00E-09	20 (12)	20 (12)
1.00E-10	8 (5)	8 (5)
1.00E-11	3 (2)	3 (3)
1.00E-12	3 (2)	3 (3)
Total facilities burning metals [3]	167 (100)	167 (100)

[1] Results for three metals: arsenic, cadmium, and hexavalent chromium. Compliance with a 1.00E-06 risk standard (sensitivity analysis).
[2] Based on available information, EPA estimates that 167 or about 75 percent of the 227 facilities burn metal-burning wastes.
[3] Numbers may not sum to total becauseof rounding.

TABLE 15.—ESTIMATED EXCESS ANNUAL AND LIFETIME CANCER INCIDENCE FOR INCINERATORS BURNING METAL-BEARING WASTES: BEFORE AND AFTER COMPLIANCE [1]

Pollutant	Number of cases per year (percentage of total)		Cases per 70 years	
	Baseline (percent)	After compliance	Baseline	After Compliance
Arsenic	0.005 (13)	0.001	0.318	0.103
Cadmium	0.012 (35)	0.004	0.824	0.299
Chromium (VI)	0.018 (52)	0.005	1.248	0.368
Total [2]	0.034 (100)	0.011	2.39	0.771

[1] Compliance based on meeting a 1×10^{-6} MEI cancer risk level.
[2] Numbers may not sum because of rounding.

G. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires Federal regulatory agencies to evaluate the impacts of regulations on small entities. This section summarizes EPA's methodology for conducting a preliminary RFA analysis and the results of that analysis. Based on the results, EPA has determined that today's proposed rule will not have a significant impact on a substantial number of small entities. For the purpose of this analysis, EPA assumed that all facilities were single-established businesses/entities.

1. Methodology

The results of the economic impact analysis were used as the basis for the RFA analysis. Those facilities exceeding the 1 percent threshold for both financial ratios calculated (COP and CFO) were the primary focus of the RFA. The analysis was performed for the subset of 82 facilities selected from the Mail Survey; the results were extrapolated to the population of 227 entities operating hazardous waste incinerators.

EPA first identified which of the 82 hazardous waste incinerator facilities evaluated in the Mail Survey could be designated as small business entities. In particular, EPA used the sales data in Ward's Business Directory to determine which hazardous waste incinerators were owned by entities that could reasonably be classified as large. Ward's lists all companies with annual revenues greater than $10 million. EPA subjectively identified all entities listed by Ward's as "large." In addition, EPA determined whether an entity could reasonably be classified as "large" in the absence of financial data, e.g., a university. If an entity could not be classified as "large" on the basis of either Ward's or by inspection, EPA assumed it was a "small" entity.

EPA then identified whether the potentially affected "small" entities accounted for a significant percentage of all small entities owning hazardous waste incinerators, or a significant percentage of all small entities within a given SIC code (i.e., industry). The total number of entities identified as "small" for each SIC code was determined using the SBA small plant employee size cut-offs and information from the U.S. Census on the distribution of facilities by employee size within each SIC category. As a general criterion, the EPA considers a proposed rule to have a significant impact on a substantial number of small entities if 20 percent of small entities covered by the rule are significantly affected by today's proposed rule.

2. Results

The majority of entities owning hazardous waste incinerators (202 facilities, or 89 percent of all facilities) were designated as "large," as shown in Tables 16 and 17. The entities owning the remaining 25 facilities were identified as "small." The "large" entities were predicted to incur approximately 87 percent of the estimated annualized compliance costs (roughly $5.4 million) associated with the proposed standards, and approximately 90 percent of the estimated annualized costs (roughly $8.6 million) associated with the alternative standards evaluated in the sensitivity

analysis. It is important to note that the designation of a facility as a "small entity" was based on a preliminary review of readily available information. However, this outcome appears plausible from the standpoint that only larger industrial operations would find it economically feasible to construct and operate on-size hazardous waste incinerators.

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VI-11

Table ~~VI-6~~ /6

DISTRIBUTION OF COMPLIANCE COSTS BY FACILITY SIZE AND SIC

SIC Code	Large Entities		Small Entities	
	Number of Facilities	Compliance Costs	Number of Facilities	Compliance Costs
2231	3	$ 15,069		
2282			3	$ 15,685
2421	3	34,184		
2491	3	13,285		
2511	6	68,202		
2661	3	28,567		
2813	3	139,624		
2819	8	235,860		
2821	20	324,298	3	576,640
2822	3	27,930		
2824	3	30,992	3	15,069
2833	3	82,272		
2834	3	258,781		
2844	3	131,017		
2851	3	163,805		
2861	3	30,139		
2865	8	210,607	3	91,961
2869	20	223,480	3	12,893
2873	6	1,609,572		
2879	11	218,067		
2891	3	25,463		
2892	3	18,405		
2899	6	52,337		
2911	6	90,874		
3079			3	15,989
3229	3	127,033		
3339	3	137,803		
3412			3	13,525
3433	3	27,904		
3466	3	49,776	3	25,301
3483	3	97,646		
3531	3	82,562		
3672	3	170,465		
3721	3	17,006		
4953	18	196,612		
7391	14	134,785	3	38,434
8062	3	27,438		
8221	6	34,987		
9661	3	16,131		
9999	8	207,004		
Total[1]	202	$5,359,981	25	$805,498

[1]Sums may not total because of rounding.

VI-12

Table ~~VI-7~~ 7

DISTRIBUTION OF COMPLIANCE COSTS BY FACILITY SIZE AND SIC: SENSITIVITY ANALYSIS

SIC Code	Large Entities		Small Entities	
	Number of Facilities	Compliance Costs	Number of Facilities	Compliance Costs
2231	3	$ 15,069		
2282			3	$ 15,685
2421	3	34,184		
2491	3	13,285		
2511	6	76,766		
2661	3	31,115		
2813	3	224,901		
2819	8	390,758		
2821	20	538,639	3	576,640
2822	3	36,493		
2824	3	50,667	3	15,069
2833	3	82,272		
2834	3	322,577		
2844	3	197,452		
2851	3	282,212		
2861	3	30,139		
2865	8	219,170	3	267,244
2869	20	424,244	3	12,893
2873	6	2,884,366		
2879	11	395,898		
2891	3	25,463		
2892	3	18,405		
2899	6	76,968		
2911	6	257,594		
3079			3	15,989
3229	3	215,004		
3339	3	292,701		
3412			3	13,525
3433	3	27,904		
3466	3	49,776	3	48,234
3483	3	121,486		
3531	3	86,809		
3672	3	296,262		
3721	3	25,570		
4953	18	217,108		
7391	14	312,616	3	38,434
8062	3	27,438		
8221	6	52,113		
9661	3	16,131		
9999	8	274,389		
Total[1]	202	$8,643,945	25	$1,003,714

[1]Sums may not total becaue of rounding.

