

# 12 Federal Register

Tuesday  
March 20, 1984

444.011  
G.S.A.

## Selected Subjects

### Air Pollution Control

Environmental Protection Agency

### Animal Diseases

Animal and Plant Health Inspection Service

### Drugs

Drug Enforcement Administration

### Endangered and Threatened Species

Fish and Wildlife Service

### Exports

International Trade Administration

### Flammable Materials

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### Marketing Agreements

Agricultural Marketing Service

### Military Personnel

Defense Department

### Natural Gas

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### Postal Service

Postal Service

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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### Radio Broadcasting

Federal Communications Commission

### Surface Mining

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### Tobacco

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### Trade Practices

Federal Trade Commission

### Waste Treatment and Disposal

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Federal Register

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 907

[Navel Orange Reg. 598; Navel Orange Reg. 597, Amdt. 1; Navel Orange Reg. 596, Amdt. 2]

#### Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** Regulation 598 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 23-29, 1984. Regulation 597, Amendment 1, increases the quantity of such oranges that may be shipped during the period March 16-22, 1984, and Regulation 596, Amendment 2, increases the quantity of such oranges that may be shipped during the period March 9-15, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

**DATES:** Regulation 598 becomes effective March 23, 1984, and the amendments are effective for the periods March 16-22, 1984, and March 9-15, 1984.

**FOR FURTHER INFORMATION CONTACT:** William J. Doyle, 202-447-5975.

**SUPPLEMENTARY INFORMATION:** Findings. This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983-84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on March 13, 1984 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary 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 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

#### PART 907—[AMENDED]

1. Section 907.898 is added as follows:

#### § 907.898 Navel Oranges Regulation 598.

The quantities of navel oranges grown in California and Arizona which may be handled during the period March 23, 1984, through March 29, 1984, are established as follows:

- (a) District 1: 1,900,000 cartons;
- (b) District 2: Unlimited cartons;
- (c) District 3: Unlimited cartons;
- (d) District 4: Unlimited cartons.

2. Section 907.897 Navel Orange Regulation 597 paragraphs (a) through (d) are hereby revised to read:

#### § 907.897 Navel Orange Regulation 597.

- (a) District 1: 1,900,000 cartons;
- (b) District 2: Unlimited cartons;
- (c) District 3: Unlimited cartons;
- (d) District 4: Unlimited cartons.

3. Section 907.896 Navel Orange Regulation 596 (49 FR 8234) paragraphs (a) through (d) are hereby revised to read:

#### § 907.896 Navel Orange Regulation 596.

- (a) District 1: 2,000,000 cartons;
- (b) District 2: Unlimited cartons;
- (c) District 3: Unlimited cartons;
- (d) District 4: Unlimited cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 14, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-7396 Filed 3-19-84; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Part 385

[Docket No. 40222-15]

#### Foreign Policy Controls on Exports to Iran (Anti-Terrorism) and Libya (Petrochemical Processing Complex at Ras Lanuf)

**AGENCY:** Office of Export Administration, International Trade Administration, Commerce.

**ACTION:** Interim rule.

**SUMMARY:** The Secretary of State has determined, pursuant to Section 6(i) of the Export Administration Act of 1979, that Iran is a country that has repeatedly provided support for acts of international terrorism (49 FR 2836,



January 23, 1984). Consistent with that determination, this rule imposes on exports to Iran the same restrictions applicable to other countries that have repeatedly provided support for acts of international terrorism.

This rule also amends the licensing policy for exports to Libya. Under the new policy, applications for goods or technical data destined for the petrochemical processing complex at Ras Lanuf, where such items would directly contribute to the development or construction of that complex, generally will be denied.

It has been determined that this rule is necessary to further significantly the foreign policy of the United States.

**DATES:** Effective date: March 20, 1984. Comments must be received by the Department May 21, 1984.

**ADDRESS:** Written comments (six copies) should be sent to: Betty Ferrell, Exporter Services Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** Vincent Greenwald, Exporter Services Division, (Telephone: (202) 377-3856).

#### SUPPLEMENTARY INFORMATION:

#### Saving Clause

Shipment of commodities or technical data removed from general license as a result of these changes that were on dock for lading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before (one week after date of publication) may be exported under the previous general license provisions up to and including (two weeks after date of publication). Any such commodity or technical data not actually exported before midnight (two weeks after date of publication) require a validated export license.

Rulemaking Requirements and Invitation to Comment. In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly,

interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation," because it relates to a foreign affairs function of the United States.

The period for submission of comments will close May 21, 1984. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public records concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

#### List of Subjects in 15 CFR Part 385

Communist countries, Exports.

#### PART 385—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 385-399) are amended as follows:

#### § 385.4 [Amended]

1. Section 383.4, paragraph (d) is amended as follows:

a. By revising the title to read "People's Democratic Republic of Yemen, Syria, and Iran".

b. By revising in the first sentence the phrase "People's Democratic Republic of Yemen, and Syria" to read "People's Democratic Republic of Yemen, Syria, and Iran".

c. By revising in the first sentence the phrase "in Syria or the People's Democratic Republic of Yemen" to read "in the People's Democratic Republic of Yemen, Syria, or Iran".

d. By removing the last sentence and inserting the following in its place:

(d) \* \* \* When the request for authorization involves use of U.S.-origin parts, components, or materials in foreign-origin products destined for the People's Democratic Republic of Yemen, Syria, or Iran, licensing decisions will take into account whether the U.S. content is 20% or less by value. In the case of Iran, licensing decisions also will take into account the following factors, subject to other applicable export controls:

(1) Whether the transaction involves a contract in effect before January 23, 1984 that requires export or reexport of the goods or technical data in question; and

(2) Whether the goods or technical data had been exported from the U.S. before that date.

Applicants who wish such factors to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the existence of the pre-existing contract, or the date of export from the U.S. Pursuant to the requirements of subsection 6(i) of the Act, the appropriate Congressional Committee will be notified 30 days before any application falling under this subsection valued at \$7 million or more is approved.

2. Section 385.7 is amended by revising the period at the end of (a)(1)(ii) to a semicolon, and adding the word "and"; by adding a paragraph (a)(1)(iii); by redesignating paragraph (a)(2)(ii)(B) as (C), and inserting a new Paragraph (a)(2)(ii) (B), reading as follows:

#### § 385.7 Country Group S: Libya.

(a) \* \* \*

(1) \* \* \*

(iii) Goods and technical data destined for the petrochemical processing complex at Ras Lanuf, where such items would contribute directly to the development or construction of that complex. Items destined for the township at Ras Lanuf, or for the public utilities or harbor facilities associated



with that township, generally will not be regarded as making such a contribution where their functions will be primarily related to the township, utilities or harbor."

(2) \* \* \*

(ii) \* \* \*

(B) Items destined for use in the development or construction of the petrochemical processing complex at Ras Lanuf, where the transaction could be approved but for the general policy of denial set out in paragraph (a)(1)(iii) of this section, and where either—

(1) The transaction involves a contract in effect before December 20, 1983 that requires export or reexport of the goods or technical data in question; or

(2) The goods or technical data had been exported from the U.S. before that date.

\* \* \*

Authority: Secs. 6, 13 and 15, Pub. L. 96-72, 93 Stat 503 as amended, 50 U.S.C. app. 2401 *et seq.*, Executive Order No. 12214 (45 FR 29783, May 6, 1980); Executive Order No. 12451 of December 20, 1983 (48 FR 56563, December 22, 1983).

Dated: March 16, 1984.

John K. Boidock,

Director, Office of Export Administration,  
International Trade Administration.

[FR Doc. 84-7542 Filed 3-16-84; 1:22 pm]

BILLING CODE 3510-DT-M

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Parts 1615 and 1616

#### Flammability Standards for Children's Sleepwear; Statements of Enforcement Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Final rules.

**SUMMARY:** The Commission issues final statements of enforcement policy concerning the flammability standards for children's sleepwear in sizes 0 through 6X and sizes 7 through 14. The policy statements set forth the factors which the Commission will consider when deciding whether particular fabrics or garments are items of children's sleepwear subject to the standards. The Commission issues these policy statements to replace two earlier policy statements concerning the same subject which were set aside by a United States Court of Appeals on judicial review.

**DATE:** The policy statements become effective April 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Gomilla, Division of

Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6400.

**SUPPLEMENTARY INFORMATION:** The Consumer Product Safety Commission enforces two flammability standards for children's sleepwear. One is applicable to children's sleepwear in sizes 0 through 6X and is codified at 16 CFR Part 1615; the other is applicable to children's sleepwear in sizes 7 through 14 and is codified at 16 CFR Part 1616.

The testing provisions of both standards are identical and require that children's sleepwear garments and fabrics intended for use in such garments must self-extinguish when exposed to a small open-flame ignition source.

The standards are applicable to any "item" of "children's sleepwear" as those terms are defined in the standards. The term "item" is defined in each standard to mean "any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear." (16 CFR 1615.1(c), 1616.2(c)).

The term "children's sleepwear" is defined in each standard to mean "any product of wearing apparel" in the sizes subject to its coverage "such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping." (16 CFR 1615.1(a), 1616.2(a)) Diapers and underwear are specifically excluded from the definition of "children's sleepwear" in each standard.

In the Federal Register of November 6, 1980 (45 FR 73884), the Commission issued statements of enforcement policy concerning the applicability of the sleepwear flammability standards to certain children's garments and fabrics intended for use in children's garments. (3)<sup>1</sup> The purpose of the policy statements was to clarify and interpret language used in the two standards to define the terms "item" and "children's sleepwear." The policy statements set forth factors which the Commission would consider when deciding whether a particular garment or fabric is an item of children's sleepwear within the scope of the sleepwear flammability standards.

Basically, the policy statements provided that whether a fabric or

related material is "intended or promoted" for use in children's sleepwear depends upon several factors including (1) the nature of the fabric and its suitability for use in children's sleepwear; (2) the extent to which the fabric, or a comparable fabric, has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments; and (3) the likelihood that the fabric will be used for sleepwear in a substantial number of cases.

With regard to sleepwear garments, the policy statements provided that whether a garment is "intended to be worn primarily for sleeping" depends upon (1) the nature of the product and its suitability for use by children for sleeping or activities related to sleeping; (2) the manner in which the product is distributed and promoted; and (3) the likelihood that the product will be used by children for sleeping in a substantial number of cases.

The policy statements provided further that if a substantial question arises as to the applicability of these factors to a particular fabric or garment, it would be advisable for the manufacturer or importer to place a prominent warning on labels, invoices, and packages that the product in question does not meet the requirements of the children's sleepwear flammability standard and is not intended or suitable for use as children's sleepwear. However, the policy statements also contained language to the effect that such a disclaimer would not bind the Commission in an enforcement action if, in the opinion of the Commission, a fabric is in fact promoted for use in children's sleepwear, or a garment is in fact intended or promoted to be worn primarily for sleeping or activities related to sleeping. (3)

These policy statements were the subject of an action for judicial review brought by National Knitwear Manufacturers Association. That organization contended that by issuing the policy statements, the Commission had in effect amended the standards to make them applicable to certain garments not previously within their coverage, and that the Commission had not followed all of the procedures required by section 4 of the Flammable Fabrics Act (FFA, 15 U.S.C. 1193) for amendment of a flammability standard. (4)

The Commission acknowledged that in issuing the policy statements it had not followed the procedures required by the FFA to amend the children's sleepwear flammability standards, but argued that the issuance of November 6,

<sup>1</sup> Numbers in parentheses identify reference documents listed in the Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street NW., Washington, D.C., or by calling the Office of the Secretary at (301) 492-6800.



1980, was clearly and properly designated a policy statement because it did not establish a standard of conduct having the force of law, or have any substantive impact on the duties of persons or firms subject to the Commission's jurisdiction. (5)

In *National Knitwear Manufacturers Association v. CPSC*, 666 F2d 81 (1981), the United States Court of Appeals for the Fourth Circuit rejected the Commission's assertion that the issuance of November 6, 1980 was an explanation policy, and set it aside after concluding that in reality it was an amendment of the children's sleepwear standards which did not comply with all procedural requirements for the FFA.

#### Revocation and New Proposal

In the *Federal Register* of February 11, 1983, the Commission published one notice to revoke the policy statements set aside by the *National Knitwear* decision at 48 FR 6329 (7), and a second notice proposing new statements of enforcement policy to replace them at 48 FR 6350(8).

The proposed policy statements set forth essentially the same factors to be considered when deciding whether a fabric or garment is subject to the children's sleepwear standards as those in the FTC policy statement of 1972 and the Commission's previous policy statements issued in 1980.

However, the proposed policy statements differed from the ones set aside by the Court of Appeals by incorporating the definitions of the terms "item" and "children's sleepwear" as they appear in the standards. As stated above, the definitions of the term "children's sleepwear" in both standards specifically exclude diapers and underwear from the coverage of the standards. In the proposal of February 11, 1983, the Commission stated that inclusion of these definitions from the standards in the text of the proposed policy statements was intended to demonstrate clearly that the Commission was not proposing to alter or modify any provision of the two standards.

Additionally, unlike the previous policy statements, the proposals contained no language advising use of a label to warn that fabrics or garments do not comply with the standards, and no statement concerning the effect of such a label on any decision by the Commission to initiate an enforcement action with regard to any item bearing a disclaimer on a label. In the proposals, the Commission expressed the view that elimination of language concerning the use and effect of negative labels on certain fabrics and garments would

remove one aspect of the previous policy statements which the reviewing court found objectionable, without significantly diminishing the utility of the policy statements to manufacturers, importers, distributors, and retailers of children's garments and fabrics used to manufacture such garments.

#### Comments on Proposal

In response to the notice proposing new statements of enforcement policy, the Commission received written comments from American Apparel Manufacturers Association (9) and from National Knitwear Manufacturers Association (10).

Both comments favored issuance of final statements of enforcement policy based on the proposal of February 11, 1983.

The comment from American Apparel Manufacturers Association stated that that organization had supported issuance of the Commission's previous policy statements on the same subject, and fully supports issuance of the policy statements proposed on February 11, 1983 (9).

The comment from National Knitwear Manufacturers Association expressed the view that the proposal of February 11, 1983, overcome that organization's objections to the previous policy statements, and stated that the proposed policy statements would serve a useful purpose by advising retailers not to alter the intended use of a product by advertising or marketing practices (10).

After consideration of these comments, the Commission has decided to issue final statements of enforcement policy based on the proposal. The policy statements issued below contain all provisions of the ones proposed on February 11, 1983.

Language has been added to both policy statements issued below to state that the factors listed in the policy statements are for guidance only, and are not elements of the definitions of the term "children's sleepwear" in the standards. For this reason, a particular product may be considered to be an item of children's sleepwear, even if all factors listed in the policy statement are not present.

These additional provisions appear at §§ 1615.64(c)(3) and 1616.65(c)(3) of the statements issued below. They have been added to clarify the guidance contained in the policy statements, and are similar to language that appeared in the Commission's earlier policy statements on the same topic.

#### List of Subjects in 16 CFR Parts 1615, 1616

Clothing, consumer protection, flammable materials, infants and children, textiles.

#### Conclusion and Promulgation

After consideration of written comments on the proposal and other relevant information, the Commission concludes that policy statements concerning enforcement of the children's sleepwear standards should be issued on a final basis, with the modification discussed above, to become effective April 19, 1984.

Therefore, in accordance with provisions of the Flammable Fabrics Act (Sec. 5, Pub. L. 90-169, 81 Stat. 569; 15 U.S.C. 1194), the Consumer Product Safety Act (Sec. 30 Pub. L. 92-573; 15 U.S.C. 2079), and the Administrative Procedure Act (5 U.S.C. 553), the Consumer Product Safety Commission hereby amends the Code of Federal Regulations, Title 16, Chapter II, Subchapter D, as follows:

#### PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR SIZES 0 THROUGH 6X (FF 371)

Part 1615, Subpart C is amended by adding a new § 1615.64 to read as follows:

##### § 1615.64 Policy to clarify scope of the standard.

(a) The Standard for Flammability of Children's Sleepwear: Size 0 Through 6X (16 CFR Part 1615) is applicable to any item of children's sleepwear in sizes 0 through 6X.

(1) The term "item" is defined in the Standard at § 1615.1(c) to mean "any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear."

(2) The term "children's sleepwear" is defined in the Standard at § 1615.1(a) to mean "any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities relating to sleeping. Diapers and underwear are excluded from the definition."

(b) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1615.1(c), and (2) the phrase "intended to be worn primarily for sleeping or activities relating to sleeping" as used in the definition of "children's sleepwear" in § 1615.1(a).

(c) For enforcement purposes, the meaning of these phrases will be interpreted by the Commission in accordance with the following principles:



(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances in each case. Relevant factors include:

- (i) The nature of the fabric and its suitability for use in children's sleepwear;
- (ii) The extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments; and
- (iii) The likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include:

- (i) The nature of the product and its suitability for use by children for sleeping or activities related to sleeping;
- (ii) The manner in which the product is distributed and promoted; and
- (iii) The likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases.

(3) The factors set forth in this policy statement are guidelines only, and are not elements of the definition of the term "children's sleepwear" in § 1615.1(a) of the Standard. For this reason, a particular fabric or garment may meet the definition of "children's sleepwear" set forth in the Standard, even though all factors listed in this policy statement are not present.

(d) Retailers, distributors, and wholesalers, as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or garment into commerce which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children's sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children's sleepwear any item which a manufacturer, importer, or other person (such as a converter) introducing the item into commerce has indicated by label, invoice, or otherwise, does not meet the requirements of the children's sleepwear flammability standards and is not intended or suitable for use as sleepwear. Additionally, retailers are advised:

- (1) To segregate, by placement in different parts of a department or store, fabrics and garments covered by the

children's sleepwear standards from all fabrics and garments that are beyond the scope of the children's sleepwear standards but which resemble items of children's sleepwear;

(2) To utilize store display signs indicating the distinction between types of fabrics and garments, for example by indicating which are sleepwear items and which are not; and

(3) To avoid the advertisement or promotion of a fabric or garment that does not comply with the children's sleepwear flammability standard in a manner that may cause the item to be viewed by the consumer as an item of children's sleepwear.

#### **PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5-74)**

Part 1616, Subpart C, is amended by adding a new section, as follows:

##### **§ 1616.65 Policy scope of the standard.**

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616) is applicable to any item of children's sleepwear in sizes 7 through 14.

(1) The term "item" is defined in the Standard at § 1616.2(c) to mean "any product of children's sleepwear or any fabric or related material intended or promoted for use in children's sleepwear."

(2) The term "children's sleepwear" is defined in the Standard at § 1616.2(a) to mean "any product of wearing apparel size 7 through 14, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Underwear and diapers are excluded from this definition."

(b) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1616.2(c), and (2) the phrase "intended to be worn primarily for sleeping or activities related to sleeping" as used in the definition of "children's sleepwear" in § 1616.2(a).

(c) For enforcement purposes, the meaning of these phrases will be interpreted by the Commission in accordance with the following principles:

(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances in each case. Relevant factors include:

(i) The nature of the fabric and its suitability for use in children's sleepwear.

(ii) The extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments; and

(iii) The likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include:

(i) The nature of the product and its suitability for use by children for sleeping or activities related to sleeping;

(ii) The manner in which the product is distributed and promoted; and

(iii) The likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases.

(3) The factors set forth in this policy statement are guidelines only, and are not elements of the definition of the term "children's sleepwear" in § 1616.2(a) of the Standard. For this reason, a particular fabric or garment may meet the definition of "children's sleepwear" set forth in the Standard, even though all factors listed in this policy statement are not present.

(d) Retailers, distributors, and wholesalers as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or garment into commerce which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children's sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children's sleepwear any item which a manufacturer, importer, or other person (such as a converter) introducing the item into commerce has indicated by label, invoice, or otherwise, does not meet the requirements of the children's sleepwear flammability standards and is not intended or suitable for use as sleepwear. Additionally, retailers are advised:

(1) To segregate, by placement in different parts of a department or store, fabrics and garments covered by the children's sleepwear standards from all fabrics and garments that are beyond the scope of the children's sleepwear standards but which resemble items of children's sleepwear.



(2) To utilize store display sign indicating the distinction between types of fabrics and garments, for example by indicating which are sleepwear items and which are not; and

(3) To avoid the advertisement or promotion of a fabric or garment that does not comply with the children's sleepwear flammability standards in a manner that may cause the item to be viewed by the consumer as an item of children's sleepwear.

(Sec. 5 Pub. L. 90-189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92-573, 86 Stat. 1231, 15 U.S.C. 2079(b); 5 U.S.C. 553)

Dated: March 15, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

#### Bibliography

1. Federal Register notice, "Children's Sleepwear Enforcement Policy Statement Concerning Standard for Flammability," published by Federal Trade Commission; 2 pages; March 23, 1972 (37 FR 5982).
2. Federal Register notice, "Flammability Standards for Children's Sleepwear, Statements of Enforcement Policy," published by Consumer Product Safety Commission; 3 pages; October 22, 1979 (44 FR 60755).
3. Federal Register notice, "Flammability Standards for Children's Sleepwear, Statements of Enforcement Policy," published by Consumer Product Safety Commission; 5 pages; November 8, 1980 (43 FR 73884).
4. Brief for petitioner, *National Knitwear Manufacturers Association v. CPSC*; 36 pages; April 10, 1981.
5. Brief for respondent, *National Knitwear Manufacturers Association v. CPSC*; 29 pages; May 11, 1981.
6. Letter to Jonathan Kahan from Martin Howard Katz, General Counsel concerning decision in *National Knitwear Manufacturers Association v. CPSC*; 3 pages; June 3, 1982.
7. Federal Register notice, "Flammability Standards for Children's Sleepwear: Revocation of Statements of Enforcement Policy," published by Consumer Product Safety Commission; 1 page; February 11, 1983 (48 FR 6329).
8. Federal Register notice, "Flammability Standards for Children's Sleepwear: Proposed Statements of Enforcement Policy," published by Consumer Product Safety Commission; 5 pages; February 11, 1983 (48 FR 6350).
9. Comment on proposed policy statements from American Apparel Manufacturers Association; 2 pages; March 29, 1983.
10. Comment on proposed policy statement from National Knitwear Manufacturers Association; 6 pages; April 12, 1983.

[FR Doc. 84-7430 Filed 3-19-84; 8:45 am]

BILLING CODE 6355-01-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### 20 CFR Parts 629 and 630

#### Interpretation of Job Training Partnership Act Rules and Regulations Pertaining to Summer Youth Employment and Training Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Interpretation.

**SUMMARY:** This document contains final interpretations of Job Training Partnership Act (JTPA) rules and regulations pertaining to the operation of the summer youth employment and training program (SYETP).

In particular, this notice announces the policy of the Department of Labor with respect to three issues. They are: (1) At what point in time may costs be incurred for the SYETP; (2) how may such costs be paid for prior to the receipt of SYETP funds; and (3) how should the requirement that individuals be enrolled in a SYETP within 45 days of the date of application be interpreted (Section 629.1(b)(2)).

**DATES:** This interpretation will become effective 15 days from the date of publication and will remain in effect unless withdrawn or superseded by another issuance. Comments on this notice will be accepted for 15 days following publication.

#### FOR FURTHER INFORMATION CONTACT:

Robert N. Colombo, Acting Director, Office of Employment and Training Programs, 601 D Street, NW., Room 6402, Washington, D.C. 20213, telephone number: (202) 376-6093.

**SUPPLEMENTARY INFORMATION:** With regard to the question of the point in time from which costs for planning may be incurred for the SYETP, the Department's position is that costs may be incurred subsequent to the receipt of allocations by the State and the service delivery areas (SDAs).

With regard to the question of how to pay for such costs prior to the receipt of obligational authority, there is nothing in the JTPA or the implementing regulations that precludes a State from establishing a policy that other resources available to SDAs may be utilized for whatever planning is required in anticipation of receiving obligational authority for the SYETP. This policy could legitimately include borrowing from other available JTPA funds. Any borrowed funds would of course have to be replaced once the SYETP funds are received. The fiscal

control and fund accounting procedures established by the State as required by Section 164(a)(1) of JTPA are the controlling aspects of this issue.

With respect to the third issue, Section 629(b)(2) (requiring enrollment of participants within 45 days of eligibility determination) was designed to ensure the proper targeting among the wide range of potentially eligible people. It was not intended to restrain the traditional process SDAs have used for enrolling participants in the Title II-B summer youth employment program. Because of the need for massive eligibility reviews, massive hiring at a single time, and the limitation of youth participation in the program, the Secretary would not find it inconsistent with the regulations if all eligible summer applicants were enrolled within the 45-day period into a summer youth enrollee pool. With the commencement of summer youth activities, participants for the activities may be selected from the enrollee pool. A new application or the reverification of the information on the initial application would not be necessary for individuals selected from the enrollee pool. However, the Secretary would consider such an enrollee pool to be unnecessary for the needs and inconsistent with the requirements of the Title II-A program.

Signed this 13th day of March 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary of Labor.

[FR Doc. 84-7440 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-30-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

#### 24 CFR Part 44

[Docket No. R-83-1131; FR 1813]

#### Non-Federal Governmental Audit Requirements; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Correction to authority citation.

**SUMMARY:** This document corrects the authority citation contained in a correction document announcing the effective date of an interim rule concerning Non-Federal Governmental Audit Requirements which was published on March 6, 1984 (49 FR 8246).

**FOR FURTHER INFORMATION CONTACT:** Steven A. Switzer, Assistant Inspector General for Audit, Office of Inspector General, Telephone number (202) 755-6342. (This is not a toll-free number).



Accordingly, the following correction is made in FR Doc. 84-5981 appearing on page 8246 in the issue of March 6, 1984:

1. In FR Doc. 84-5981, on page 8246 in the issue of March 6, 1984, middle column, near bottom of page, the authority citation "Section 7(d), Department of HUD Act, (49 U.S.C. 3535(d))" is corrected to read "Section 7(d), Department of HUD Act, (42 U.S.C. 3535(d))".

Authority: Section 7(d), Department of HUD Act, (42 U.S.C. 3535(d)).

Dated: March 14, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84-7374 Filed 3-19-84; 8:45 am]

BILLING CODE 4210-32-M

## 24 CFR Part 51

[Docket No. R-84-709; FR-935]

### Environmental Criteria and Standards; Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature; Changed Effective Date and Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of changed effective date to final rule and correction to subpart C.

SUMMARY: The Department of Housing and Urban Development is delaying until April 2, 1984, the effective date for a recently published final rule affecting 24 CFR Part 51, Subpart C, Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature. It is also making certain technical corrections to errors contained in that document.

EFFECTIVE DATE: The effective date is being changed from March 22, 1984 to April 2, 1984.

FOR FURTHER INFORMATION CONTACT: James L. Christopoulos, Office of Environment and Energy, Telephone number, (202) 755-7225. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On February 10, 1984 (49 FR 5100), the Department published a final rule for 24 CFR Part 51, Subpart C, that provided standards for the safe siting of HUD-assisted projects near hazardous operations that handle petroleum products or chemicals of an explosive or flammable nature. The rule contained an effective date of March 22, 1984. Since publication of that rule, it has been learned that the Environmental Protection Agency has approved the final Environmental Impact Statement

(EIS) entitled: Siting of HUD-Assisted Projects near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature to become effective on April 2, 1984. In order to make the regulation consistent with the EPA approval, the effective date for this rule is being delayed until April 2, 1984.

The Department is also taking this opportunity to correct technical errors in the published rule.

Accordingly, the following corrections are being made in FR Doc. 84-3516, in the issue of February 10, 1984 appearing on page 5100:

1. On page 5100, the effective date is being changed from March 22, 1984 to April 2, 1984;

2. On page 5105, first column, near top of page, the first full sentence is being corrected from "The implementation procedure will be part of the environmental assessment process in accordance with the decision points set forth in 24 CFR Part 50," to read, "The implementation procedure will be part of the environmental assessment process in accordance with the procedures set forth in 24 CFR Part 50 and 24 CFR Part 58"; and

3. On page 5105, first column, at bottom of page, item 2 erroneously indicates that "The Appendix, Definition of Acoustical Quantities is removed." The purpose of this correction is to reinstate The Appendix, Definition of Acoustical Quantities.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: March 14, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84-7375 Filed 3-19-84; 8:45 am]

BILLING CODE 4210-32-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 938

#### Removal of Certain Conditions on the Approval of the Pennsylvania Permanent Regulatory Program and Approval of Amendments to the Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR 938 by (1) removing part of

condition (j) on the approval of the Pennsylvania permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) pertaining to the mandatory review of permits for a pattern of violation; and (2) approving additional amendments to the Pennsylvania program relating to inspection and enforcement provisions.

By a letter dated September 7, 1983, Pennsylvania submitted to OSM amendments consisting of modifications to Pennsylvania's surface and underground coal inspection, enforcement and penalty procedures including a change that was intended to satisfy condition (j)(2) of the Secretary's approval of July 30, 1982 (47 FR 33050) relating to the mandatory review of permits for a pattern of violation.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Secretary has determined that the modifications to the Pennsylvania program satisfy condition (j)(2) of the Secretary's approval and meet the requirements of SMCRA and the Federal permanent program regulations. The Federal rules at 30 CFR Part 938 which codify decisions concerning the Pennsylvania permanent regulatory program are being amended to implement to these actions.

EFFECTIVE DATE: The removal of the condition and approval of the associated program amendments are effective March 20, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Pennsylvania State Program

The Secretary of the Interior approved the Pennsylvania program on July 30, 1982, conditioned on the correction of ten minor deficiencies. At the time of the Secretary's conditional approval, Pennsylvania agreed to meet the ten minor conditions, many of which contained several parts, by the schedule contained in the Federal Register dated July 30, 1982 (47 FR 33050).

Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the Pennsylvania program



can be found in the July 30, 1982 Federal Register.

## II. Submission of Revisions and Program Amendments

### 1. Condition (j)(2)

In accepting the Secretary's approval, Pennsylvania agreed to correct deficiency (j)(2) by May 1, 1983. In the Federal Register dated May 25, 1983, Secretary extended until June 1, 1983, the time for Pennsylvania to correct deficiency (j)(2). The State requested an additional month to satisfy condition (j)(2) in a letter dated June 1, 1983. OSM published the State's request for this extension in the Federal Register dated June 30, 1983 (48 FR 30149). In a letter dated July 1, 1983, from Pennsylvania, OSM received a policy statement intended to satisfy condition (j)(2). OSM announced receipt of this document in the Federal Register dated July 20, 1983 (48 FR 33020). In Pennsylvania's letter dated September 7, 1983, it withdrew the program amendment announced in the July 20, 1983 Federal Register pertaining to condition (j)(2). However, Pennsylvania also transmitted by its September 7, 1983 letter, new material intended to satisfy condition (j)(2). OSM announced the receipt of this material in the Federal Register dated October 14, 1983 (48 FR 46817). By a letter dated January 17, 1984, Pennsylvania submitted material to replace that previously submitted in September, pertaining to condition (j)(2) and OSM reopened the public comment period based on this material in the Federal Register dated January 20, 1984 (49 FR 2478).

The material submitted by Pennsylvania dated January 17, 1984, is intended to satisfy condition (j)(2) and includes the description of the Department of Environmental Resources (DER) process for determining if a pattern of violations exists, the criteria used in making such a determination and the provisions for issuing an order to show cause based on such a determination.

### 2. Inspection and Enforcement Provisions

Pennsylvania also submitted by a letter dated September 7, 1983, new policy statements pertaining to its inspection and enforcement provisions. These new provisions replaced the approved program policy statement numbers BMR 200 and 300. On December 15, 1983, OSM discussed its concerns with respect to the September 7, policy statements. See Administrative Record PA 482. The State subsequently on January 17, 1984, (49 FR 2478)

submitted policy statements to replace those of September 7, 1983 (48 FR 46817).

In the documents submitted on January 17, 1984, the State provides an "alternative" enforcement system based on the inspector categorizing violations by seriousness and abatement time to determine the method to be used in citing the violation. Also included is a description of the civil penalty program that Pennsylvania intends to implement.

Additionally, the Commonwealth submitted a "citizen complaint" policy statement. These policy statements are to be implemented by both the Bureau of Surface Mining and Reclamation and the Bureau of Water Quality Management contained within the DER.