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The COP ratios did not exceed the 1 percent threshold for any of the entities identified as "small" considering either the proposed or alternative standards (see Table 18). The CFO ratio was in excess of 1 percent for only three "small" entities in SIC 2821 (with none exceeding 2 percent) for the proposed standards. These three entities represent approximately 12 percent of all "small" entities owning and operating hazardous waste incinerators and 1 percent of all designated small entities within the 2821 SIC Code.[111]

TABLE 18.—SMALL PLANT IMPACTS: FINANCIAL RATIO TESTS

Analytical scenario	Estimated nationwide small entities operating hazardous waste incinertors (1)	
	Cost of compliance/ COP>1%	Cost of compliance/ CFO>1%
A. Proposed Standards:		
SIC 2821	0	3 (1.6%)
Total	0	3
B. Sensitivity Analysis:		
SIC 2821	0	3 (1.6%)
SIC 2865	0	3 (1.0%)
Total	0	6

COP=Cost of Production.
CFO=Cash flow from operations.
(1) There is an estimated total of 25 small entities operating hazardous waste incinerators.

In the sensitivity analysis, an estimated six small entities were predicated to face incremental costs representing between 1 percent and 2 percent of net cash flow. These six small entities account for approximately 24 percent of all small entities operating hazardous waste incinerators. While this appears to represent a substantial number of small entities (i.e., greater than 20 percent), it is important to recall that the CFO ratios for these small entities never exceed 2 percent.

Based on these results, EPA concludes that the today's proposed rule will probably not pose a significant adverse economic impact on a substantial number of small entities.

H. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Reporting and recordkeeping burden on the public for this collection is estimated to average 628 hours per responser for reporting and 20 hours per response for recordkeeping.

If you wish to submit comments regarding any aspect of this collection of information, including suggestions for reducing the burden, or if you would like a copy of the information collection request (please reference ICR #1559), contact Rick Westlund, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 (202–382–2745); and Marcus Peacock, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

III. Pollution Prevention Impacts

These amendments would provide an incentive to reduce the generation of metal and chlorine-bearing hazardous waste at the source given that the proposed metals and HCl emissions controls would be implemented by additional requirements attendant to the disposal of those wastes, i.e., incinerator feed rate limits for individual metals and total chlorine. These requirements are, in essence, tied to the economics of disposing of given volumes of waste since feed rates depend, in part, on the volume of waste the incinerator operator needs to burn. Thus, the metals and HCl controls proposed in this rule do not simply require a percent reduction in emissions, irrespective of the volume and rate of incoming waste streams. Rather, the controls are health-based and, thus, provide limits on emissions rates of metals and HCl that would be implemented by feed rate limits.

Waste generators who send their waste to commercial incinerators would have the incentive to reduce the generation of metal and chlorine-bearing wastes because incineration fees are likely to increase for such waste given that the incinerator has a fixed metal and chlorine feed rate allotment (due to prescribed feed rates and incinerator operating conditions). Wastes with extremely high metals content may no longer be acceptable for incineration in many cases unless the waste generator reduces the metals content of the waste. Any alternative for the disposal of such wastes may be unavailable or the costs of such treatment may be high enough to create the incentive to reduce waste generation rates at the source. This is a typical scenario for pollution prevention measures to be undertaken by waste generators.

Similarly, generators who incinerate their wastes on site also have the incentive to reduce the generation of metal and chlorine-bearing wastes given that the proposed rule would provide a fixed feed rate allotment for their incinerator.

List of Subjects in 40 CFR Parts 260, 264, and 270

Hazardous material, Incorporation by reference, Packaging and containers, Reporting and record keeping requirements, Security measures, Surety bonds, Waste treatment and disposal, Administrative practice and procedure, Confidential business information, Harzardous materials transportation, Hazardous waste, Water pollution control, Water supply.

Dated: April 9, 1990.

William K. Reilly,

Administrator.

Appendix A—Measurement of Metals and Hydrogen Chloride

A–1: *Metals Measurement Methods*

General considerations of sampling wastes for metals, the digestion of the collected samples, and the analysis of the resulting solution are described in Chapter 3, Volume 1A of "Test Methods for Evaluating Solid Waste, Physical/ Chemical Methods," EPA Publication SW–846 (incorporated by reference in § 260.11). The current methods are summarized below in Tables A–1 and A–2.

TABLE A–1.—SAMPLE PREPARATION METHODS

Methods	Analysis procedure	Waste matrix
3010	ICP, FLAA	Aqueous only.
3020	GFAA	Aqueous only.
3050	FLAA, ICP or GFAA.	Sediment, sludge, soil, filter particulate material, and filter from stack sampling train.
[1] 3040	ICP or FLAA	Oils, greases or waxes.

[1] Method 3040 is only recommended for virgin oils or clean used oils. It is not recommended for oils that contain emulsions and particulates. Until EPA's microwave digestion technique is available, use the HNO_3/H_2O_2 combination and procedure from Method 3050 in a condenser rig similar to that used in the old Method 3030 for used or dirty oils. Methods 3010 and 3020 can be used for volatile solvents if the solvent is first carefully evaporated, the volume replaced with water, before completing the procedure.

ICP=Inducitively Coupled Plasma Emission Spectroscopy.
GFAA=Graphite Furnace Atomic Absorption.
FLAA=Flame Atomic Absorption.
Source: EPA 1986.

[111] It is important to note that the percentage of small entities in SIC 2821 and 2865 affected by today's proposed rule could be underestimated. Many of the entities in each SIC assumed to be small based on employee size may have large annual revenues or be owned by large holding companies. This determination could not be made using available data.

TABLE A–2.—ANALYSIS METHODS

Sample	Sampling procedure	Constituent	Analysis method
Flue Gas	EPA Method 5	Particulates	
	Multiple Metals Train	Total Metals	See Methods Listed Below.
		Antimony	7041
	EPA Method 108	Arsenic	7060,[b] 7061.[b]
		Barium	6010, 7080.
	EPA Method 104	Beryllium	6010, 7090, 7091.
		Cadmium	6010, 7130, 7131.
		Chromium(Total)	6010, 7190, 7191.
		Chromium(VI)	7195–7198.[a]
		Lead	6010, 7420, 7421.
	EPA Method 101A	Mercury	7470,[b] 7471.[c]
		Silver	6010, 7760.[c]
		Thalllium	6010, 7841.
Other Samples [d]	Composite	Antimony	7040.
		Arsenic	7060,[b] 7061.[b]
		Barium	6010, 7080.
		Beryllium	6010, 7090, 7091.
		Cadmium	6010, 7130, 7131.
		Chromium(Total)	6010, 7190, 7191.
		Chromium(VI)	7195–7198.[a]
		Lead	6010, 7420, 7421.
		Mercury	7470,[b] 7471.[c]
		Silver	6010, 7760.[c]
		Thallium	6010, 7841.

[a] These chromium (VI) methods are for aqueous matrices only. EPA has nearly completed validation of a stack sampling methodology for hexavalent chromium. See Knoll J.E., US EPA, and Carver, A.C., Entropy Environmentalists, Inc., "Sampling and Analytical Methodology for Measurement of Low Levels of Hexavalent Chromium from Stationary Sources", Paper presented at EPA/AWMA Symposium at Raleigh, N.C., May 1989, as revised by draft dated November 10, 1989, entitled "Method Cr^{+6}—Determination of Hexavalent Chromium Emissions from Stationary Sources".

[b] This method includes digestion for aqueous matrices (no digestion method from Table III–12 is necessary.

[c] This method include digestion for all matrices (no digestion method from Table III–12 is necessary).

[d] Includes waste feed, bottom ash and scrubber liquor.

The Multiple Metals Method identified in Table A–2 is a method EPA is proposing to determine emissions of the 10 metals that would be regulated by the proposed rule: antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium. The proposed method is described in U.S. EPA, "Proposed Methods for Stack Emissions Measurement of CO, O2, THC, HCl, and Metals at Hazardous Waste Incinerators, Vol. VI of the Hazardous Waste Incineration Guidance Series", November 1989. The method uses a Method 5 train (40 CFR Part 60, Appendix A) modified to include the following impingers:

(1) empty (used for condensate collection; may be omitted for a dry source);

(2) 5 percent HNO_3 and 10 percent H_2O_2;

(3) same as 2;

(4) 4 percent $KMnO_4$ and 10 percent H_2SO_4;

(5) same as 4; and

(6) silica gel (to protect pump and meter).

The document also provides alternate methods and conditions under which only a single metal analysis can be performed.

A–2: *Hydrogen Chloride Measurement Methods*

Methods of sampling and analysis of the waste feed for chloride and stack gas for HCl are described in detail in EPA Publication No. SW–846, with additional information provided in the OSW Methods Manual. The latter document discusses the acceptable methods of sampling and analysis of stack gases for hydrogen chloride. Briefly, the sampling may be performed using one of several trains. The EPA Method 5 train (40 CFR part 60, appendix A), or the semivolatile train based on Method 0010 of EPA Publication No. SW–846, may be used by incorporating a collection solution in the second and third impingers. The stack gas may also be sampled using a specific HCl train incorporating the same solution impingers.

Analysis of the gas sample may be performed using Method 9251 Colorimetric Automated Ferricyanide or 9252 Titimetric Mercuric Nitrate as described in Volume IC, Chapter 5 of EPA Publication No. SW–846, or the Ion Chromatography Method 300.0 as described in "Method for Chemical Analysis of Water and Waste," EPA Publication No. EPA600/4–79–020 (NTIS No. PB84–128677). Special considerations including interferences, cost, reliability, etc., that should be considered in selecting the method to be used are described in the Proposed Methods Manual.

For the reasons set forth in the preamble, it is proposed to amend title 40 of the Code of Federal Regulations as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

I. In part 260:

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921 Through 6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. In § 260.10, it is proposed to revise the definition of "incinerator" and the introductory text of "industrial furnace", and add in alphabetical order, definitions for "carbon regeneration unit," "infrared incinerator", and "plasma arc incinerator" to read as follows:

§ 260.10 Definitions.

* * * * *

Carbon regeneration unit means any enclosed thermal treatment device used to regenerate spent activated carbon.

Incinerator means any enclosed device that:

(1) Uses controlled flame combustion and neither meets the criteria for classification as a boiler or carbon

regeneration unit, nor is listed as an industrial furnace; or

(2) Meets the definition of infrared incinerator or plasma arc incinerator.

Industrial furnace means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy: * * *

Infrared incinerator means any enclosed device that uses electric powered resistance heaters as a source of radiant heat and which is not listed as an industrial furnace.

Plasma arc incinerator means any enclosed device using a high intensity electrical discharge or arc as a source of heat and which is not listed as an industrial furnace.

* * * * *

3. It is proposed to amend paragraph (a) of § 260.11 by adding the following reference in alphabetical order:

§ 260.11 References.

(a) * * *

"Risk Assessment Guideline for Permitting Hazardous Waste Thermal Treatment Devices (RAG)."

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

II. In part 261:

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6937.

2. It is proposed to amend § 261.2 by redesignating paragraph (d)(2) as (d)(3) and adding a new paragraph (d)(2).

§ 261.2 Definition of solid waste.

* * * * *

(d) * * *

(2) Secondary materials fed to a halogen acid furnace that are identified or exhibit a characteristic of a hazardous waste as defined in subparts C or D of this part.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

III. In part 264:

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. It is proposed to amend § 264.342 by revising paragraphs (a) and (b)(1) to read as follows:

§ 264.342 Principal organic hazardous constituents (POHCs).

(a) All organic hazardous constituents in the waste feed must be treated to the extent required by the performance standards of § 264.343(a).

(b) (1) Principal organic hazardous constituents (POHCs) are those compounds for which compliance with paragraph (a) of this section shall be demonstrated in a trial burn. One or more POHCs shall be designated by the Administrator for each waste feed in the trial burn. POHCs shall be designated based on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed considering the results of waste analyses submitted with part B of the permit application. POHCs are most likely to be selected from among those compounds listed in part 261, Appendix VIII of this chapter that are also present in the normal waste feed. However, if the applicant demonstrates to the Regional Administrator's satisfaction that a compound not listed in Appendix VIII or not present in the normal waste feed is a suitable indicator of compliance with paragraph (a) of this section, that compound may be designated as a POHC. Such POHCs need not be toxic or organic compounds.

* * * * *

3. It is proposed to amend § 264.343 by revising paragraph (c), redesignating paragraph (d) as (g) and revising the newly redesignated paragraph (g), and adding new paragraphs (d), (e), (f), and (h) to read as follows:

§ 264.343 Performance standards.

* * * * *

(c) An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic feet) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times \frac{14}{E - Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, E is the percentage of oxygen contained in the air used for combustion, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in part 60, appendix A (Method 3), of this Chapter. This correction factor is to be used by all hazardous waste incinerators. For incinerators using ambient air for combustion, the value of E will be 21, while for incinerators using oxygen enriched air for combustion, the value of E will be greater than 21.

(d) *Carbon monoxide* (1)(i) *Tier I:* Except as provided by paragraph (d)(1)(ii) of this section, an incinerator burning hazardous waste must be operated so that carbon monoxide (CO) levels (corrected to 7% oxygen, dry basis) in the stack gas do not exceed 100 ppmv on an hourly rolling average basis.

(ii) *Tier II:* A hazardous waste incinerator may be operated at CO levels higher than those provided by paragraph (d)(1)(i) of this section provided the owner or operator demonstrates that emissions of total hydrocarbons (THC) at that higher CO level do not pose an unacceptable health risk to the maximum exposed individual. For the purpose of this demonstration, THC must be monitored continuously during the trial burn in accordance with methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW–846 as incorporated by reference in § 260.11. For purposes of this subpart, THC will be considered to pose acceptable health risk when:

(A) The maximum hourly average THC emissions rate during the trial burn does not exceed the THC Screening Limits identified in the "Risk Assessment Guideline for Permitting Hazardous Waste Thermal Treatment Devices" (RAG) as incorporated by reference in § 260.11; or

(B) When the owner or operator demonstrates by site-specific dispersion modeling that THC emissions will not result in an increased lifetime cancer risk to the maximum exposed individual of more than 10^{-5} using procedures prescribed in the RAG (incorporated by reference in § 260.11).