## III. Secretary's Findings

### Finding 1, Condition (j)(2): Suspension or Revocation of Permits

Pennsylvania incorporated in its Inspection and Enforcement Policy for Surface and Underground Mining Operations, a section pertaining to suspension or revocation of permits intended to satisfy condition (j)(2). The Secretary finds that Pennsylvania's policy statement contains the same or similar procedural requirements for determining whether a pattern of violations exists or has existed, for issuing an order to show cause, for suspending or revoking a permit and for review of such action as provided in 30 CFR 843.13 and no less stringent than section 521(a)(4) of SMCRA.

### Finding 2, Citizen Complaint Procedures

The Secretary finds that the "Citizen Complaint Procedures" policy statement together with previously approved Chapter 86 of the State's regulations contains procedures which are no less effective than those in 30 CFR 842.12, and the same or similar to those in section 521(a)(1) of SMCRA.

As discussed at the December 15, 1983 meeting, DER will conduct promptly an inspection of any operation alleged to be in violation and will advise affirmatively the affected citizen of his right to accompany the DER inspector on the inspection. DER will conduct an immediate inspection if the allegation pertains to conditions that threaten imminent harm or danger to the environment or to the safety of the public. In all other cases, DER will promptly investigate citizen complaints.

DER has adopted by policy together with regulations, provisions consistent with the Federal standards for investigating citizen complaints and has provided the right to review the State's inaction or action consistent with

Section 517 of SMCRA and 30 CFR 842.12.

### Finding 3, Inspection Frequency

Pennsylvania has provided in its inspection and enforcement statement that inactive operations will be inspected at least four times per year while active operations are inspected at least twelve times per year. The Secretary finds that Pennsylvania has allowed for more than four inspections per year for inactive mines when the nature of the site or the past history of compliance suggests that more frequent inspections are needed to enforce the regulatory program. The State defines an inactive mine as one for which Stage II bond release has been received for all areas of the permit. In the Federal Register dated August 16, 1982 (47 FR 35627), OSM states that the determination of a mine's status as active or inactive should be based solely on the completion of Reclamation Phase II and, therefore, the Secretary finds that the State's definition of Stage II bond release (PA 86.172(d)) is no less effective than the Federal definition of Phase II bond release at 30 CFR 800.40(c) and that the proposed inspection frequency is no less effective than that provided in 30 CFR 840.11.

### Finding 4, Enforcement Procedures and Sanctions

Pennsylvania believes that the proposed "alternative enforcement" system will relieve some of the administrative burden involved with citing, tracking and assessing numerous violations having different levels of seriousness. The State proposes to notify the operator of every observed violation by describing the violation in the inspection report and providing a reasonable period of time for abatement. The program provisions approved on July 30, 1982, provide that the State must cite violations by Notice of Violation, Ex parte order, or Cease and Desist Order depending upon certain prescribed conditions (BMR Policy 300). The new policy provides for violations to be cited by either an Inspection Report Notice or a Compliance Order. For the least serious violation possible that can be fully abated in 35 days, the State will not necessarily issue a compliance order. These violations will be cited by the Inspection Report Notice, given a reasonable abatement not to exceed 35 days, and will be tracked for follow-up inspection as well as be evaluated for a civil penalty pursuant to the approved civil penalty procedures. If during the follow-up inspection, the inspector finds that the violation has not been fully



corrected, a failure-to-abate compliance order ceasing pertinent mining activity will be issued unless the inspector makes a finding that there has not been a lack of diligence on the operator's part. When an inspector makes a finding of "no lack of diligence," a compliance order will be issued and a reasonable time extension specified for abatement of the violation. The State has provided further that compliance orders are subject to a mandatory civil penalty.

If an observed violation requires an excess of 35 days for abatement, or is considered more than the least serious violation possible but does not create an imminent danger or harm for which a cessation order is required, the violation will be cited by the inspector issuing a compliance order at the end of the inspection. The policy statement provides that a compliance order requiring cessation of the pertinent mining activity will be issued for all failure-to-abate inspection report violations and compliance order violations as well as in cases of imminent danger or harm.

The important consideration is not what method the State uses to cite violations, but that its method provides the same or similar sanctions for violations as provided by Federal regulation. Any method approved by OSM must incorporate the same or similar enforcement sanctions for any observed violation. The only difference between enforcement sanctions for Pennsylvania's inspection report violation and its compliance order violation is that violations cited by an inspection report notice are not immediately tracked for withholding permit actions, bond release actions, and other permit actions. OSM has determined that this difference does not render Pennsylvania's system inconsistent with Federal standards in that these violations must be fully corrected within 35 days or be cited by a compliance order which is immediately docketed for permit actions. The approved State program (PA 86.37) requires that DER find in its review of a permit application that any violation has been either corrected or is being satisfactorily corrected. DER believes and OSM agrees that its proposed system does not violate the approved program but assists it in making this finding for the least serious violations that can be fully corrected in a short time and would therefore fall under the category of being satisfactorily corrected. The Secretary finds that this procedure, implemented as described, will assist the State in taking timely permit actions and is consistent with

Section 510(c) of SMCRA that requires the State to identify all violations and make a finding that any outstanding violation is being corrected to the satisfaction of the State.

Additionally, either Pennsylvania's inspection report violation or compliance order can be an analog to the Federal Notice of Violation. Where the Federal Notice of Violation allows up to 90 days for abatement of any condition not requiring a cessation order, the State's dual system is the same or similar in that it allows a maximum of 90 days for abatement of a condition cited initially by a compliance order or a combination of an inspection report notice followed by a compliance order. Therefore, the maximum time allowed for abatement of violations not requiring cessation orders is the same in both Pennsylvania's policy and the Federal regulations. The Secretary has determined that the State's methods for citing a violation not requiring a compliance order ceasing mining are no less effective than the Federal standard at 30 CFR 843.12 and no less stringent than Section 521(a) of SMCRA.

#### *Finding 5. Cessation Orders*

Pennsylvania has provided in its policy statement that Compliance Orders requiring cessation of the pertinent mining activity will be issued for failure to abate an inspection report notice violation or compliance order violation, for other specific conditions mandated by Pennsylvania law, and for conditions causing or threatening to cause significant environmental harm or imminent danger to the health or safety of the public. The Secretary finds that Pennsylvania has the authority to issue orders ceasing mining activity and that its policy statement contains enforcement procedures that are no less effective than those provided in 30 CFR 843.11 and sanctions which are no less stringent than those in section 521(a) of SMCRA.

#### *Finding 6. Civil Penalties and Penalty Procedures*

The Secretary finds that the Department of Environmental Resources has the authority under Pennsylvania surface mining laws and regulations (Chapter 86) to impose civil and criminal penalties for violations consistent with Section 518 of SMCRA. Additionally, the Secretary finds that the approved Pennsylvania program together with the policy statements now being approved contains adequate provisions to provide for civil and criminal penalties for violation of Pennsylvania laws, regulations and conditions of permits and exploration approvals, including

civil and criminal penalties which are no less stringent than Section 518 of SMCRA and no less effective than 30 CFR Part 845.

Pennsylvania's civil penalty program provides a system for all violations to be evaluated for a civil penalty by assessing any violation described in the inspection report or cited by a compliance order with respect to history, seriousness, culpability, speed of compliance, cost to the Commonwealth and savings to violator. The policy statement provides that when a civil penalty is assessed, DER will serve the operator, within 30 days following the citation, with a proposed assessment including a worksheet showing how the proposed penalty was calculated. Pennsylvania has provided two levels of informal conference prior to an assessment being made final. These processes together are an analog to the Federal assessment conference and must together provide the same or similar procedural requirements. OSM discussed its concern that the dual system must not be used to unnecessarily delay the civil penalty process or to prevent third parties from participation and any change made to the penalty be fully substantiated and documented. OSM will review inspection reports and civil penalty assessments through oversight activities to ensure that adequate information is available to substantiate DER penalty actions. The Secretary finds that Pennsylvania has developed a procedure for assessing and reviewing civil penalty assessments that is no less effective than that provided in 30 CFR Part 845 and the same or similar to the procedures in Section 518 of SMCRA.

#### *Finding 7*

The Secretary finds that Pennsylvania, in its proposal, responded to specific concerns that OSM has raised on several occasions (SEE PA 399, 407 and 433) pertaining to the appropriate use of Consent Orders and Agreements, Consent Adjudications and Consent Decrees. During these discussions, DER agreed to not use these orders in lieu of litigation but to restrict the use of these orders only to matters in litigation. DER further assured OSM that these orders would not be used to contravene any approved enforcement sanction.

The Secretary is approving Pennsylvania's proposal to use Consent Orders and Agreements, Consent Adjudications and Consent Decrees with the understanding that DER will not use these orders to contravene any enforcement procedure or sanction



contained in its approved regulatory program or the January 17, 1984 program amendment. The Secretary requires as part of this approval that Pennsylvania not use these orders to contravene the following enforcement provisions: (1) citing an observed violation as provided in the approved program, (2) issuing failure-to-abate compliance orders when appropriate, (3) assessing each violation and notifying the operator of any proposed penalty or modification as approved in the program, (4) extending abatement times in excess of 90 days only as provided for in the approved program, and (5) finding that outstanding violations are being satisfactorily corrected consistent with the requirements specified in PA 86.37 for permit application decisions. Further, the Secretary interprets the use of these orders to be analogous to Federal actions taken in response to the administrative remedies in accordance with SMCRA and detailed in 43 CFR Part 4. The Secretary, through OSM, will monitor closely the use of these orders and will take action pursuant to SMCRA and 30 CFR Part 733 if in the future, DER abuses the use of consent orders and agreements, adjudications and decrees.

As described above, the Secretary finds that Pennsylvania's provision pertaining to the use of Consent Orders and Agreements, Consent Adjudications and Consent Decrees is no less stringent than sections 525 and 526 of SMCRA and no less effective than the provisions outlined in 43 CFR Part 400.

#### *Finding 8*

The Secretary has relied on findings published in the *Federal Register* dated July 30, 1982, pertaining to the conditional approval of the Pennsylvania Program to the extent that any finding is not in conflict with findings now being published. Since the Secretary's decision with regard to the inspection and enforcement aspects of the Pennsylvania program is binding on Pennsylvania and based on Pennsylvania's policy, any future changes to its policy will have to be formally processed as program amendments in accordance with 30 CFR 732.17.

#### **IV. Public Comment**

1. The Environmental Policy Institute (EPI) states that Pennsylvania's enforcement proposal is in violation of Section 521 of SMCRA. EPI alleges that the proposal establishes a "warning" system, thereby permitting inspectors to choose not to cite all violations. The commenter also believes the State has inadequately defined what violations can be considered as "minor".

OSM agrees with the commenter that the policy statement submitted on September 7, 1983, (PA 448) contained several inconsistencies. OSM conveyed its concerns to the State in a meeting on December 15, 1983. Pennsylvania submitted revised policy statements dated January 17, 1984, (PA 482) intended to clarify its policy on citizen complaints, inspection, enforcement and civil penalty assessment. Therefore, OSM will answer the commenter's concerns based on the January 17, 1984 amendment.

OSM disagrees with the comment that Pennsylvania has established a "warning" system. The January 17, 1984 policy statements provide that inspectors will cite all observed violations and that all violations will be reviewed for civil penalty assessment.

OSM agrees with the commenter's concern that inspectors have wide latitude in deciding what violations are "minor" and therefore, are cited by an inspection report notice. However, since the DER enforcement policy requires that all violations are to be described in sufficient detail in an inspection report, OSM believes that violations will be described in a manner that will enable OSM, in its oversight, to determine the specific condition cited in a "minor" violation. Therefore, OSM will review the State's application of its policy with respect to what violations are cited in inspection report notices. OSM believes that the fact that since all "minor" violations are to be tracked for follow-up compliance and evaluated for a civil penalty assessment coupled with the provision that these violations, if unabated, will be cited by a compliance order, means that DER has built in an appropriate safeguard. This safeguard provides no fewer enforcement sanctions than provided in OSM's regulations by providing no less stringent measures than those accompanying a Federal Notice of Violation. (See Finding 4)

2. The Sierra Club, Pennsylvania Chapter, comments that the September 7, 1983, amendment should be rejected. That amendment was replaced by an amendment dated January 17, 1984 (PA 482).

This commenter is concerned that inspectors will be under intense pressure to determine that a violation is minor. OSM believes that all inspectors come under pressure for performing their official duties in deciding what conditions constitute a violation. Regardless of the system implemented, inspectors must make decisions in the field and determine what conditions represent violations, how serious the

condition is or has the potential to become, and what a reasonable and appropriate abatement time is for the violation. Therefore, OSM does not believe the commenter's concern is well-founded. However, OSM recognizes that Pennsylvania's dual enforcement scheme, if implemented in a manner other than that described to and approved by OSM, could result in definite benefits to certain operators. OSM has discussed this concern with the State and advised the State that through oversight, OSM will investigate how this enforcement scheme is being implemented by DER Field Offices. If abuses are observed, the OSM Field Office Director will advise Pennsylvania to correct any identified abuse. OSM realizes that it must, through oversight, evaluate the success of any enforcement scheme and determine if the scheme is in practice consistent with SMCRA and its implementing regulations. DER recognizes OSM's responsibility to implement a prudent oversight policy and has agreed to develop a reporting system that is acceptable to OSM that includes but is not limited to tracking the violation from the initial citation, to follow-up inspections, through associated enforcement sanctions, and finally, to civil penalty assessment and collection. OSM intends to rely on the State's tracking system as well as other independent oversight activities to evaluate the implementation of this enforcement scheme.

This commenter was also concerned that the State's policy would allow an operator to continually violate "minor" requirements and never be formally identified as having a pattern of violations. In the January 17, 1984 policy statement, DER has provided that anytime an operator has violated the same or similar performance standard on three occasions, a compliance order must be issued rather than continuing to use the inspection report notice. Additionally, the State will advise the operator that continued violation of the standard could result in DER finding that a pattern of violations exists and subsequent permit suspension or revocation.

The Sierra Club also referenced the statement made in the OSM annual report on Pennsylvania's performance for 1982, in that minor violations were "not subject initially to any of the sanctions required of a notice of violation." OSM identified in the first year of oversight that Pennsylvania had not implemented its inspection and enforcement program procedures in the way the Secretary had interpreted and approved the Pennsylvania inspection



and enforcement program. The program amendment now being considered must be evaluated on its own merit as it does not pertain to the State's previous performance. OSM has found that the policy statement dated January 17, 1984, provides the same or similar sanctions for an inspection report notice violation as a violation cited by a Federal Notice of Violation, and the State's implementation of this policy will be evaluated through current oversight activities.

3. The Ohio Coal and Energy Association had no comment on the substantive adequacy of the program amendment.

4. Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), of the Federal agencies invited to comment, the United States Fish and Wildlife Service (USFWS) commented that not all violations are cited by formal citation and the USFWS encourages compliance by issuing a formal citation and imposing fines.

These comments pertained to the September 7, 1983 policy statements rather than the final January 17, 1984 policy statement. OSM will respond to the commenter's concern based on the January Policy Statement Provisions. The inspection report notice violation is considered by Pennsylvania to be a formal citation; however, it is not a departmental order. Failure to abate an inspection report notice violation will result in a compliance order ceasing all or certain mining activities. The inspection report notice violation is evaluated for a civil penalty assessment. Therefore, Pennsylvania has addressed the commenter's concern by providing formal notification of violations and civil penalties.

5. The Keystone Bituminous Coal Association (Keystone) had several substantive comments on the January 17, 1984, Pennsylvania program amendment.

First, Keystone expressed its concern that the State's policy does not expressly exempt a citizen's "right of entry" with respect to underground workings. One of the purposes of the SMCRA is to assure that surface coal mining operations are so conducted as to protect the environment and to assure that appropriate procedures are provided for public participation. In section 701(28), SMCRA defines surface coal mining operations to include the surface impacts incident to activities conducted by underground coal mining operations. OSM does not envision and believes DER did not envision its policy to afford citizens a "right of entry" to areas other than surface land areas. OSM believes citizens must have the

"right of entry" when accompanying an inspector to areas upon which surface mining activities occur, surface impacts occur incident to an underground coal mine or where such activities disturb the natural land surface.

Keystone also comments that DER should retain authority over a citizen participating in an inspection. Citizens who accompany a State or Federal inspector on an inspection have a "right of entry" only if the citizen is in the presence of and is under the control, direction and supervision of the inspector while on the mine property. Therefore, DER has retained authority over citizens entering a mine site while accompanying an inspector on an inspection.

The commenter is also concerned that DER's policy statement does not expressly deny citizens "right of entry" to buildings without a search warrant or the written consent of the mine owner. It was DER's intent to pattern its citizen complaint procedures after the Federal standards and DER expressed its concern to OSM about unrestricted citizen participation during an inspection on mine property. The Federal standard at 30 CFR 842.12(c) indicates that "such right of entry does not include a right to enter buildings without consent of the person in control of the building or without a search warrant." Therefore, based on OSM's discussion with the State on December 15, 1983, and the language of the Federal standard, OSM interprets and approves the State's procedures as providing the same or similar right of entry for citizens participating in an inspection.

Keystone commented that DER's enforcement policy failed to adequately describe the types of infractions considered "minor" with respect to underground coal mining operations. OSM does not see the necessity for distinguishing between surface and underground mining operations in the examples of minor violations provided in DER's enforcement policy. Rather than describing what may constitute a minor violation in terms of specific performance standards, the policy includes examples of violations on the general basis of potential adverse environmental impact. Described in this manner, the examples are just as applicable for determining minor violations concerning the surface effects of underground mining as they are for surface mining operations.

Keystone commented that DER's policy governing suspension and revocation of permits is not as effective as the OSM counterpart at 30 CFR 843.13 because it fails to afford the operator an opportunity to show cause why a

suspension or revocation should not occur and that an informal predeprivation hearing is not provided. OSM disagrees with this comment. Part IIC of the DER policy provides that an action to suspend or revoke a permit is appealable to the Environmental Hearing Board. This is consistent with 30 CFR 843.13(b), which provides that a show cause order may, upon request, be appealed to the Office of Hearings and Appeals. With regard to an informal predeprivation hearing, OSM cannot require DER to include provisions not required in SMCRA or provided in the Federal regulations.

Keystone also commented that DER's civil penalty assessment standards conflict with OSM's underground mining regulations in that assessments could be made for conditions not really a violation for underground mining activities. First, DER determines whether a violation exists by inspecting specific conditions at a mine site. Therefore, if a violation doesn't exist, the State will not be assessing a penalty. However, what the State has tried to do in its policy is give certain examples of penalty amounts for specific types of conditions that could be cited as a violation. Only after a specific site is found to be in violation would the State look to assess a penalty. OSM requires the State to have procedures and criteria for assessing penalty amounts and OSM sees no apparent conflict between the State's policy and the Federal underground mining regulations. The commenter was concerned particularly about subsidence conditions. DER will evaluate each subsidence case on its own merit and if DER determines that conditions exist that constitute a violation, then DER will cite the condition as a violation and assess an appropriate civil penalty based on the approved civil penalty program. If an underground mining operator believes he has been cited incorrectly, he should explain his reasons for believing that the violation was improperly issued through the appropriate appeal process.

The commenter also believes that DER's proposed civil penalty calculation scheme is overly vague. Under section 521(d) of SMCRA, States must incorporate enforcement sanctions no less stringent than those required by the Act. OSM cannot require a State to adopt the Federal point system for assessing violations, but requires that a State develop a system for assessing civil penalties that gives consideration to the criteria mandated in SMCRA at section 518. These criteria are (1) permittee's history of previous violations at the particular surface coal



mining operation; (2) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; (3) whether the permittee was negligent; and (4) the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. In its civil penalty program, DER has developed a system for considering the four mandated criteria plus other criteria desired by the State. The State has given categories of violations and ranges of civil penalty amounts for such categories. Each violation will be evaluated on its own merit and assessed in a manner consistent with that merit. It is not feasible for the State to specify every conceivable violation complete with the specific conditions surrounding that violation for a specific penalty amount, nor did OSM go into this level of specificity when promulgating civil penalty regulations. The State's proposed civil penalty program includes the criteria mandated by SMCRA and appears to include procedural requirements similar to those adopted by OSM. The civil penalty program will be evaluated through oversight to determine if, as implemented, it consists of the same or similar procedural requirements providing no less stringent enforcement sanctions than those envisioned by SMCRA.

#### V. Secretary's Decision

Accordingly, condition (j)(2) is hereby removed and the policy statements submitted January 17, 1984, are hereby approved pursuant to 30 CFR 732.17.

30 CFR Part 938.11 is amended to indicate approval of the program amendment and removal of condition (j)(2).

#### VI. Additional Findings

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule 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.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

#### List of Subjects in 30 CFR Part 938

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

Dated: March 13, 1984

Garrey E. Carruthers,

Assistant Secretary for Land and Minerals Management.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

#### PART 938—PENNSYLVANIA

##### § 938.11 [Amended]

1. 30 CFR 938.11 is amended by removing and reserving paragraph (j)(2).
2. 30 CFR 938.15 is amended by adding paragraph (c).

##### § 938.15 Approval of Amendments to State Regulatory Program.

(c) The following amendment is approved effective on March 20, 1984, Pennsylvania policy statement submitted to OSM January 17, 1984, titled: 1) Citizen Complaint Procedures, 2) Department of Environmental Resources Inspection and Enforcement Policy for Mining Operations and 3) Civil Penalty Program.

[FR Doc. 84-7465 Filed 3-19-84; 8:45 am]

BILLING CODE 4310-05-M

#### POSTAL SERVICE

##### 39 CFR Part 601

##### Procurement of Property and Services, Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is revising the Postal Contracting Manual to modify the timeliness standards so that some protests previously considered untimely will be considered timely under these provisions. This action is in response to requests from postal contracting officers

for clarification of existing protest regulations.

EFFECTIVE DATE: April 3, 1984.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245-4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 84-1, dated March 7, 1984.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the Federal Register and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

##### List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

##### Explanation of Changes

Explanation of these amendments to the Postal Contracting Manual follows:

2-407.8a is expanded to make it clear that these procedures are also applicable to negotiated contracts and contract types specifically covered in other portions of the manual.

2-407.8b(1) is expanded to conform to current practice.

2-407.8b(2) adds definitions of "offer" and "offeror" to avoid the need to use dual terms such as "bid or offer" and "bidder or offeror" in the text.

2-407.8b(3) defines the term "working days," which is used throughout the text in place of "days" to make it clear that calendar days are not intended.

2-407.8d(1) removes the "5 days before" time-of-receipt requirement on protests against the terms of a solicitation.

2-407.8d(2), addressing negotiated procurements, specifies that protests against the terms of the solicitation after the receipt of initial proposals must be received no later than the next closing date for the receipt of proposals.

2-407.8d(3) changes time frames for all other protests from 5 and 10 days to 10 and 15 working days, respectively.

2-407.8d(4) indicates explicitly, for the first time, that the General Counsel will consider a protest previously denied by the contracting officer.

2-407.8e is revised to reserve concurrence by the Head of Procuring Activity and counsel for cases in which a protest is obviously without merit, and also to revise the procedure for



obtaining counsel's concurrence in such a case.

2-407.8f(2) removes the requirement that the submission of offerors' opinions and relevant information on the protest must be furnished within 5 days of the advice of the intent to make a submission.

2-407.8f(3) expands the discussion of the contracting officer's statement to deal specifically with frequently-identified problems.

2-407.8f(4) reflects the current practice of allowing a reasonable time for comment and rebuttal.

2-407.8f(5) makes clear the contracting officer's continuing obligation to furnish copies of his statements on protests to the interested parties.

2-407.8f(6) deletes references to conferences with the contracting officer on protests directed to the contracting officer and extends the time for requesting a protest conference with the General Counsel.

2-407.8f(8) establishes a goal of 15 working days after receipt of all information for the General Counsel to issue a decision on a protest.

2-407.8f(10) allows contracting officers to request the General Counsel to reconsider a decision.

2-407.8f(11) is a revision of the former (m) provision, revised to eliminate the General Counsel's concurrence as a requisite to contract award when a protest has been filed. Concurrence of the cognizant Assistant Postmaster General or Regional Postmaster General is substituted.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-7373 Filed 3-19-84; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A 9-FRL 2543-1]

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

**SUMMARY:** On May 31, 1983 EPA proposed to take action on two revisions to the regulations of the Clark County Health District which were submitted to EPA by the State of Nevada for incorporation into their State Implementation Plan (SIP). The revisions concern cutback asphalt and malfunction. EPA is today taking final action to approve the cutback asphalt

regulation and to disapprove the malfunction regulation. The malfunction regulation is inconsistent with EPA policy because it allows for a finding of no violation for certain periods of excess emissions.

**EFFECTIVE DATE:** April 19, 1984.

#### FOR FURTHER INFORMATION CONTACT:

David P. Howekamp, Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 974-7640, FTS 454-7640.

**SUPPLEMENTARY INFORMATION:** The State of Nevada submitted to EPA the following Clark County Health District regulations on November 17, 1981:

Subsection 60.4.2, "Evaporation Leakage" (Cutback Asphalt); Section 25, "Upset/Breakdown, Scheduled Maintenance, Malfunctions."

On May 31, 1983 EPA proposed action on the above regulations and provided a thirty day public comment period. No public comments were received.

The submitted revision to subsection 60.4.2 reduces the geographic area where the regulation applies from all of Clark County to only that portion of the Las Vegas Valley which lies within Clark County. Since the smaller area is consistent with the ozone nonattainment area designation, regulation 60.4.2 is approved.

Today's notice also takes final action on Section 25. The regulation is deficient because it allows, if certain conditions are met, for a finding of no violation for excess emissions which result from the malfunction or scheduled maintenance of air pollution control and process equipment. EPA policy requires "malfunction" regulations to consider any period of excess emissions a violation. Enforcement action on a violation is then taken unless the excess emissions are proven to have been truly beyond the control of the source.

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 EPA and any response are available for public inspection at the EPA Region IX office (see address above).

**Note.**—Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the Federal Register on July 1, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section

307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

**Authority:** Sections 110, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7501 to 7508 and 7601(a)).

Dated: March 6, 1984.

William D. Ruckelshaus,  
Administrator.

### PART 52—[AMENDED]

Subpart DD of Part 52 of Chapter I, Title 40 of the *Code of Federal Regulations* is amended as follows:

#### Subpart DD—Nevada

1. Section 52.1470 is amended by adding paragraph (c)(24)(vi) as follows:

##### § 52.1470 Identification of plan.

• • • • •  
(c) • • • • •  
(24) • • • • •

(vi) Amendment to the Clark County District Board of Health Air Pollution Control Regulations: Section 60, Rule 60.4.2.

• • • • •

2. Section 52.1483 is amended by revising paragraph (a)(1)(i) as follows:

##### § 52.1483 Malfunction regulations.

(a) The following regulations are disapproved because they would permit the exemption of sources from applicable emission limitations under certain situations and therefore they do not satisfy the enforcement imperatives of Section 110 of the Clean Air Act.

(1) Clark County District Board of Health

(i) Section 25, Rules 25.1–25.1.4.

• • • • •

##### § 52.1478 [Reserved]

3. Section 52.1478 *Rules and regulations* is removed and reserved.

[FR Doc. 84-8517 Filed 3-19-84; 8:45 am]

BILLING CODE 6560-50-M



FEDERAL COMMUNICATIONS  
COMMISSION

## 47 CFR Part 73

(BC Docket No. 80-90; RM-2587; RM-3226;  
RM-3367; FCC 84-65)Modification of the Commission's  
Rules To Increase the Availability of  
Commercial FM Broadcast  
AssignmentsAGENCY: Federal Communications  
Commission.

ACTION: Final rule.

**SUMMARY:** The Commission generally has denied requests for reconsideration of its actions in BC Docket No. 80-90. In the 80-90 *Report and Order*, the Commission modified the FM broadcast station rules to increase the availability of commercial FM broadcast allotments. The adopted rules: (a) allow stations with Class A facilities to operate on the 60 Class B/C channels; (b) increase the number of station classes from three to six; (c) require existing Class B and C stations to meet or exceed minimum facility requirements within three years or be reclassified based on their actual operating facilities; (d) adopt a minimum antenna height requirement of 300 meters (984 feet) for Class C stations; and (e) convert the technical FM rules to the metric system of units.

The petitions for reconsideration asked the Commission to grant existing Class B and Class C stations special considerations under the new rules. Some also asked the Commission to use a different implementation procedure. The Commission denied all requests but one. It did agree to provide existing Class C assignments with increased protection from new FM stations for a three-year period. This will provide these stations an opportunity to move to a new site if necessary.

DATE: Effective April 19, 1984.

ADDRESS: Federal Communications  
Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:**  
John A. Karousos, Mass Media Bureau,  
(202) 632-9660.

## SUPPLEMENTARY INFORMATION:

## List of Subjects in 47 CFR Part 73

Radio broadcasting.

## Memorandum Opinion and Order

In the matter of modification of FM broadcast station rules to increase the availability of commercial FM broadcast assignments, BC Docket No. 80-90, RM-2587, RM 3226, RM-3367.

Adopted: March 1, 1984.

Released: March 13, 1984.

By the Commission: Commissioner Quello  
concurring and issuing a statement;  
Commissioner Patrick not participating.

## Introduction

1. The Commission has under consideration requests for reconsideration of its *Report and Order* in the above-entitled proceeding adopted May 26, 1983 (48 FR 29486; published June 27, 1983). That document made several changes to the FM allotment structure to increase the availability of FM stations. It would:

(a) allow stations with Class A facilities to operate on the 60 Class B/C channels;

(b) increase the number of station classes, from three to six;

(c) require existing Class B and C stations to meet or exceed minimum facility requirements within three years or be reclassified based on their actual operating facilities; and

(d) convert the technical FM rules to the metric system of units.

2. Interest in these rule changes, or more accurately, in the new stations represented by these changes, was so great that the Commission decided to postpone their effective date until it had acquired additional staff resources. It also opted to temporarily abandon the traditional "petition" method used to amend the FM Table of Allotments in § 73.202(b) of the rules. Instead, it decided to make 684 new allotments on its own motion, in a so-called "omnibus" proceeding, using a list of communities complied previously.<sup>1</sup>

3. The Commission received six petitions for reconsideration of its action. These were filed by Richard Culpepper, Barry Chaiken, the National Association of Broadcasters ("NRAB"), Cox Communications Inc. ("Cox"), the National Radio Broadcasters Association ("NAB"), and a group of FM station licensees ("Licensees").<sup>2</sup> Comments in response to these petitions were filed by the Association for Broadcast Engineering Standards, Inc. ("ABES"), NRBA, Atlantic Broadcasting Corporation ("Atlantic"), and Brown Broadcasting Service, Inc. ("Brown"). The Commission also received an application for review filed by Knott

County Broadcasting Corporation ("Knott").

## Discussion

4. Richard Culpepper urges the Commission to permit the filing of applications on a demand basis, without reference to a table of allotments or in the alternative, to accept petitions to amend the present table immediately rather than after the omnibus proceeding. We must deny both requests. This proceeding did not seek to modify the allotment procedure represented by the Table.<sup>3</sup> Furthermore, to accept individual petitions under the new rules would result in the submission of a flood of FM petitions, a strain of staff resources and creation of unmanageable backlogs. To avoid this situation, the *Report and Order* stated that the Commission would propose the initial allotments under the new rules and, through a winnowing process, reduce demand to a more manageable level. Mr. Culpepper does not indicate errors in the reasoning process that led to the adoption of this approach and we see no reason to abandon it.

5. Barry Chaiken and Culpepper request the inclusion of communities in which they are the licensees of daytime only AM stations in the new table of allotments. Similarly, Knott requests the allotment of Channel 297C2 to Hindman, Kentucky. Consistent with our attempt to manage workload, the Commission determined that we would not accept recommendations for communities to be included in the omnibus rule making. We continue to believe that the most orderly and expeditious method of handling the increased channel availability resulting from the *Report and Order* in this proceeding is the omnibus rule making in which proposals are initiated by the Commission with the opportunity for comments and counterproposals by the public. Petitioners have presented no facts or arguments to alter that determination. Moreover, with specific regard to daytime only AM stations, the omnibus rule making will consider the allotment of FM channels to communities with daytime only stations. Indeed, communities with daytime only stations comprise a significant portion of the

<sup>1</sup> The communities are to be selected from the station requirements list adopted by the Second Session of the Administrative Conference on AM Broadcasting in Region 2. See Appendix B, footnote 1 of the *Report and Order*.