(2) CO limits will be established in the permit using one of the following formats:

(i) Hourly rolling average format, where the permitted CO level is 100 ppmv for Tier I and the average of the CO levels occurring during the trial burn for Tier II; or

(ii) Cumulative hourly time above limit format, where two CO limits will be specified—one which cannot be exceeded at any time and the other which can be exceeded only for a

specified time in any clock hour. These CO limits, and time of exceedance in any hour, shall be established to ensure that the total permitted CO emissions do not exceed those that would be allowed under the hourly rolling average format in any hour of operation.

(3) *Correction factor for oxygen.* (i) When the oxygen content in the stack gas differs from 7 percent, measured CO levels must be corrected for the actual amount of oxygen in the stack gas according to the formula:

$$CO_c = CO_m \times \frac{14}{E-Y}$$

where CO_c is the corrected concentration of CO in the stack gas, CO_m is the measured CO concentration measured in accordance with "Test Methods For Evaluating Solid Waste Physical/Chemical Methods," EPA Publication SW–846 as incorporated by reference in § 260.11, E is the percentage of oxygen contained in the air used for combustion, and Y is the measured oxygen concentration in the stack gas using the Orsat method of oxygen analysis in part 60, Appendix A (Method 3) of this Chapter if oxygen is not monitored continuously, or using the method prescribed in "Test Methods for Evaluating Solid Waste Physical/Chemical Methods," EPA Publication SW–846 is incorporated by reference in § 260.11, when oxygen is monitored continuously. This correction procedure is to be used by all hazardous waste incinerators. For incinerators using ambient air for combustion, the value for E will be 21. For incinerators using oxygen-enriched air, the value for E will be greater than 21.

(ii) For purposes of compliance with the hourly rolling average format of paragraph (d)(2)(i) of this section, the stack gas oxygen level, correction factor, and the corrected CO value shall be determined continuously. For compliance with the cumulative time above limit format of paragraph (d)(2)(ii) of this section, the appropriate stack oxygen level and the CO correction factor shall initially be determined during the trial burn (or by data in lieu of a trial burn) and, at a minimum, annually thereafter. The Regional Administrator may specify in the permit more frequent determinations if necessary to ensure that the correction factor is accurate. That correction factor shall be applied continuously to provide corrected CO values continuously.

(4) The CO limits provided by this section are based on dry stack gas. When instruments that measure CO on a wet basis are used, a correction factor shall be used to convert the measured value to a dry basis. This correction factor shall initially be determined during the trial burn and annually thereafter unless otherwise specified in the permit.

(e) *Metals.* (1) The owner and operator must comply with the metals controls provided by paragraphs (e)(2), (e)(3), or (e)(4) of this section.

(2) *Feed Rate Screening Limits.* (i) For the carcinogenic metals arsenic, cadmium, chromium, and beryllium, the sum of the ratios of the actual feed rate in lbs/hr to the Feed Rate Screening Limit for all the metals shall not exceed 1.0, as determined by the following equation:

$$\sum_{i=1}^{n} \frac{\text{Actual Feed Rate}_i}{\text{Feed Rate Screening Limit}_i} < 1.0$$

where:

n = number of carcinogenic metals

Actual Feed Rate$_i$ = the actual feed rate for metal "i", in lb/hr.

Feed Rate Screening Limit$_i$ = the limit provided in the RAG for metal "i", in lb/hr.

The Screening Limits are specified in the RAG, incorporated by reference in § 260.11, for the applicable effective stack height, terrain type and urban or rural land use classification.

(ii) For each of the noncarcinogenic metals antimony, barium, lead, mercury, silver, and thallium, the actual feed rate in lb/hr shall not exceed the Feed Rate Screening Limits specified in the RAG (incorporated by reference in § 260.11) for the applicable effective stack height, terrain type, and urban or rural land use classification.

(3) *Emissions Screening Limits.* (i) For the carcinogenic metals arsenic, cadmium, chromium, and beryllium, the sum of the ratios of the actual emission rate to the Emissions Screening Limit for all the metals shall not exceed 1.0, as determined by the following equation:

where:

n = number of carcinogens

Predicted Ambient Concentration = the maximum off-site annual average ground level concentration for metal "i", in ug/m^3, at the 10^{-5} risk level.

Total chromium emission rates measured in accordance with "Test Methods for Evaluating Solid Waste; Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in § 260.11 are to be used for this determination, unless the applicant's sampling and analysis procedures are capable of reliably determining hexavalent chromium emission rates to the satisfaction of the Administrator.

(ii) For each of the noncarcinogenic metals, antimony, barium, lead, mercury, silver, and thallium, the predicted maximum annual average off-site ground level concentration shall not exceed the Reference Air Concentrations provided by the RAG.

(iii) Conformance with the requirements provided by this paragraph is demonstrated by stack emissions testing in accordance with the Multiple Metals Method in "Test Methods for Evaluating Solid Waste; Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in § 260.11 and 40 CFR 60 Reference Methods 1–5, and dispersion modeling in accordance with EPA's "Guideline on Air Quality Models (Revised)" (see § 270.6).

(5) For facilities with more than one stack handling emissions from the burning of hazardous waste in an incinerator, boiler, or industrial furnace, aggregate emissions from all such stacks will be considered in demonstrating compliance with paragraph (d) of this section according to procedures prescribed in the RAG.

(f) *Hydrogen chloride.* (1) The owner and operator must comply with the total chlorine or hydrogen chloride (HCl) controls provided by paragraphs (f)(2), (f)(3), or (f)(4) of this section.

(2) *Feed Rate Screening Limits.* The actual feed rate of total chlorine in lb/hr shall not exceed the Feed Rate Screening Limits provided in the RAG (see § 260.11) for the applicable effective stack height and terrain type, as defined in the RAG.

$$\sum_{i=1}^{n} \frac{\text{Actual Feed Rate}_i}{\text{Emissions Screening Limit}_i} < 1.0$$

where:

n = number of carcinogenic metals

Actual Emission Rate$_i$ = the emission rate measured during the trail burn or provided in lieu of the trail burn for metal "i", in g/s.

Emissions Screening Limit$_i$ = the limit provided in the RAG for metal "i", in g/s.

The Screening Limits are specified in the RAG (incorporated by reference in § 260.11) for the applicable effective stack height, terain type and urban or rural land use classification. Total chromium emission rates measured in accordance with "Test Methods for Evaluating Solid Waste; Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in

§ 260.11 are to be used for this determination unless the applicant's emissions sampling and analysis procedures are capable of reliably determining hexavalent chromium emissions rates to the satisfaction of the Administrator; and

(ii) For each of the carcinogenic metals antimony, barium, lead, mercury, silver, and thallium, the actual emission rate shall not exceed the Emissions Screening Limits provided in the RAG (incorporated by reference in § 260.11) for the applicable effective stack height, terrain type, and urban versus rural land use classification.