<sup>2</sup> "Licensees" refers to the petition filed by Forward Communications Corporation, Group One Broadcasting Company, Guaranty Broadcasting Corporation, Infinity Broadcasting Corporation, Lake Huron Broadcasting Corporation, Park Broadcasting, Inc., Shamrock Broadcasting Company, Inc., Summit Radio Corporation, Tri-Cities Broadcasting Company, WAHR, Inc., and WKRG-TV Inc.

<sup>3</sup> In the *Notice of Proposed Rule Making* (45 FR 17602; March 19, 1980) at paragraph 8, the Commission stated that "... we have decided to focus our attention on those proposals dealing with changes within the present allocations framework." This though was referenced in paragraph 7 of the *Report and Order*: "Central to the *Notice's* proposals was the retention of the Table of Assignments framework. It did not propose to modify the allotment structure represented by the Table."



station requirements list referred to in footnote 1, *Supra*.

6. The remaining petitions argue for various protections for Class B and C stations from the reclassification provisions of the *Report and Order*. We therein noted that a significant number of Class B and C stations were operating with facilities that were substantially below those permitted by the rules. Nevertheless, the Commission's spacing requirements protected those stations to the same extent as a full facility licensee. The result of protecting all Class B and C stations at the maximum facility level was the preclusion of new, otherwise permissible services. We therefore determined that existing stations would be given three years from the effective date of the new rules within which to file an application for facilities which achieved certain minimum values for each class. Stations that failed to file such an application within the specified period would be reclassified to an appropriate class that more accurately approximated their actual facilities.

7. NRBA and NAB request that the Commission grandfather existing Class B and C stations rather than reclassify them. Brown supports this request. These parties state that existing stations have been providing reliable service outside their recognized contours for a number of years. If the stations are unable to maintain their present classification, those listeners would be deprived of their services. If the Commission nonetheless wishes to pursue its reclassification goal, NAB and NRBA suggest several measures be taken to provide a greater opportunity for licensees to increase facilities.

8. These suggestions concern the time period allowed for upgrading facilities and the means of protecting existing stations from new allotments made during the omnibus proceeding. NAB and NRBA ask the Commission to provide more than three years in which to meet the new minimums. NAB (and Cox) suggest 10 years; NRBA suggests waivers of the period be liberally granted. NAB, along with Cox and Licensees, requests the adoption of a "more realistic" power and tower height minimum for Class C stations. Their proposed values are based on contentions regarding the amount of land necessary to construct a 300 meter tower and the scarcity of such large parcels in many urbanized areas. Finally, NRBA and NAB along with Cox and Licensees, urge the Commission not to make interim FM allotments that might impair the ability of existing stations to upgrade. These parties propose a protective zone of a radius of

15 miles be provided Class B and Class C stations to enable them to have sufficient area within which to relocate if necessary to upgrade their facilities.<sup>4</sup> "Licensees" urge the Commission "not to reclassify any Class C stations operating below the minimum antenna height; which during the three year period indicates an intention to relocate, but is unreasonably denied access to a 'unique site' in its market for which minimum height could be achieved."

9. In adopting the reclassification requirement in the *Report and Order* we were aware of the fact that for a variety of reasons, many Class B and C FM stations operate with substantially lesser facilities than those permitted by our rules. The licensee's decision to do so may be based on many factors, including: the facilities necessary to serve the licensee's community; financial considerations; real estate availabilities; local zoning restrictions; or air hazard determinations by the Federal Aviation Administration. Whatever the cause, these stations have received the mileage protection granted to a full facility station of the same class, but that separation provided far greater protection than that required to protect the station's primary service contours as defined by the Commission. In this proceeding, we found that such protection also precludes the potential for new service in other communities. Thus, it was determined that after a grace period for upgrading, stations would be reclassified according to their actual facilities. A reclassified licensee would continue to receive adequate protection albeit from reduced separation standards, and new service would become possible. Nothing presented in reconsideration has caused us to depart from this basic premise. The grandfathering of existing Class B and C stations would merely preserve waste of valuable spectrum resources which could be used to provide much needed service at another community.

10. At the same time, it is not our intention to overly restrict a licensee's ability to improve its facilities during the three year grace period. We agree with the petitioners who suggest that allotments made during the interim period could limit a licensee's ability to upgrade. In this regard, the *Report and Order* indicated that new allotments

<sup>4</sup> On the other hand, Atlantic Broadcasting Corporation supports the Commission's decision to reclassify existing stations, and it cites instances in which existing FM stations would prefer to voluntarily reclassify themselves from Class C to Class B-1. Such reclassification would enable a licensee to change transmitter sites to locations where they feel they will be able to better serve the public interest.

would be made based upon the present location of existing stations. Thus, new allotments could confine existing stations to upgrading at their present sites. However, land availability, local zoning restrictions or FAA considerations could preclude an improvement of facilities at that location. Accordingly, we have concluded that a "buffer zone" should be provided to permit some additional freedom of movement for existing Class C stations currently operating with antenna heights above average terrain (HAAT) of less than 300 meters, seeking to upgrade their facilities within the three year period.<sup>5</sup> However, Class B stations—unlike Class C stations—are not restricted to any antenna height minimums. In order to avoid reclassification an existing Class B station now operating below minimum facilities would only have to increase its power to minimum level required under the new rules for its class of station. This does not require any major tower construction or change in transmitter location. Accordingly, no "buffer zone" would be permitted to Class B stations.

11. The Commission's technical staff conducted a limited study to determine the effect of a buffer on 189 communities chosen from the needs list and located in the southeastern part of the United States.<sup>6</sup> With no buffer and using the distance separations adopted in the *Report and Order*, allotments could be made to 107 of those communities. The study then recomputed the communities with potential allotments after adding different buffers to the mileage protection for Class C stations.<sup>7</sup> The results of our studies are set forth in the following table.

Buffer zone (miles)	Estimated maximum area for potential new site (square miles)	Communities with potential allotments	Percent reduction (107 base)
0	0	107	0
5	78	89	17
7	154	77	28
10	314	73	32
15	707	54	50

<sup>5</sup> The provided "buffer zone" does not give the existing Class C stations the right to short-space or increase the short-spacing with existing assignments. However, it would allow existing Class C stations to move freely within the confines of the "buffer zone" provided it is possible to do so.

<sup>6</sup> The first 200 communities in that region were selected for the study, but eleven of those were found to be repeats. Thus, the remaining 189 made up the study.

<sup>7</sup> The study added protection only to those Class C stations whose antenna heights were less than 300 meters and therefore subject to reclassification. Some additional preclusion would result from protecting all Class C stations, including those operating with near maximum facilities.



12. We selected the southeast for our study because that section of the country provides one of the more fertile areas for new allotments under the criteria established in the *Report and Order*. However, this fact also led the staff to believe that the preclusion in the southeast, although significant for decision making purposes, may be substantially greater than the preclusive effect of a buffer zone on a nationwide basis. To test this hypothesis, the staff conducted further computer studies applying buffer zones of five, seven, ten and fifteen miles to a nationwide list of 1401 communities.<sup>8</sup> The results of that study are as follows:

Buffer zone (miles)	Communities with potential allotments	Percent reduction (628 base)
0	828	0
5	759	8
7	729	12
10	666	17
15	619	25

13. Based on these findings, we cannot support an increase in the separation standards to yield the fifteen mile buffer sought by petitioners. That amount of protection would substantially vitiate many of the benefits to be derived from the *Report and Order*. Rather, we believe that a 16 kilometer (10-mile) buffer can provide for a reasonable "protected area" within which stations may select new sites and at the same time it restricts the potential numbers of new allotments less harshly. In any other context the Commission cannot envision a set of circumstances that could persuade it to temporarily foreclose the allotment of one third of the new channels in any particular region of the country, as noted in paragraph II, *supra*. On a national basis we consider 17% temporary foreclosure of channels to be the maximum we permit. However, we fully intended to provide existing stations with the within the three year period. We now recognize that existing licensees will have reduced flexibility as the three

year period passes, and, as new allotments are made, the buffer zone could become the only area in which an existing licensee could relocate to upgrade its facilities. Short of grandfathering all Class C stations, which we do not feel is warranted, a buffer becomes an acceptable means of protecting existing service so that stations may improve their facilities.<sup>9</sup> We acknowledge the magnitude of the short-term "cost" of a 16 kilometer buffer. Yet we also recognize that its impact will be temporary. It will dissolve at the end of the up-grade period. It is therefore possible that communities precluded by it will be eligible for an allotment when it is eliminated and existing stations undergo appropriate reclassification.

14. To summarize, the Commission will provide a 16 kilometer buffer, in addition to the normal distance separation requirements, to existing Class C stations current operating with an HAAT of less than 300 meters. In the event that a station decides to move to a new location within the specified period, the buffer zone will be dropped and the new site will no longer receive protection in excess of that provided by the distance separations. We shall provide the buffer only during the period designated for stations to pursue upgrading options and shall not extend it.<sup>10</sup>

15. With regard to the remaining requests for modifications in the reclassification procedure, we find no reason to change our conclusions. The filing of an application to modify facilities is a more appropriate event with which to "toll" the grace period than the filing of a letter of intent as suggested by petitioners. If a licensee is denied access to a "unique site" within that period, we have no basis to assume that it would ever have access to that site.<sup>11</sup> Similarly, the suggestion that the grace period be extended to 10 years

would unreasonably delay the use of a valuable resource by either the existing station that upgrades or new station(s) that would be precluded by the extended grace period.

16. We also do not believe that any change is warranted in the power and antenna height minima for Class C stations. In establishing the intermediate Classes of stations (B1, C1 and C2) we sought to create a rational mix of potential stations with progressively increasing service areas and appropriate distance separation protections. Petitioners have failed to support their contention that their proposal is superior to the one adopted by the Commission.<sup>12</sup> In order to avoid reclassification a licensee would have 813 square kilometers in his/her buffer zone area to find a new site, construct a tower and upgrade to minimum facilities required under the new rules for its class of station. Additionally, no licensee would be required to downgrade existing facilities so present service would be relatively unaffected. Accordingly, modification of our class standards is not warranted.<sup>13</sup>

17. In its comments, ABES requests clarification of § 73.211 of the Commission's Rule that governs the maxima and minima height above average terrain, and power requirements, of existing Class B and C stations. It states that it believes the rules do not adequately define how existing stations will be classified after the three-year period passes. By way of explanation, stations may not operate with power in excess of the maxima stated in the rules but they may use antenna heights greater than the maxima if transmitter output power is reduced. Reductions are based upon the

could seek reinstatement of its higher class at that time.

<sup>12</sup> WNCV, for example, proposed the construction of a guyed tower 335 meters (1100 feet) above ground on a 10.9 acre site. Due to FAA objections, the proposal was amended to a 213 meter (699 feet) tower. Thus, towers exceeding the Class C minimum can be erected on less than eleven acres.

<sup>13</sup> Similarly NAB expressed its concern that the new mileage separations will negatively affect the quality of FM stereophonic reception. In the *Report and Order* the Commission stated that protecting stereophonic transmissions (rather than monophonic) would significantly increase the distance by which stations must be separated and thereby substantially decrease the potential for new stations. Increased protection was rejected based on the need to provide for a sufficient number of necessary allotments and because stereophonic broadcast is considered to be an optional enhancement of a station's entertainment programming. No new information has been provided to warrant a re-examination of this issue. Accordingly, we shall not revisit the protection question.

<sup>8</sup> The 1401 communities studied represent those locations on the station requirements list which: have no local station; have only a daytime station; were indicated as requiring an additional minority owned station; and/or were indicated as requiring an additional public (noncommercial) station.

<sup>9</sup> Stations operating with larger facilities are more "efficient," from an engineering standpoint, than stations operating with inferior facilities. (See footnote 9 in the *Notice*). Thus, Class C licensees serve the public interest and their own when they improve their facilities. The Commission's interest in providing a buffer area for licensees recognizes the dual benefit obtained.

<sup>10</sup> Stations operating with larger facilities are more "efficient," from an engineering standpoint, than stations operating with inferior facilities. (See footnote 9 in the *Notice*). Thus, Class C licensees serve the public interest and their own when they improve their facilities. The Commission's interest in providing a buffer area for licensees recognizes the dual benefit obtained.

<sup>11</sup> As is clear from the foregoing discussion, the Commission intends to protect only Class C stations. Therefore the request of NRBA to protect existing Class A stations with a five mile buffer is denied. Petitioner did not support the request in any manner and we can find no basis to grant it.

<sup>12</sup> If the "unique site" is in the possession of another broadcaster, Section 73.239 of our rules would preclude unreasonable denial of access. Moreover, if the "unique site" becomes available after reclassification, it is possible that the station



distance to a station's 1mV/m contour (60 dBu). Existing stations with antenna heights in excess of those specified in § 73.211 of the Commission's Rules will be classified or reclassified upon the same basis, i.e., the distance to the 1 mV/m contour. The new rules simply state this requirement and the curves formerly contained in figure 3 of § 73.333 have been deleted.

18. Several other matters have come to the Commission's attention that require discussion and clarification. A question has been raised concerning the use of beam tilt by FM stations and whether main lobe power or maximum power in the horizontal plane will be used when stations are reclassified. Existing stations using beam tilt will be classified according to their HAAT and power in the main lobe. This is consistent with Commission requirements that a broadcast station employing a beam tilt can change its antenna by filing an application for license (FCC form 302), provided that the existing HAAT and ERP remain unchanged. The Commission's FM engineering data base, which will be used for reclassification, does contain the main lobe power as well as power in the horizontal plane. Therefore we anticipate no difficulty in classifying or reclassifying existing stations. Nonetheless, if a station feels it has been incorrectly classified it should notify the Commission.

19. In other areas, questions have been raised about the applicability of § 73.213 of the Commission's Rules to short-spaced stations. This rule section only applies to stations that were short-spaced prior to November 16, 1964. Other existing stations that do not meet the increased second and third adjacent channel spacings will be grandfathered at their existing sites. If they request a new site, our policy will be to waive the second and third adjacent channel separations to the "old" required spacings (e.g. 15, 40 or 65 miles) for the duration of the 3 year period. Applications for unoccupied allotments, however, will have to meet the new spacing requirements.

20. Also, inquiries have been received from existing Class C stations wishing to voluntarily reclassify their stations to a lower class in order to move their transmitter site to a location that would not be available with their present station class. The Commission believes that these stations should not be required to go through rule making if they will voluntarily accept the lower classification. Therefore when a license

is granted to such licensees, the Table will automatically be revised to the appropriate class of station.

#### *Miscellaneous Matters Remaining From the "80-90" Report and Order*

21. As indicated in the *Report and Order*, we shall convert the technical FM broadcast service rules to the International System of Units to conform to the Commission's program for conversion of all its rules. (See Public Notice, FCC 73-737, July 28, 1976.) Until such time as the application form can be revised to reflect this change, applicants may continue to tender applications that use the English system of units. The Commission's technical staff will convert the data on the application to the metric system to ensure compliance with the rules.

22. As noted in paragraph 2, *supra*, the Commission did not set a date for the rules adopted in the *Report and Order* to be effective. It instead chose to delay the implementation of the new rules until it had sufficient staff resources to handle the number of petitions and applications anticipated. Those resources have been obtained in the interim and the Commission will now set the effective date of the "80-90" rules to be the date of adoption of the omnibus "Notice."

23. One of the petitions that stimulated this proceeding was filed by the National Telecommunications Information Administration (RM-3367). It sought changes in the FM rules to allow "FM drop-ins," based on the use of terrain shielding and directional antennas. In the *Notice* in this proceeding the Commission indicated its intention to consider these requests in a future proceeding. We now believe that there is no reason to plan to examine the rule changes sought by NTIA within the foreseeable future. A number of new stations will result from the other rule changes adopted that shall provide significant opportunities for new media outlets. We see no reason to pursue changes in the rules to allow still more stations before the potential afforded by the most recent changes are exhausted. We prefer to see if the present demand for new stations could perhaps be sated by the opportunities now available. Therefore we shall deny the NTIA petition without prejudice.

24. In the *Report and Order* we indicated that applications filed by existing Classes B and C stations requesting authority to increase antenna height and/or power in order to meet or exceed minimum facility requirements within the three year period, will be treated as minor changes. Similarly, we

will consider as a minor modification any site move within the 16 Kilometers buffer zone area by an existing Class C station presently operating with an antenna height of less than 300 meters above average terrain, for the duration of the grace period. Furthermore, we indicated in the *Report and Order* that the maximum antenna height and power requirements for a Class C1 station (100 kilowatts and 300 meters HAAT) are also the established minimum requirements for a Class C station. To clarify this issue an existing station or a future proposal requesting 100 kilowatts of power and 300 meters of HAAT, will be treated as a Class C station. Section 73.211(b) is corrected to show that the maximum antenna height for Class C1 stations will be 299 meters (981 feet) to resolve any classification ambiguity.

25. Accordingly, it is ordered, that the "Petition for Partial Reconsideration" filed in this proceeding by Richard Culpepper, is denied.

26. Accordingly, it is ordered, that the "Petition for Reconsideration" filed in this proceeding by Barry Chaiken, is denied.

27. Accordingly, it is ordered, that the "Petition for Partial Reconsideration" filed in this proceeding by The National Radio Broadcasters Association, is granted in part and denied in part.

28. Accordingly, it is ordered, that the "Petition for Partial Reconsideration" filed in this proceeding by the "Licensees" is granted in part and denied in part.

29. Accordingly, it is ordered, that the "Petition for Partial Reconsideration" filed in this proceeding by "Cox," is granted in part and denied in part.

30. Accordingly, it is ordered, that the "Petition for Reconsideration" filed in this proceeding by The National Association of Broadcasters, is granted in part and denied in part.

31. Accordingly, it is ordered, that the "Application for Review" filed in this proceeding by Knott County Broadcasting Corporation, is denied.

32. Accordingly, it is ordered, that the "petition for Rule Making" filed by the National Telecommunications Information Administration, is denied.

33. Accordingly, it is ordered, that Part 73 of the Commission's Rules, 47 CFR 73 is amended, as set forth in the attached Appendix, effective April 19, 1984.

34. It is further ordered that this proceeding is terminated.

35. Authority for this action is contained in Sections 4(i), 303(g) and 303(r) of the Communications Act of 1934, as amended.



36. For further information on this proceeding, contact John Karousos, Mass Media Bureau, (202) 632-9660.

Federal Communications Commission,  
William J. Tricarico,  
Secretary.

## Appendix

### PART 73—[AMENDED]

1. Section 73.204 is added to read as follows:

#### § 73.204 International agreements and other restrictions on use of channels.

See §§ 73.207, 73.220 and 73.1650.

2. Section 73.207 is amended by revising Tables A and C to read as follows:

#### § 73.207 Minimum distance separations between stations.

TABLE A.—MINIMUM DISTANCE SEPARATION REQUIREMENTS  
[In kilometers (miles)]

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to A	105 (65)	64 (40)	27 (17)	8 (5)
A to B1	138 (86)	88 (55)	48 (30)	16 (10)
A to B	163 (101)	105 (65)	69 (43)	16 (10)
A to C2	163 (101)	105 (65)	55 (34)	16 (10)
A to C1	196 (122)	129 (80)	74 (46)	32 (20)
A to C	222 (138)	169 (105)	105 (65)	32 (20)
B1 to B1	175 (109)	114 (71)	50 (31)	24 (15)
B1 to B	211 (131)	145 (90)	71 (44)	24 (15)
B1 to C2	200 (124)	134 (83)	56 (35)	24 (15)
B1 to C1	233 (145)	161 (100)	77 (48)	40 (25)
B1 to C	259 (161)	193 (120)	105 (65)	40 (25)
B to B	241 (150)	169 (105)	74 (46)	24 (15)
B to C2	241 (150)	169 (105)	74 (46)	24 (15)
B to C1	270 (168)	195 (121)	79 (49)	40 (25)
B to C	274 (170)	217 (135)	105 (65)	40 (25)
C2 to C2	190 (118)	130 (81)	58 (36)	24 (15)
C2 to C1	224 (139)	158 (98)	79 (49)	40 (25)
C2 to C	249 (155)	188 (117)	105 (65)	40 (25)
C1 to C1	245 (152)	177 (110)	82 (51)	48 (30)
C1 to C	270 (168)	209 (130)	105 (65)	48 (30)
C to C	290 (180)	241 (150)	105 (65)	48 (30)

TABLE C.—MINIMUM DISTANCE SEPARATION REQUIREMENTS  
[In kilometers (miles)]

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to A	105 (65)	65 (40)	25 (15)	8 (5)
A to B	175 (110)	105 (65)	65 (40)	16 (10)
A to C	210 (130)	170 (105)	105 (65)	32 (20)
A to D	95 (60)	50 (30)	25 (15)	8 (5)
B to B	240 (150)	170 (105)	65 (40)	25 (15)
B to C	270 (170)	215 (135)	105 (65)	40 (25)
B to D	170 (105)	95 (60)	65 (40)	16 (10)
C to C	290 (180)	240 (150)	105 (65)	48 (30)
C to D	200 (125)	155 (95)	105 (65)	25 (15)
D to D	18 (11)	10 (6)	5 (3)	3 (2)

3. Section 73.506 is amended by revising the headnote and paragraphs (a)(3) and (b), to read as follows:

#### § 73.506 Classes of Noncommercial Educational FM stations and channels.

(a) \* \* \*

(3) Noncommercial educational stations with more than 0.01 kW transmitter power output are classified Class A, B1, B, C2, C1, or C, depending on the effective radiated power, antenna height above terrain, and the zone in which the station's transmitter is located, on the same basis as provided for in §§ 73.205, 73.206, and 73.211 for stations on the non-reserved FM channels.

(b) Any noncommercial educational station except Class D may be assigned to any of the channels listed in § 73.501. Class D noncommercial educational FM stations applied for or authorized prior to June 1, 1980, may continue to operate on their authorized channels subject to the provisions of § 73.512.

4. Section 73.507 is amended by revising paragraph (c) to read as follows:

#### § 73.507 Minimum distance separation between stations.

(c)(1) Stations separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels) from allotments or assignments on non-reserved channels will not be authorized unless they conform to the separations in Table A given in § 93.207.

(2) Under the United States-Mexican FM Broadcasting Agreement, for stations and assignments differing in frequency by 10.6 to 10.8 MHz (53 or 54 channels), U.S. noncommercial educational FM allotments and assignments must meet the separations given in Table C of § 73.207 to Mexican allotments or assignments in the border area.

5. Section 73.211 is amended by substituting the values "299 (981)" for the values "300 (984)" given as entry five in the third column of the table in paragraph (b).

6. Also footnote 36 of the *Report and Order* (published at 48 FR 29498, June 27, 1983) should change to read as follows:

Meters = .3048 × feet  
kilometers = 1.609 × miles  
Square Kilometers = 1/.386 × square miles

#### Concurring Statement of FCC Commissioner James H. Quello

March 1, 1984.

In re: Reconsideration of the Report & Order Modifying FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, BC Docket No. 80-90.

While this is not the course I would have chosen,<sup>1</sup> it does appear that significantly increased opportunities for local FM service may result from this decision. Since the item does recognize legitimate concerns of existing FM licensees as they seek to conform to the new policies, I concur in the result.

[FR Doc. 84-7196 Filed 3-19-84; 8:45 am]

BILLING CODE 6712-01-M

<sup>1</sup> See Dissenting Statement of Commissioner James H. Quello, *Report & Order* in BC Docket 80-90, 48 FR 29486, June 27, 1983.



# Proposed Rules

Federal Register

Vol. 49, No. 55

Tuesday, March 20, 1984

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 29

#### Tobacco Inspection Standards

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98-180) enacted November 29, 1983, requires the Secretary to establish grade and quality standards for the purpose of inspecting all tobacco offered for importation into the United States, except cigar and oriental tobacco, that are, insofar as practicable, the same as those applicable to tobacco marketed through a warehouse in the United States.

Therefore, the Department proposes to amend 7 CFR Part 29 to establish Official Standard Grades to adequately describe all tobacco, except cigar and oriental, imported into the United States.

In addition to amending 7 CFR Part 29 to establish grades for foreign-grown types of tobacco, this proposal will add 9 new grades to the Official Standard Grades for Flue-Cured Tobacco which will be applicable to U.S. Types 11-14 and Foreign-Grown Type 92.

**DATE:** Written comments must be received by April 4, 1984.

**ADDRESS:** Send written comments to Lionel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Room 502 Annex Building, Washington, D.C. 20250.

Comments will be available for public inspection at this location during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Lionel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-2567.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Department proposes to establish Official Standard Grades for all tobacco, except cigar and oriental, imported into the United States, pursuant to the authority contained in the Tobacco Inspection Act of 1935 (49 Stat. 731; 7 U.S.C. 511 *et seq.*).

This proposal will amend the regulations (7 CFR Part 29, Subpart C—Standards) to describe imported flue-cured, dark fire-cured, Burley, Maryland Broadleaf, and dark air-cured tobacco by type, grade, and quality.

The Official Standard Grades currently contained in Subpart C—Standards (7 CFR Part 29) are applicable only to tobacco grown in the United States and Puerto Rico. These Official Standards cover Flue-cured tobacco (Types 11-14), Dark Fire-cured tobacco (Types 21-23), Burley (Type 31), Maryland Broadleaf (Type 32), Dark Air-cured tobacco (Types 35-37), Cigar-filler tobacco (Types 41-44, 46), Cigar-binder tobacco (Types 51-55), and Cigar-Wrapper tobacco (Types 61 and 62).

In order to comply with the Act which provides The Secretary of Agriculture shall "establish grade and quality standards . . . that are, insofar as practicable, the same as those applicable to tobacco marketed through a warehouse in the United States", this proposal would modify and add terminology and rules to existing U.S. Standards for flue-cured, dark fire-cured, Burley, Maryland Broadleaf, and dark air-cured tobacco thereby, making these Official Standard Grades applicable to both U.S. and imported (foreign-grown) types of tobacco.

The basis for modifying the existing U.S. Standards to describe foreign-grown tobacco is to accommodate the form of preparation in which the tobacco will enter the United States. The current official standards only describe tobacco in the whole leaf form whereas foreign-grown tobacco will be in whole leaf as well as strip form. Tobacco in strip form has undergone a mechanical process that reduces the leaf to smaller units. These proposed standards would be applicable to tobacco in the strip form as well as whole leaf form and further distinguish strip form from whole leaf form by placing a special factor "S" (Strip) preceding the grademark. Consequently, the elements of quality "length" and "width", and "size", a length

designation in fire-cured and dark air-cured types, would be disregarded when grading tobacco in the strip form; all references to "leaf" in the definitions and rules would apply to the portions of leaf or lamina's in strip form.

Additionally, this proposal would add 7 new Mixed grades to the official standards for flue-cured tobacco to describe lots of tobacco which have 3 or more groups (stalk positions) or 2 distinctly different groups mixed together in various combinations. Grades M4F, M5F, M4KR, M4KM, M5KM, M4GK, and M5GK will be established primarily to describe Foreign-grown flue-cured tobacco but will also be applicable to U.S. types. Also, the department proposes to add to the official standards for flue-cured tobacco grade B3KD to describe third quality variegated dark red (KD) colored Leaf and grade C3KM to describe third quality variegated mixed (KM) colored Cutters. These two new grades are proposed as a result of the color and quality combinations which have become more distinct in recent years.

Furthermore, this proposal will utilize type number designations established under the Tobacco Stocks and Standards regulations (45 Stat. 1079; 7 U.S.C. 502; 7 CFR 30 *et seq.*), which designates Type 92 as Foreign-Grown Flue-Cured Tobacco and Type 93 as Foreign-Grown Burley Tobacco, to identify these respective types under The Tobacco Inspection Act. In addition, the following new type number designations will be established to identify foreign-grown Maryland Broadleaf, Dark Air-Cured, and Dark Fire-Cured tobacco: Type 94—Foreign-grown Maryland Broadleaf, Type 95—Foreign grown Dark Air-cured, and Type 96—Foreign-grown Dark Fire-cured.

This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been determined to be a "nonmajor" rule because it does not meet any of the criteria established for major rules under the executive order. Initial reviews of the regulations contained in 7 CFR Part 29, for need, currency, clarity, and effectiveness has been completed.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed rule would not have a



significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). The Deputy Administrator has also determined that this proposed rule would not have an effect on normal competition in the marketplace. Standards established for the inspection of tobacco to determine grade and quality must be uniform regardless of the size of the entities involved in tobacco transactions.

Lionel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, has determined that an emergency situation exists which warrants less than a 60-day comment period on this proposal. The shorter comment period will provide sufficient lead time to train inspection personnel on the application of grade standards prior to implementation of the import inspection program and will allow the Commodity Credit Corporation to announce the flue-cured price supports by grade prior to planting of the 1984 crop which will affect the producer's planting and production intentions. Also, the early announcement of price supports by grade are necessary for buying companies to make purchasing plans for foreign and domestic customers. Therefore, a 15-day comment period will be provided on this proposal.

#### List of Subjects in 7 CFR Part 29.

Administrative practices and procedures, Tobacco.

### PART 29—TOBACCO INSPECTION

Accordingly, the Department hereby proposes to amend the regulations under the Tobacco Inspection Act contained in 7 CFR Part 29, Subpart C, as follows:

1. Amend the title "Official Standard Grades for Flue-Cured Tobacco (U.S. Types 11, 12, 13 and 14)", prior to § 29.1001, to read as follows:

**Official Standard Grades for Flue-Cured Tobacco (U.S. Types 11, 12, 13, 14 and Foreign Type 92)**

#### § 29.1015 [Amended]

2. Section 29.1015 is amended to add the words "and Foreign Type 92" after the words "Types 11-14".

#### § 29.1025 [Amended]

3a. Section 29.1025 is amended to add the words "Mixed (M)" following the words "Primings (P)".

b. Section 29.1025 is further amended to add the words "and Foreign Type 92" after the words "Types 11-14".

#### § 29.1030 [Amended]

4. Section 29.1030 is amended to add to the end thereof the sentence "Length,

as an element of quality, does not apply to tobacco in strip form."

#### §§ 29.1027 through 29.1033 [Redesignated as §§ 29.1028 through 29.1034]

5. Sections 29.1027 through 29.1033 are redesignated as §§ 29.1028 through 29.1034, respectively, to maintain alphabetical sequence.

6. Section 29.1027 is added to read as follows:

#### § 29.1027 Leaf.

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

#### § 29.1034 [Amended]

7. Former § 29.1034 is amended to add the words "Types 11-14" after the words "Any lot of" in the first sentence.

#### § 29.1037 [Amended]

8. Section 29.1037 is amended to add the words "Types 11-14" after the word "of".

#### § 29.1039 [Amended]

9. Section 29.1039 is amended to add the words "or Foreign Type 92" after the words "Types 11-14".

#### § 29.1055 [Amended]

10. Section 29.1055 is amended by removing the words "and 26" following the number "22" in parenthesis and add in the place thereof the words "26, and 28".

#### § 29.1062 [Amended]

11a. Section 29.1062 is revised to read as follows:

#### § 29.1062 Symbol (S)

As applied to Flue-cured tobacco the symbol (S) when used (a) as the third factor of a grademark, denotes slick, unripe tobacco in lemon or orange color, and (b) when used preceding a grademark, denotes tobacco in strip form. (See rules 17 and 28)

#### § 29.1063 [Amended]

12. Section 29.1063 is amended to add the word "threshing" following the word "stemming".

#### §§ 29.1034 through 29.1069 [Redesignated as §§ 29.1036 through 29.1071]

13. Former §§ 29.1034 through 29.1069 are redesignated as §§ 29.1036 through 29.1071, respectively, to maintain alphabetical sequence.

14. Section 29.1035 is added to read as follows:

#### § 29.1035 Mixed Group (M).

This group consists of tobacco from three or more groups or two distinctly

different groups which are mixed together in various combinations.

#### § 29.1080 [Amended]

15. Section 29.1080 is amended to add the sentence "Width, as an element of quality, does not apply to tobacco in strip form." after the word "length".