(iii) Metals emissions must be measured in accordance with the Multiple Metals Method in "Test Methods for Evaluating Solid Waste; Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in §260.11 and 40 CFR 60 Reference Methods 1–5.

(4) *Site-specific risk analysis.* (i) For the carcinogenic metals arsenic, cadmium, chromium and beryllium, the sum of the ratios of the predicted maximum off-site annual average ground level concentration to the Risk-Specific Dose for all carcinogenic metals shall not exceed 1.0, as determined by the following equation.

$$\sum_{i=1}^{n} \frac{\text{Predicted Ambient Concentration}_i}{\text{Risk Specific Dose}_i} < 1.0$$

(3) *Emissions Screening Limits.* The emission rate of HCl in g/s shall not exceed the Emissions Screening Limits provided in the RAG for the applicable effective stack height and terrain type.

(4) *Site specific risk analysis.* HCl emissions shall not result in an exceedance of the 3-minute exposure Reference Air Concentration (RAC) or the annual exposure RAC provided by the RAG. Conformance with this standard shall be demonstrated as provided by paragraphs (e)(4) (iii) and (iv) of this section.

(5) For facilities with more than one stack handling emissions from the burning of hazardous waste in an incinerator, boiler, or industrial furnace, aggregate emissions from all such stacks will be considered in demonstrating compliance with paragraph (e) of this section according to procedures prescribed in the RAG.

(g) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under § 264.345) will be regarded as compliance with this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of this section may be "information" justifying modification, revocation, or reissuance of a permit under § 270.41 of this chapter.

(h) The Feed Rate and Emission Screening Limits for metals and HCl provided by paragraphs (e) and (f) of this section, and the Emission Screening Limits for THC provided by paragraph (d) of this section may not be protective in the following situations:

(1) Facility is located in a narrow valley less than 1 km wide; or

(2) Facility has a stack taller than 20m and is located such that the terrain rises to the physical stack height within 1 km of the facility; or

(3) Facility has a stack taller than 20m and is located within 5 km of the shoreline of a large body of water (such as an ocean or large lake); or

(4) The facility property line is within 200m of the stack and the physical stack height is less than 10m; or

(5) On-site receptors are of concern, and the physical stack height is less than 10m.

For these cases, and for any other reasons deemed appropriate, the Regional Administrator may, at his discretion, require the owner/operator to submit a site-specific air quality dispersion analysis consistent with "Guideline on Air Quality Models (Revised)," EPA Publication 450/2–78–027R as incorporated by reference in § 270.6 of this chapter. Where such an analysis is required, the determination of source limits shall be in accordance with the procedures employed for establishing the limits specified by this section.

4. It is proposed to amend § 264.345 by revising paragraph (a) and adding text to the end of paragraph (e) to read as follows:

§ 264.345 Operating requirements.

* * * * *

(a) An incinerator must be operated in accordance with operating requirements specified in the permit whenever there is hazardous waste in the incinerator. These will be specified on a case-by-case basis as those demonstrated (in a trial burn or in alternative data as specified in § 264.344(b) and included with part B of the facility's permit application) to be sufficient to comply with the performance standards of § 264.343.

* * * * *

(e) * * * When the hazardous waste feed is cut off, the temperature in the (secondary) combustion chamber must be maintained and emission control equipment must continue to function as specified in the permit until all residual solids exit the combustion chamber. For cases when waste feed cutoff occurred because of exceeding the CO limits, the waste feed may be resumed only after the CO levels are brought down to permitted levels.

* * * * *

5. It is proposed to revise the heading of § 264.347 and amend it by revising paragraphs (a) and (c); revising and redesignating paragraph (d) as (e); and adding new paragraph (d) to read as follows:

§ 264.347 Monitoring, inspections, and reporting requirements.

(a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating hazardous waste:

(1) Combustion temperature and the indicators of combustion gas velocity, air pollution control device parameters, and other parameters as specified in the facility permit as necessary to ensure the performance standards of § 264.343 are met, must be continuously monitored by equipment that records the parameters at least every 30 seconds.

(2) CO must be monitored and recorded on a continuous basis in accordance with SW–846 (as incorporated in § 260.11) at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere.

(3) As a part of the permit renewal process or upon request by the Regional Administrator, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of § 264.343.

* * * * *

(c) The automatic waste cutoff system and associated alarms must be tested at least weekly to verify operability, unless the applicant demonstrates to the Regional Administrator that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, operational testing must be conducted monthly.

(d) The continuous monitors required under § 264.347(a) must be calibrated at least weekly, unless the applicant demonstrates to the Regional Administrator that weekly calibrations will unduly restrict or upset operations and that less frequent calibration will be adequate. At a minimum, they must be calibrated monthly.

(e) The monitoring and inspection data must be recorded and the records must be placed in the operating log required by § 264.73. The operator must record in the operating log whenever the hazardous waste feed is cut off in accordance with § 264.345(e). The record must include date, time and circumstances of each cut off and the action the operator took to address the problem. Quarterly reports of automatic waste feed cutoffs, the circumstances of the cutoffs, and any noncompliance incidents must be submitted to the Administrator within 30 days of the end of the applicable reporting quarter.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

IV. In part 270:

1. The authority for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939 and 6974.

2. It is proposed to amend § 270.6 (a) by adding a new reference in alphabetical order to read as follows:

§ 270.6 References.

(a) * * *

"Guideline on Air Quality Models (Revised)," EPA Publication Number 450/2–78–027R (OAQPS Guideline No. 1.2–080), available from National Technical Information Service, Springfield, Virginia, Order No. PB 86–245286.

* * * * *

3. It is proposed to amend § 270.19 by revising paragraph (a) introductory test, and paragraphs (c)(1)(iii), (c)(3), (c)(6)(ii), and (c)(7), by removing paragraph (c)(6)(vii) and redesignating paragraphs (c)(6) (viii) and (ix) as (c)(6) (vii) and (viii), respectively, and by adding paragraphs (c)(9), (e) and (f) to read as follows:

§ 270.19 Specific Part B information requirements for incinerators.

* * * * *

(a) When seeking an exemption under § 264.340 (b) or (c) of this chapter (ignitable, corrosive, or reactive wastes only), the applicant must perform and submit an analysis of representative samples of all waste streams for which the applicant is seeking an exemption, for all the part 261, appendix VIII constituents which would reasonably be expected to be in the waste. The constituents excluded from analysis must be identified, and documentation provided to support that they would not reasonably be expected to be in the waste. The applicant must also submit, as appropriate:

* * * * *

(c) * * *

(1) * * *

(iii) An identification of any hazardous metals and hazardous organic constituents, listed in part 261, appendix VIII, of this chapter, and total chlorine which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in part 261, appendix VIII, of this chapter which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytic techniques specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (EPA Publication SW–846 as incorporated by reference in § 260.11 and referenced in 40 CFR part 261, appendix III), or their equivalent.