#### §§ 29.1070 through 29.1080 [Redesignated as §§ 29.1073 through 29.1083]

16. Former §§ 29.1070 and 29.1071 through § 29.1080 are redesignated as §§ 29.1073 through 29.1083, respectively, to maintain alphabetical sequence.

17. Section 29.1072 is added to read as follows:

#### § 29.1072 Type 92.

That type of flue-cured tobacco commonly known as Foreign-grown Flue-cured, produced in countries other than the United States.

#### § 29.1116 [Amended]

18. Section 29.1116 is amended by removing the words "after a grademark" following the word "used".

#### § 29.1133 [Amended]

19. Section 29.1133 is amended to add the words "in Types 11-14" after the word "Tobacco".

20. Section 29.1134 is added to read as follows:

#### § 29.1134 Rule 28.

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "S" preceding the grademark.

#### §§ 29.1161, 29.1162, 29.1163, 29.1164, 29.1165, 29.1166, and 29.1168 [Amended]

21. The following sections are amended to remove the abbreviation "U.S." from the heading "U.S. Grades, Grade Names, Minimum Specifications, and Tolerances":

1. Section 29.1161
2. Section 29.1162
3. Section 29.1163
4. Section 29.1164
5. Section 29.1165
6. Section 29.1166
7. Section 29.1168

#### § 29.1162 [Amended]

22. Section 29.1162 is further amended to add a new grade following the paragraph under the heading "B6KF—Poor Quality Variegated Orange Leaf" to read as follows:

B3KD—Good Quality Variegated Dark Red Leaf [New]

Unripe, close leaf structure, heavy, normal width, 16 inches (40.6 cm) or over in length. Uniformity, 80 percent; injury tolerance 15 percent.



**§ 29.1164 [Amended]**

23. Section 29.1164 is further amended to add a new grade following the paragraph under the heading "C4KF—Fair Quality Variegated Orange Cutters" to read as follows:

**C3KM—Good Quality Variegated Mixed Cutters [New]**

Unripe, close leaf structure, medium body, spready, 18 inches (45.7 cm) or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

24. Section 29.1167 is added to read as follows:

**§ 29.1167 Mixed (M Group).**

This group consists of tobacco from three or more groups or two distinctly different groups which are mixed together in various combinations.

**Grades, Grade Names, Minimum Specifications and Tolerances****M4F—Fair Quality Mixed Groups**

Ripe, firm leaf structure, heavy, lean in oil. Injury tolerance 30 percent, of which not over 10 percent may be waste.

**M5F—Low Quality Mixed Groups**

Ripe, firm leaf structure, heavy, lean in oil. Injury tolerance 40 percent, of which not over 20 percent may be waste.

**M4KR—Fair Quality Variegated Red or Scorched Mixed Groups**

Ripe, firm leaf structure, fleshy, lean in oil. Injury tolerance 30 percent, of which not over 10 percent may be waste.

**M4KM—Fair Quality Variegated Mixed Groups**

Unripe, close leaf structure, heavy. Injury tolerance 30 percent, of which not over 10 percent may be waste.

**M5KM—Low Quality Variegated Mixed Groups**

Unripe, tight leaf structure, heavy. Injury tolerance 40 percent, of which not over 20 percent may be waste.

**M4GK—Fair Quality Green Variegated Mixed Groups**

Immature, close leaf structure, heavy. Injury tolerance 30 percent, of which not over 10 percent may be waste.

**M5GK—Low Quality Green Variegated Mixed Groups**

Immature, tight leaf structure, heavy. Injury tolerance 40 percent, of which not over 20 percent may be waste.

**§ 29.1169 [Amended]**

25. Section 29.1169 is amended to remove the abbreviation "U.S." from the heading "U.S. Grade, Grade Name and Specifications".

**§ 29.1181 [Amended]**

Section 29.1181 is amended as follows:

a. Revise the heading "19 Grades of Variegated" to read as follows: "20 Grades of Variegated".

b. Paragraph under the new heading "20 Grades of Variegated": add the new grade "B3KD" above grade "B4KD".

c. Following the paragraph under the new heading "20 Grades of Variegated": and a new category of mixed grades to read as follows:

**7 MIXED GRADES**

M4F..... M4KR..... M4KM..... M4GK  
M5F..... M5KM..... M5GK

d. Revise the heading "7 Grades of Variegated Mixed" to read as follows: "8 Grades of Variegated Mixed".

e. Paragraph under the new heading "8 Grades of Variegated Mixed": add the new grade "C3KM" above the grade "C4KM".

f. In the paragraph at end of § 29.1181: add the words ", and 'S' (Strip)" after the words "'W' (doubtful-keeping order)".

**§ 29.1225 [Amended]**

27a. Section 29.1225 is amended, under the heading "Groups", by adding the words "M—Mixed Group" following the words "P—Primings".

b. Section 29.1225 is further amended, under the heading "Color Symbols", by adding the words "LL—Whitish-lemon" following the words "L—Lemon".

28. Revise the title "Official Standard Grades for Kentucky and Tennessee Fire-Cured tobacco (U.S. Types 22 and 23)", prior to § 29.2501, to read as follows:

**Official Standard Grades for Kentucky and Tennessee Fire-Cured and Foreign-Grown Fire-Cured Tobacco (U.S. Types 22, 23, and Foreign Type 96)****§ 29.2534 [Amended]**

29. Section 29.2534 is amended to add the words "lot of Types 22 and 23" after the word "Any".

**§ 29.2536 [Amended]**

30. Section 29.2536 is amended by removing the words "or 23" following the words "Type 22" and add in the place thereof the words "23 or Foreign Type 96".

**§ 29.2544 [Amended]**

31. Section 29.2544 is amended to add the words "Types 22 and 23" after the words "Any lot of".

**§ 29.2547 [Amended]**

32. Section 29.2547 is amended to add the sentence "Size does not apply to tobacco in strip form." after the word "leaves".

**§ 29.2558 [Amended]**

33. Section 29.2558 is amended to add the word "threshing" following the word "stemming".

**§§ 29.2528 through 29.2562 [Redesignated as §§ 29.2529 through 29.2563]**

34. Sections 29.2528 through 29.2562 are redesignated as §§ 29.2529 through 29.2563, respectively.

35. Section 29.2528 is added to read as follows:

**§ 29.2528 Leaf.**

*Whole, unstemmed leaf.* Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

**§ 29.2568 [Amended]**

36. Section 29.2568 is amended to add the sentence "Width, as an element of quality, does not apply to tobacco in strip form." after the word "length".

**§§ 29.2563 through 29.2568 [Redesignated as §§ 29.2565 through 29.2570]**

37. Former § 29.2563 through § 29.2568 are redesignated as §§ 29.2565 through 29.2570, respectively.

38. Section 29.2564 is added to read as follows:

**§ 29.2564 Type 96.**

That type of fire-cured tobacco known as Foreign-grown Fire-cured produced in countries other than the United States.

**§ 29.2606 [Amended]**

39. Section 29.2606 is amended to remove the abbreviation "U.S." from the heading "U.S. Standard 4-inch Sizes".

**§ 29.2616 [Amended]**

40. Section 29.2616 is amended to remove the referenced section number "29.2638" and, as a result of adding a new rule in a following section, add in the place thereof the section number "29.2639".

**§ 29.2626 [Amended]**

41. Section 29.2626 is amended to remove the words "after a grademark" following the word "used".

**§ 29.2629 [Amended]**

42a. Section 29.2629 is amended to add the words ", except strip grades," after the words "C groups".

b. Section 29.2629 is further amended to remove the abbreviation "U.S." following the words "series of".

43. Section 29.2639 is added to read as follows:

**§ 29.2639 Rule 23.**

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the



special factor "S" preceding the grademark.

**§§ 29.2661, 29.2662, 29.2663, 29.2664, 29.2665, and 29.2666 [Amended]**

44. The following sections are amended to remove the abbreviation "U.S." from the heading "U.S. Grades, Grade Names and Specifications":

1. Section 29.2661
2. Section 29.2662
3. Section 29.2663
4. Section 29.2664
5. Section 29.2665
6. Section 29.2666

**§ 29.2686 [Amended]**

45a. Section 29.2686 is amended to add the letter "S" after the letter "W".

b. Section 29.2686 is further amended to remove the abbreviation "U.S." from the heading "U.S. Standard Sizes Applicable".

46. Revise the title "Official Standard Grades for Burley Tobacco" (U.S. Type 31), prior to § 29.3001, to read as follows:

**Official Standard Grades for Burley Tobacco (U.S. Type 31 and Foreign Type 93)**

**§ 29.3019 [Amended]**

47. Section 29.3019 is amended by removing the words "Type 31" following the word "Burley" and adding in the place thereof the words "Types 31 and 93".

**§ 29.3030 [Amended]**

48. Section 29.3030 is amended by removing the words "Type 31" after the word "Burley" and adding in the place thereof the words "Types 31 and 93".

**§§ 29.3006 through 29.3031 [Redesignated as §§ 29.3007 through 29.3032]**

49. Sections 29.3006 through 29.3031 are redesignated as §§ 29.3007 through 29.3032, respectively.

50. Section 29.3006 is added to read as follows:

**§ 29.3006 Burley, Type 93.**

That type of air-cured tobacco commonly known as Foreign-grown Burley, produced in countries other than the United States.

**§ 29.3035 [Amended]**

51. Section 29.3035 is amended to add the sentence "Length, as an element of quality, does not apply to tobacco in strip form" following the word "tip".

**§ 29.3039 [Amended]**

52. Section 29.3039 is amended to add the words "Type 31" after the words "Any lot of" in the first sentence of the first paragraph.

**§ 29.3041 [Amended]**

53. Section 29.3041 is amended to add the words "Type 31" after the word "of".

**§ 29.3042 [Amended]**

54. Section 29.3042 is amended to remove the words "Type 31" after the word "Burley" and add in the place thereof the words "Types 31 or 93".

**§ 29.3044 [Amended]**

55. Section 29.3044 is amended to add the words "Type 31" after the words "Applied to".

**§ 29.3051 [Amended]**

56. Section 29.3051 is amended to add the words "Type 31" after the words "Any lot of" in the first sentence of the first paragraph.

**§ 29.3066 [Amended]**

57. Section 29.3066 is amended to add the word "threshing" following the word "stemming".

**§ 29.3075 [Amended]**

58. Section 29.3075 is amended to add the sentence "Width as an element of quality, does not apply to tobacco in strip form." after the word "length".

**§§ 29.3032 through 29.3075**

**[Redesignated as §§ 29.3034 through 29.3077]**

59. Sections 29.3032 through 29.3075 are redesignated as §§ 29.3034 through 29.3077, respectively.

60. Section 29.3033 is added to read as follows:

**§ 29.3033 Leaf.**

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

**§ 29.3106 [Amended]**

61. Section 29.3106 is amended to remove from therein the words, "of not less than six hands".

**§ 29.3112 [Amended]**

62. Section 29.3112 is amended to remove the words "Consumer and" following the words "Division of the" and add in the place thereof the word "Agricultural".

b. Section 29.3112 is further amended to remove the words "after a grademark" following the word "used".

**§ 29.3115 [Amended]**

63. Section 29.3115 is revised to read as follows:

**§ 29.3115 Rule 12.**

Any lot, except strip form, of Leaf (B Group) tobacco in which 20 percent or more of its leaves are under 16 inches in

length shall be designated as Tips (T Group).

**§ 29.3127 [Amended]**

64. Section 29.3127 is amended by adding the words "in Type 31" following the word "Tobacco".

65. Section 29.3128 is added to read as follows:

**§ 29.3128 Rule 25.**

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "S" preceding the grademark.

**§§ 29.3151, 29.3152, 29.3153, 29.3154, 29.3155, 29.3156, and 29.3157 [Amended]**

66. The following sections are amended to remove the abbreviation "U.S." from the heading "U.S. Grades, Grade Names and Specifications":

1. Section 29.3151
2. Section 29.3152
3. Section 29.3153
4. Section 29.3154
5. Section 29.3155
6. Section 29.3156
7. Section 29.3157

**§ 29.3181 [Amended]**

67. Section 29.3181 is amended by removing the words "and "W" " following the words "factors "u" " and adding the place thereof the words " "W" and "S" ".

68. Revise the title "Official Standard Grades for Maryland Broadleaf Tobacco (U.S. Type 32)", prior to § 29.3251, to read as follows:

**Official Standard Grades for Maryland Broadleaf Tobacco (U.S. Type 32 and Foreign Type 94)**

**§ 29.3263 [Amended]**

69. Section 29.3263 is amended by removing the words "Type 32" after the word "Broadleaf" and add in the place thereof the words "Types 32 and 94".

**§ 29.3271 [Amended]**

70. Section 29.3271 is amended by removing the words "type 32" after the word "Broadleaf" and add in the place thereof the words "Types 32 and 94".

**§ 29.3275 [Amended]**

71. Section 29.3275 is amended to add the sentence "Length, as an element of quality, does not apply to tobacco in strip form." after the word "tip".

**§§ 29.3273 through 29.3277 [Redesignated as §§ 29.3274 through 29.3278]**

72. Sections 29.3273 through 29.3277 are redesignated as §§ 29.3274 through 29.3278, respectively.



73. Section 29.3273 is added to read as follows:

**§ 29.3273 Leaf.**

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

**§ 29.3278 [Amended]**

74. Former § 29.3278 is amended to remove the words "Type 32" after the word "in" in paragraph "(a)" and add in the place thereof the words "Types 32 and 94".

**§ 29.3279 [Amended]**

75. Section 29.3279 is amended to add the words "lot of Type 32" after the word "Any" in the first sentence.

**§ 29.3281 [Amended]**

76. Section 29.3281 is amended to remove the words "Type 32" after the word "Broadleaf" and add in the place thereof the words "Types 32 and 94".

**§ 29.3287 [Amended]**

77. Section 29.3287 is amended to add the words "Type 32" after the words "lot of".

**§ 29.3291 [Amended]**

78. Section 29.3291 is amended to add the reference rule number and applicable section number "23, § 29.3354" to the end of the sentence in parenthesis.

**§ 29.3298 [Amended]**

79. Section 29.3298 is amended to add the word "threshing" following the word "stemming".

**§§ 29.3278 through 29.3301 [Redesignated as §§ 29.3280 through 29.3303]**

80. Former § 29.3278 through § 29.3301 are redesignated as §§ 29.3280 through 29.3303, respectively.

81. Section 29.3279 is added to read as follows:

**§ 29.3279 Maryland Broadleaf, Type 94.**

That type of air-cured tobacco known as Foreign-grown Maryland Broadleaf produced in countries other than the United States.

**§ 29.3309 [Amended]**

82. Section 29.3309 is amended to add the sentence "Width, as an element of quality, does not apply to tobacco in strip form." after the word "length".

**§§ 29.3302 through 29.3309 [Redesignated as §§ 29.3305 through 29.3312]**

83. Sections 29.3302 and 29.3303 through § 29.3309 are redesignated as §§ 29.3305 through 29.3312, respectively.

84. Section 29.3304 is added to read as follows:

**§ 29.3304 Type 94.**

That type of air-cured tobacco known as Foreign-grown Maryland Broadleaf tobacco produced in countries other than the United States

**§ 29.3334 [Amended]**

85. Section 29.3334 is amended to remove from therein the words, "of not less than six hands".

**§ 29.3344 [Amended]**

86. Section 29.3344 is amended to add the words ", except strip form," after the first two words "Any lot".

87. Section 29.3354 is added to read as follows:

**§ 29.3354 Rule 23.**

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "S" preceding the grademark.

**§§ 29.3385, 29.3386, 29.3387, 29.3388, 29.3389, and 29.3390 [Amended]**

88. The following sections are amended to remove the abbreviation "U.S." from the heading "U.S. Grades, Grade Names and Specifications":

1. Section 29.3385.
2. Section 29.3386.
3. Section 29.3387.
4. Section 29.3388.
5. Section 29.3389.
6. Section 29.3390.

**§ 29.3395 [Amended]**

89. Section 29.3395 is amended to add the letter "S" after the letter "W".

90. Revise the title "Official Standard Grades for Dark Air-Cured Tobacco (U.S. Types 35, 36, and 37)", prior to § 29.3501, to read as follows: "Official Standard Grades for Dark Air-Cured Tobacco (U.S. Types 35, 36, 37 and Foreign Type 95)".