* * * * *

(3) A description and analysis of the waste to be burned shall be compared with the waste for which data from operations or trial burns are provided to support the contention that a trial burn is not needed. The data should include the items listed in paragraph (c)(1) of this section. This analysis should specify the POHCs, metals, and total chlorine which the applicant has identified in the waste for which a permit is sought, and any differences therefrom for the waste for which the trial burn data are provided.

* * * * *

(6) * * *

(ii) Total waste feed rate, individual metal feed rates (specified separately for liquid (pumpable) wastes, solid wastes, and organometals), and total chlorine feed rate.

* * * * *

(7) Such supplemental information as the Director finds necessary to achieve the purposes of this paragraph. This information includes, but is not necessarily limited to:

(i) Physical stack height.

(ii) Stack flue gas temperature.

(iii) Topographical data up to a distance of 5 km around the stack, and land use data within a 3 km radius of the stack, including maps and aerial photographs.

(iv) Stack gas flow rate.

* * * * *

(9) Information that the Director finds necessary to demonstrate compliance with the Feed Rate Screening Limits, Emissions Screening Limits, or Site-Specific Risk Analysis standards for metals and HCl at levels which do not pose an unacceptable risk to human health and the environment and which may include the following data:

(i) For Emissions Screening Limits and Site-Specific Risk Analysis, metals and HCl emission rates from the stack for the facility whose data is proposed to be used in lieu of the trial burn.

(ii) For Site-Specific Risk Analysis, predictions of maximum annual average off-site ground level concentrations (on-site concentrations must be considered if individuals reside on site) for metals and HCl for the facility seeking the permit, as well as:

(A) Meteorological data;

(B) Rationale for air dispersion model selection;

(C) Topographic considerations.

(iii) A comparison of the actual emission rates from the facility whose data is being proposed to the expected emission rates of the facility seeking the permit.

* * * * *

(e) Applicants seeking to be permitted for burning of wastes containing metals or chlorine must submit information or documentation needed for the Director to determine whether the incinerator is situated in complex or noncomplex terrain, whether the incinerator is located in an urban or rural land use area as defined in the RAG, and any other information necessary to set the appropriate metals at HCl permit conditions. The applicant must set forth the methodology and all information used for the determination.

(f) Applicants seeking to be permitted under the Site-Specific Risk Analysis provisions of § 264.343 for THC, metals and total chlorine must submit a dispersion modeling plan with part B of the permit application. The Director will review the plan for conformance with the "Guideline on Air Quality Models (Revised)" (incorporated by reference, see § 270.6). The Director will either approve the modeling plan or determine that an alternate or supplementary plan is appropriate. After completion of the trial burn to measure metals, THC and HCl emission rates, the owner or operator must conduct dispersion modeling according to the approved plan and submit the results to the Director in the trial burn report. The Director will determine whether the results are in conformance with the requirements of § 264.343 (d), (e), and (f) of this chapter and will establish appropriate operating requirements as required by § 264.345 of this chapter.

* * * * *

5. It is proposed to amend § 270.62 by revising paragraphs (b)(2)(i)(C),

(b)(2)(i)(D), (b)(2)(ii)(F), (b)(2)(ii)(G), (b)(2)(vii), (b)(4), (b)(6)(i), (b)(6)(ii), (b)(6)(iii), (b)(6)(v), (b)(6)(viii), (b)(6)(ix), (b)(8), (c) introductory text, and (c)(1); by adding new paragraphs (b)(2)(i)(E), and (b)(2)(ii)(K), and redesignating paragraph (b)(10) as (b)(11) and revising it and adding a new paragraph (b)(10) to read as follows:

§ 270.62 Hazardous waste incinerator permits.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(C) An identification of any hazardous metals, hazardous organic constituents listed in part 261, appendix VIII of this chapter, and total chlorine, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in part 261, appendix VIII, of this chapter which would not reasonably be expected to be found in the waste or are easier to destroy than the most difficult POHC to be tested in the trial burn. The constituents excluded from analysis must be identified, and the basis for the exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for Evaluating of Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 as incorporated by reference, in § 260.11 or their equivalent.

(D) An approximate quantification of the hazardous constituents including metals and total chlorine identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 as incorporated by reference, in § 260.11, or their equivalent.

(E) Total chlorine concentration of the waste in the form and composition in which it will be burned.

(ii) * * *

(F) Description of automatic waste feed cut-off system(s), and how they are connected to any thermal relief valve or bypass system.

(G) Stack gas monitoring, pollution control equipment, and heights of all stacks or combustion gas discharge vents, measured from ground level.

* * * * *

(K) Location and description of any bypass systems, and any backup or redundant equipment to limit the number of bypass events.

* * * * *

(vii) Procedures for rapidly stopping waste feed, shutting down the incinerator, maintaining temperature in the combustion chamber until all waste exit the incinerator, and controlling emissions in the event of an equipment malfunction or activation of any thermal relief valve or other bypass system including calculations demonstrating that emissions will be controlled during such an event (sufficient oxygen for combustion and maintaining negative pressure), and the procedures for executing the "contingency plan" whenever a relief valve is used, thus causing an emergency release of emissions.

* * * * *

(4) Based on the waste analysis data in the trial burn plan, the Director will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn.

(i) These trial POHCs will be specified by the Director based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in part 261, subpart D, of this chapter, the hazardous waste organic constituent or constituents identified in appendix VII of that part as the basis for listing.

(ii) The use of a POHC surrogate as proved by § 264.342(b)(1) of this chapter may be appropriate in certain circumstances based on the Director's estimate of the difficulty of chemical analysis of the waste, the low concentrations of POHCs in the waste, the low stability of waste POHCs in the waste, or other appropriate factors. Such surrogates need not be organic, toxic or present in the waste. The Director may approve the use of a POHC surrogate provided it is suitable based on the performance standard of § 264.343(a), the composition of the wastes to be incinerated, and the sampling and analysis requirements.

* * * * *

(6) * * *

(i) A quantitative analysis of the trial POHCs, total chlorine, and metals in the waste feed to the incinerator.

(ii) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs (POHC surrogates), oxygen (O_2), and, as appropriate, metals and hydrogen chloride.

(iii) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs, HCl, and metals, as appropriate.

* * * * *

(v) A computation of the total chlorine feed rate and, if applicable, the HCl emission rate, in accordance with § 264.343(f) of this chapter.

* * * * *

(viii) A continous measurement of temperature, combustion gas velocity, and all waste feed rates.

(ix) A continuous measurement in the exhaust gas of carbon monoxide (CO) and oxygen (O_2) (as required), and THC emissions if complying with 40 CFR 264.343(d)(1)(ii) in lieu of 40 CFR 264.343(d)(1)(i).

* * * * *

(8) All data collected during any trial burn, and subsequent analyses of all trial burn samples including assurance and control (QA/QC) data must be submitted to the Director within 90 days of completion of the trial burn.

* * * * *

(10) All trial burn runs for which permit conditions will be established must be passed (i.e., conformance must be demonstrated for all performance standards provided by § 246.343 of this chapter for all runs). A minimum of three runs must be passed for each set of permit conditions. One of the three runs may be disregarded if the Director believes there is sufficient reason.

(11) Based on the results of the trial burns, the Director shall set the operating requirements in the final permit according to § 264.345 of this chapter. The permit modification shall proceed as a minor modification according to § 270.42.

(c) For the purposes of allowing operation of a new hazadous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Director may establish permit conditions, including but not limited to allowable waste feeds, emission rates, and operating conditions sufficient to meet the requirements of § 264.345 of this chapter, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation, and submission of the trial burn results by the applicant, and modification of the facility permit by the Director.

(1) Applicants must submit a statement with the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of § 264.343 of this chapter, during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, emission rates, and operating parameters in § 264.345 of this chapter.

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Part III

Environmental Protection Agency

Financial Assistance for State Planning and Community Right-to-Know Programs; Notice of Grant Availability and Review

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3759-1]

Financial Assistance for State Emergency Planning and Community Right-to-Know Programs.

AGENCY: Environmental Protection Agency.

ACTION: Notice of grant availability and review.

SUMMARY: The Environmental Protection Agency's (EPA) Office of Solid Waste and Emergency Response, Chemical Emergency Preparedness and Prevention (CEPP) Office is announcing the availability of $1.2 million in grant and cooperative agreement funds for State programs established under the Emergency Planning and Community Right-to-Know Act of 1986, also known as title III of the Superfund Amendments and Reauthorization Act (SARA). The purpose of these grants is to help the States enhance their title III programs, especially their efforts to provide support to the local emergency planning committees. Eligible recipients are the 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and federally recognized Indian tribes. ("States" is used in this announcement to refer to all eligible applicants.)

DATES: Applicant should send a letter of intent to participate to EPA no later than May 29, 1990. Completed applications must be received at EPA no later than July 16, 1990.

ADDRESSES: Letters of intent to participate in this program should be submitted to: Lea Anne Gleason, Chemical Emergency Preparedness and Prevention Office (OS-120), Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-7387.

Duplicate completed application packages should be submitted simultaneously to EPA's Grants Operations Branch and the appropriate Regional Office. Packages submitted to the Grants Operations Branch should be addressed as follows:

Grants Operations Branch, Grants Administration Division (PM-216F), Attn. State Title III Grants, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Regional copies of application packages should be addressed to the appropriate EPA Regional Preparedness and Prevention Coordinator:

Region I (CT, MA, ME, NH, RI, VT) Ray DiNardo (617) 860-4385, U.S. Environmental Protection Agency, New England Regional Lab, 60 Westview Street, Lexington, MA 02173.

Region II (NY, NJ, PR, VI) John Ulshofer (201) 321-6620, U.S. Environmental Protection Agency, Woodbridge Avenue, Edison, NJ 08837.

Region III (DE, MD, PA, VA, WV, DC) Karen Brown (215) 597-3184, U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107.

Region IV (AL, FL, GA, KY, MS, NC, SC, TN) Henry Hudson (404) 347-3931, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

Region V (IL, IN, MI, MN, OH, WI) Mark Horwitz (312) 353-9045, U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, IL 60604.

Region VI (AR, LA, NM, OK, TX) Jim Staves (214) 655-2270, U.S. Environmental Protection Agency, Allied Bank Tower, 1445 Ross Avenue, Dallas, TX 75202.

Region VII (IA, KS, MO, NE) Ron Ritter (913) 551-7005, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, KS 66101.

Region VIII (CO, MT, ND, SD, UT, WY) Cheryl Crisler (303) 293-1723, U.S. Environmental Protection Agency, One Denver Place, 999 18th St., suite 1300, Denver, CO 80202.

Region IX (AZ, CA, HI, NV, AS, GU, MP) Jeff Inglis (CA), Lauren Volpini (AZ, HI, NV), Kathleen Shimmin (AS, GU, MP) (415) 744-1450, U.S. Environmental Protection Agency, 1235 Mission Street (H-1-2), San Francisco, CA 94102.

Region X (AK, ID, OR, WA) Walt Jasper (206) 442-1263, U.S. Environmental Protection Agency, 1200 6th Avenue, Seattle, WA 98101.

States are encouarged to work closely with their EPA Regional Preparedness and Prevention Coordinators in the development of their applications.

FOR FURTHER INFORMATION CONTACT: Lea Anne Gleason, Chemical Emergency Preparedness and Prevention Office (OS-120), Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; (202) 475-7387.

SUPPLEMENTARY INFORMATION:

I. Background

In 1986, Congress enacted the Emergency Planning and Community Right-to-Know Act, also known as title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). The purpose of the Act is to improve the ability of States and local communities to protect public health and safety and the environment from chemical hazards.

Under SARA title III, governors are required to appoint State emergency response commissions (SERCs), which, in turn, must designate local emergency planning committees (LEPCs). The LECPs are required to develop emergency response plans for their communities to identify potential sources of chemical accidents and to prepare for responding to such accidents should they occur. Facilities that handle any of the 360 designated extremely hazardous substances (EHSs) in quantities that exceed threshold planning quantities are required to notify the SERC and LEPC and to participate in the local planning process. Plans should be comprehensive, addressing all hazardous materials risks to the community from both fixed facilities and transportation. The LEPC emergency plans were required to be submitted by October 1988. LEPCs are now working to test and revise these plans.

SARA section 304 requires facilities that release certain quantities of EHSs or hazardous substances covered by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 to report the releases to the affected SERC(s) and LEPC(s). In addition, SARA sections 311 and 312 require any facility that handles more than specified quantities of chemicals considered hazardous by the Occupational Safety and Health Administration to provide information on the presence and quantities of the chemicals to the SERC, LEPC, and local fire departments. The first data were submitted under sections 311 and 312 in 1987. The SERCs and LEPCs are required to make these data available to the public. SARA section 313 requires certain manufacturers of more than 300 toxic chemicals to report annually to EPA and the State on their emissions of those chemicals to environmental media. The first reports under section 313 were submitted by July 1988. EPA has created a database, the Toxic Release Inventory (TRI), containing all the section 313 data submitted and has made the database available to the public.

Because responders in local communities handle most chemical accidents, the strength of the title III planning and preparedness program depends on the effectiveness of the local planning process. Consistent with the legislative history of the Fiscal Year 1990 VA, HUD and Independent Agencies Appropriations Act (Pub.L.101-144). EPA is making available a total of $1.2 million in FY 90 for grants to States to enhance their title III capabilities. EPA anticipates making multiple (10 to 20) grants or cooperative agreements of up to $150,000 each. Smaller proposals (less that $50,000) are

encouraged. Proposals in excess of $150,000 will be considered if the project's scope or work warrants the higher funding and if the project's benefits appear to outweigh the reduced potential to fund other projects. EPA intends to fund at least one project in each Region.

Awards to all applicants except federally recognized Indian tribes will be made under the authority of section 28 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*). Awards to federally recognized Indian tribes for demonstration projects will be made under the authority of TSCA section 10. Recipients must contribute a match of 25 percent of the establishment and operations costs of the project. States should also be aware that Congress appropriated $3.84 million in SARA section 305(a) training grant funds, which were awarded through the Federal Emergency Management Agency (FEMA). In addition, EPA's Office of Pesticides and Toxic Substances (OPTS) will award $1 million in grants and cooperative agreements in 1990 for quality assurance projects related to title III section 313 data (55 FR pg 12551, April 4, 1990). Accordingly, this grant program will not be available for such training or section 313 quality assurance purposes. However, proposals that complement related initiatives eligible for funding by FEMA or OPTS are encouraged.

II. Projects

General Purpose of the Grants. The purpose of this program is to help States enhance the effectiveness of their LEPCs in meeting their title III mandate. It is EPA's intent that grants enable States to make significant strides toward strengthening the capabilities and operation of their LEPCs. EPA recognizes that States and LEPCs are at different stages in the title III implementation process. Therefore, EPA will consider grants for start-up projects, as well as program advancement.

The following are areas in which States may want to develop proposals:

- Organizing or enhancing State technical assistance programs for LEPCs;
- Enhancing the ability of LEPCs to conduct hazards analyses;
- Enhancing State assistance to LEPCs for emergency planning exercises;
- Developing programs to address or help LEPCs address chemical accident prevention issues;
- Developing innovative uses for title III data;
- Enhancing the information management capability of the SERC and LEPCs;
- Developing or enhancing State and LEPC enforcement/compliance programs; and
- Enhancing LEPC public outreach programs.

This list is not all-inclusive; EPA welcomes proposals for projects in other areas that address title III issues.

Although EPA will consider all proposals submitted, the Agency is especially interested in projects that result in a "product" that can be used by other states and LEPCs. The product may be a final project report that serves as a model for other States and LEPCs. For example, if the project involves the development of a technical assistance program, the final report would explain the program objectives, how the program was organized, problems encountered and overcome, etc; other States could then use the report as the basis for designing similar programs. A project could also involve the development of a guidance document (e.g., guidance on how to use the different data submitted under all title III reporting requirements to reduce community chemical risks), a public outreach document, or similar materials that could be used directly or adapted by other States.

Limitations. EPA emphasizes that these grants are seed grants. The grant funds are for a single year as currently authorized by Congress; States should not expect further federal funding beyond the grant budget period. Consequently, grant requests should not include the hiring of new personnel unless the State is ready to continue the position(s) with its own funds at the end of the grant budget period. The grant money also may not supplant State funds already being spent. EPA will not award grants for proposals that purchase equipment for either the State or LEPCs (except for small items essential for the purposes of the grant). The grant will be awarded to the SERC or, if required by State procedure, a State agency representing the SERC, with a co-signature by the SERC chair. Because these awards are being made under TSCA authorities, all grant proposals must be related to activities involving chemicals subject to regulation under TSCA.

III. Criteria

In evaluating State applications for grants under this program, EPA will consider the following factors:

- *Potential Benefit.* EPA will evaluate the proposed activities for potential benefit to the State and the LEPCs. Projects should build State and local capabilities. The State must also demonstrate that the LEPCs need the intended project.
- *Technical Soundness.* EPA will evaluate the proposals for technical soundness, appropriateness for addressing the identified problems, and feasibility of implementation.
- *Likelihood of Continuation.* If the proposed activities (e.g., technical assistance programs) are intended to be of continuing value to the State and LEPCs, the proposal should indicate how the programs will be carried out after the end of the grant period. For projects that are designed to create a product such as a guidance manual, the proposal should indicate how the State and LEPCs will continue to use the document.
- *Appropriateness for this Program.* Grants for quality assurance of the section 313 data or for training will not be considered because separate grant programs are available for these and other related title III activities as specified in this notice.
- *Priority Need.* State applicants must demonstrate a priority need for assistance as set forth in TSCA section 28. Determination of this priority need will consider, to the extent feasible: The extent to which chemical substances are handled and disposed within the State; the extent of exposure in the State of humans and the environment to chemical substances and mixtures; and the seriousness of the health effects within the State which are associated with chemical substances and mixtures. EPA will consider factors such as the types of chemicals and volumes of chemicals handled in a State and the number of chemical accidents.
- *Transferability.* EPA will review applications to ensure that funded projects yield final products which will make it possible for other States to adapt the project's "lessons learned" or other insights in their own efforts to increase LEPC capabilities.

The application should address each of the criteria listed above. In addition to meeting the above selection criteria, the application must demonstrate that the necessary State or tribal authority exists to achieve the intended results.

IV. Grant Application Review Process

An application package will be sent to each State and eligible Indian Tribe submitting a letter of intent to participate. The package will contain an EPA application form, instructions, and additional guidance for completing the application.

To apply for funds, States and Indian Tribes must:

1. Submit a letter of intent to participate to Lea Anne Gleason at EPA (see "**ADDRESSES**") by May 29, 1990, and

2. Submit a complete application package to the Grants Operations Branch and the appropriate Regional Preparedness and Prevention Coordinator (see "**ADDRESSES**"). Applications received after July 16, 1990 will not be considered for the award.

Grant applications will undergo a two-step review process. Initially, Regional Office staff will evaluate each application and forward them to the CEPP Office with comments and a recommendation. Based in part on this preliminary Regional screening process, the final funding decision will be made by a review panel including both CEPP Office and Regional Office staff representatives. The review process will concentrate on choosing the best project concepts. Once a grant is awarded, EPA will monitor the work in progress and provide project guidance and oversight to the States.

Because this is a one time only program, it will not be entered in the Catalog of Federal Domestic Assistance. The program is eligible for intergovernmental review under Executive Order 12372 and is subject to the review requirements of section 204 of the Demonstration Cities and Metropolitan Development Act. States' Single Point of Contract (SPOC) must notify the following office in writing within 30 days of this publication whether their States' office E.O. 12372 process will review applications under this program: Grants Policies and Procedures Branch, Grants Administration Division, Mail Code PM–216F, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Applicants must contact their State's SPOC for intergovernmental review as early as possible to determine if the program is subject to the State's office E.O. 12372 process and what material must be submitted to the SPOC for review. In addition, applications for projects within a metropolitan area must be sent to the areawide/regional/local planning agency designated to perform metropolitan or regional planning for the area for their review. SPOCs and other reviewers should send their comments concerning applications to the Grants Operation Branch (see "**ADDRESSES**") no later then 60 days after receipt of the application or other material for review.

V. Grant Administration

Once awarded, grants will be administered and monitored by the Regional Offices.

Dated: April 19, 1990.

Mary A. Gade,

Acting Assistant Administrator.

[FR Doc. 90–9724 Filed 4–26–90; 8:45 am]

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S.J. Res. 242 / Pub. L. 101-276

Designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week". (Apr. 25, 1990; 104 Stat. 142; 1 page) Price: $1.00