**§ 29.3528 [Amended]**

91. Section 29.3528 is amended to remove the abbreviation "U.S." after the word "See" in parenthesis.

**§ 29.3532 [Amended]**

92. Section 29.3532 is amended to add the words "lot of Types 35, 36, and 37" after the word "Any" in the first sentence of the first paragraph.

**§ 29.3534 [Amended]**

93. Section 29.3534 is amended to remove the words "or 37" after the words "Type 35, 36" and add in the place thereof the words "37, or Foreign Type 95".

**§ 29.3541 [Amended]**

94. Section 29.3541 is amended to add the words "Types 35, 36, and 37" after

the words "Any lot of" in the first sentence of the first paragraph.

**§ 29.3544 [Amended]**

95a. Section 29.3544 is amended to add the sentence "Size does not apply to tobacco in strip form." after the word "leaves".

b. Section 29.3544 is further amended by removing the abbreviation "U.S." after the word "See".

**§ 29.3554 [Amended]**

96. Section 29.3554 is amended to add the word "threshing" following the word "stemming".

**§§ 29.3525 through 29.3559 [Redesignated as §§ 29.3526 through 29.3560]**

97. Sections 29.3525 through 29.3559 are redesignated as §§ 29.3526 through 29.3560, respectively.

98. Section 29.3525 is added to read as follows:

**§ 29.3525 Leaf.**

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

**§ 29.3566 [Amended]**

99. Section 29.3566 is amended to add the sentence "Width, as an element of quality, does not apply to tobacco in strip form." after the word "length".

**§§ 29.3560 through 29.3566 [Redesignated as §§ 29.3562 through 29.3568]**

100. Former § 29.3560 through § 29.3566 are redesignated as §§ 29.3562 through 29.3568, respectively.

101. Section 29.3561 is added to read as follows:

**§ 29.3561 Type 95.**

That type of air-cured tobacco commonly known as Foreign-grown Dark Air-cured produced in countries other than the United States.

**§ 29.3591 [Amended]**

102. Section 29.3591 is amended to remove the abbreviation "U.S." from the heading, the chart immediately thereunder, and from the paragraph under footnote 1 after the words "represented to be of".

**§ 29.3604 [Amended]**

103. Section 29.3604 is amended to remove from therein the words, "of not less than six hands".

**§ 29.3611 [Amended]**

104a. Section 29.3611 is amended to remove the words "Consumer and" following the word "Division" and add in the place thereof the word "Agricultural".



b. Section 29.3611 is further amended to remove the words "after a grademark" following the words "may be used".

#### § 29.3614 [Amended]

105a. Section 29.3614 is amended to add the words ", except strip grades," after the words "C groups".

b. Section 29.3614 is further amended to remove the abbreviation "U.S." after the words "4-inch series of" in the second sentence, and after the word "Applicable" in parenthesis.

106. Section 29.3626 is added to read as follows:

#### § 29.3626 Rule 25.

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "S" preceding the grademark.

#### §§ 29.3646, 29.3647, 29.3648, 29.3649, 29.3650, and 29.3651 [Amended]

107. The following sections are amended to remove the abbreviation "U.S." from the heading "U.S. Grades, Grade Names, Minimum Specifications, and Tolerances":

1. Section 29.3646.
2. Section 29.3647.
3. Section 29.3648.
4. Section 29.3649.
5. Section 29.3650.
6. Section 29.3651.

#### § 29.3652 [Amended]

108. Section 29.3652 is amended to remove the abbreviation "U.S." from the heading "U.S. Grades, Grade Name and Specifications".

#### § 29.3676 [Amended]

109. Section 29.3676 is amended to remove the words "and 'W'" following the words "factors 'U'" and add in the place thereof the words "'W' and 'S'".

110. Revise the title "Applicable U.S. Standard Sizes", prior to § 29.3681 to read as follows:

#### Applicable Standard Sizes

#### § 29.3681 [Amended]

111a. Section 29.3681 is amended to remove the abbreviation "U.S." following the word "Applicable".

b. Section 29.3681 is further amended to remove the words "and 36" following the words "Types 35" and add in the place thereof the words "36 and 95".

(Sec. 213, Pub. L. 96-180, 97 Stat. 1149 (7 U.S.C. 1421); 49 Stat. 731; (7 U.S.C. 511 *et seq.*))

Dated: March 12, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84-7040 Filed 3-19-84; 8:46 am]

BILLING CODE 3410-02-M

#### 7 CFR Parts 916 and 917

(Nectarine Reg. 14, Amdt. 4; Peach Reg. 14, Amdt. 4)

#### Nectarines Grown in California; Fresh Pears, Plums, and Peaches Grown in California; Proposed Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** This notice proposes amending regulations currently in effect for shipments of fresh nectarines and peaches by establishing minimum size requirements for the Desert Dawn variety of nectarines, and the Morning Sun variety of peaches, effective April 23, 1984. These proposed requirements are designed to promote the marketing of fresh fruit of suitable sizes in the interest of producers and consumers.

**DATE:** Comments due by April 4, 1984.

**ADDRESS:** Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The proposed rule is issued under the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), regulating the handling of nectarines grown in California; and the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums and peaches grown in California. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Shipments of California nectarines and peaches are currently regulated by grade and size under § 916.356 Nectarine Regulation 14, as amended, and § 917.459 Peach Regulation 14, as amended, both initially

issued in July 1981. Because these regulations change infrequently from season to season they were issued on a continuing basis subject to amendment, modification, or suspension of regulations as may be recommended by the committees and approved by the Secretary.

The proposed requirements would establish a minimum size requirement of 108 nectarines per No. 22D standard lug box for the Desert Dawn variety of nectarines, and 84 peaches per No. 22D standard lug box for the Morning Sun variety of peaches. Such action would be consistent with the practice of establishing minimum size requirements for a particular variety when shipments exceed 10,000 packages during the prior season. The proposed requirements are based upon the recommendations and information submitted by the Nectarine Administrative Committee and the Peach Commodity Committee, and upon other available information. It is hereby found that this proposed rule would tend to effectuate the declared policy of the Act.

The proposed requirements are designed to prevent the shipment of Desert Dawn variety nectarines and Morning Sun variety peaches not meeting the specified minimum size requirements, and they need to become effective April 23, 1984, to cover all 1984 season shipments. The proposed requirements are designed to provide ample supplies of good quality fruit in the interest of producers and consumers pursuant to the declared policy of the Act.

This proposed rule provides a 15-day comment period. A longer comment period would be contrary to the public interest, as any comments on the rule need to be received within 15 days, so that the final rule, if issued, can be made effective April 23, 1984, to ensure the orderly marketing of California nectarines and peaches. All comments received will be considered prior to issuance of any final rule.

#### List of Subjects

##### 7 CFR Part 916

Marketing Agreements and Orders, Nectarines, California.

##### 7 CFR Part 917

Marketing Agreements and Orders, Pears, Plums, Peaches, California.

#### PART 916—[AMENDED]

The proposed rule would amend § 916.356 (7 CFR Part 916; 48 FR 24653) by revising the introductory text of paragraph (a) and paragraph (a)(2), and



amend § 917.459 (7 CFR Part 917; 48 FR 16877) by revising the introductory text of paragraph (a) and paragraph (a)(3), to read as follows:

**§ 916.356 Nectarine Regulation 14.**

(a) On and after April 23, 1984, no handler shall handle: \* \* \*

(2) Any package or container of Aurelio Grand, Desert Dawn, Mayfair, Maybelle, or Royal Delight variety nectarines unless: \* \* \*

**PART 917—[AMENDED]**

**§ 917.459 Peach Regulation 14**

(a) On and after April 23, 1984, no handler shall handle: \* \* \*

(3) Any package or container of any type of Morning Sun or Springold variety peaches unless: \* \* \*

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 15, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-7493 Filed 3-19-84; 8:45 am]

BILLING CODE 3410-02-M

**FEDERAL TRADE COMMISSION**

**16 CFR Part 13**

[File No. 821 0099]

**National Association of School Music Dealers, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a trade association comprised of dealers specializing in the sale and servicing of school band instruments, to cease taking any action or encouraging its members to take any action which would interfere with how, or to whom a manufacturer distributes its products.

**DATE:** Comments must be received on or before May 21, 1984.

**ADDRESS:** Comments should be directed to FTC/S, Office of the Secretary, Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** FTC/CS-3, Thomas Keary, Washington, D.C. 20580, (202) 724-1278.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C.

46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

**List of Subjects in 16 CFR Part 13**

Musical instruments, Trade practices.

**Before the Federal Trade Commission**

[File No. 821-0099]

**Agreement Containing Consent Order To Cease and Desist**

In the matter of National Association of School Music Dealers, Inc., a non-profit corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the National Association of School Music Dealers, Inc. ("NASMD"), a non-profit corporation, and it now appearing the NASMD, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between NASMD, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. NASMD is a non-profit corporation, incorporated pursuant to the laws of the State of West Virginia, with its principal office located at 1212 5th Street, Coralville, Iowa 52241.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will

be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event the Commission will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.



**Order****I**

It is ordered that NASMD, its officers, directors, representatives, agents, employees, successors and assigns, and any subsidiary, committee, division or other device shall cease and desist from:

A. Taking any action, directly or indirectly, on behalf of its members, including but not limited to any actual or threatened boycott or refusal to deal, which has the purpose or effect of interfering with any musical instrument manufacturer's decision as to how or to whom it distributes its product(s).

B. Requesting, urging, recommending or suggesting that NASMD members take any action, directly or indirectly, including but not limited to any actual or threatened boycott or refusal to deal, which has the purpose or effect of interfering with any musical instrument manufacturer's decision as to how or to whom it distributes its product(s).

**II**

It is further ordered that this Order shall not be construed to prevent NASMD from merely providing information or its members' views to musical instrument manufacturers concerning the effects on NASMD members of the ways in which the manufacturers distribute their products, so long as the information or views are not provided in a manner constituting an actual or threatened boycott or refusal to deal.

**III**

It is further ordered that:

A. NASMD shall mail to each of its members and to each person to whom it sent written notification of the NASMD resolution of February 9, 1982, a copy of the Commission's Order in this matter and a letter in the form shown as "Appendix A" to this Order.

B. For a period of two (2) years after the date of service of this Order, NASMD shall also provide each new NASMD member with a copy of this Order at the time the member is accepted into membership.

**IV**

It is further ordered that, for a period of three (3) years following the effective date of the Order, NASMD shall maintain in its files a copy of the minutes of each meeting of its membership and of each meeting of its board of directors and a copy of all correspondence received from, or sent to, any mail order dealer, any manufacturer of musical instruments or any association representing manufacturers of musical instruments

and that such copies of minutes and correspondence be made available for inspection by representatives of the Federal Trade Commission upon written request.

**V**

It is further ordered that, within sixty (60) days after service of this Order, respondent shall file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order. Thereafter, additional reports shall be filed at such other times as the Commission may, by written notice to respondent, require.

**VI**

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in it, such as dissolution, assignment, or sale resulting in the emergency of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this Order.

**Appendix "A"**

(Respondent's Letterhead)

Dear

As you may be aware, the Federal Trade Commission (FTC) has been investigating certain activities of the National Association of School Music Dealers (NASMD) and NASMD has voluntarily entered into an agreement with the FTC which resulted in the issuance by the Commission on (date) of a complaint and the entry of a consent order. The order requires that you be sent a copy of the order and this letter.

In accordance with the terms of the FTC's order, you are hereby notified that NASMD will cease and desist from taking any action on behalf of its members, such as an actual or threatened boycott or refusal to deal, which has the purpose or effect of interfering with any musical instrument manufacturer's decision as to how or to whom it distributes its products. Further, NASMD will not urge, recommend or suggest that its members take such action.

A copy of the order is enclosed.

Sincerely,

\_\_\_\_\_  
President.

Enclosures

**Analysis of Proposed Consent Order To Aid in Public Comment**

The Federal Trade Commission has accepted an agreement to a proposed consent order from the National Association of School Music Dealers, Inc. (NASMD).

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received

during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

**The Complaint**

The complaint prepared for issuance by the Commission along with the proposed order alleges that NASMD has combined or conspired with its retail dealer members to interfere with manufacturers' decisions concerning how they distribute their instruments, thereby restraining competition in the retail sale of musical instruments to school systems and others, in several respects.

NASMD and its members threatened to boycott musical instrument manufacturers who shipped directly from the factory to the retail dealers' customers. This practice is often called "direct shipping" or "drop shipping". The elimination of direct or drop shipping, it is claimed, would impede the ability of retail dealers who sell by mail from competing with local dealers by raising the transportation and handling costs of the mail order dealer relative to the same costs for the local dealer.

According to the complaint, NASMD adopted a resolution at its annual convention on February 9, 1982 urging manufacturers of musical instruments to "immediately eliminate all 'send direct' shipments. . . ." While retailers are not prohibited by the antitrust laws from informing a manufacturer of competitive hardships imposed upon them by the manufacturers' practices or from suggesting that manufacturers adopt a different practice, NASMD did more. It attempted to force manufacturers to stop direct or drop shipping by threatening that NASMD's retail dealer members would refuse to deal with those manufacturers who did not comply with its resolution. In so doing, NASMD violated Section 5 of the Federal Trade Commission Act.

It is also alleged that NASMD and its members acted to restrain manufacturers of musical instruments from selling at retail in competition with retail dealers. This was accomplished by requiring that manufacturers agree, as a condition of associate membership, that they would not engage in direct competition with retail dealers. The complaint states that this practice also constitutes a violation of Section 5 of the Federal Trade Commission Act.

According to the complaint, NASMD is a non-profit trade association comprised of approximately 200 full



service retail dealers who specialize in the sale and servicing of band instruments, such as brass and woodwind instruments, to schools and student musicians. NASMD's retail dealer members generally concentrate their selling and service efforts in their local areas. They compete with other retail dealers some of whom do business in a much broader area as mail order dealers. NASMD also has a class of non-voting, associate members comprised of nearly all of the major manufacturers of musical instruments and related equipment.

The complaint alleges several anticompetitive effects from NASMD's threatened boycott of manufacturers to force them to eliminate drop shipping. First, retail dealers who wish to compete in markets distant from their place of business have been impeded from doing so. Second, customers, such as school systems, have been restrained from receiving direct shipments from manufacturers. This increases their cost of musical instruments. Third, manufacturers have been restrained from providing the lowest cost method of delivery, thereby increasing the cost of musical instruments. Finally, the restriction on associate membership in NASMD has restrained manufacturers from engaging in direct competition with retail dealers.

#### *The Proposed Order*

The proposed order is intended to prevent NASMD from restraining competition in the retail sale of musical instruments by interfering with manufacturers' distribution practices. Thus, the order would prohibit NASMD from engaging in, or urging that its members engage in, a boycott of, or a concerted refusal to deal with, manufacturers to force them, for example, to stop "drop shipping" or to prevent them from selling to discounters. The order would bar other forms of collective interference as well. It would prevent NASMD from requiring as a condition of membership that manufacturers agree not to directly compete with retailers.

The order recognizes, however, that manufacturers' distribution practices have a substantial effect on retailers and that retailers should be free to communicate these effects to manufacturers through their association. The mere providing of information, if not accompanied by threats, is not interference under this order and is therefore not prohibited. Nevertheless, to insure that communication between NASMD and manufacturers continues unhindered, a specific proviso is contained in the order permitting such

conduct. Similarly, the order does not prevent manufacturers from responding to those communications and changing their methods of distribution.

The order is also designed to dissipate any remaining effects of NASMD's threatened boycott against manufacturers. The order would, therefore, require that NASMD mail a copy of the order and the letter contained in the appendix of the order to each of its members and to each person to whom NASMD sent written notification of the resolution passed on February 9, 1982 at its convention. For a period of three years, new members must also be given a copy of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. This analysis is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,  
Secretary.

[FR Doc. 84-7387 Filed 3-19-84; 8:45 am]  
BILLING CODE 6750-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 271

[Docket No. RM79-76-226 (Colorado-38)]

#### High-Cost Gas Produced From Tight Formations;

March 15, 1984

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and

Producer Regulation contains the recommendation of the State of Colorado that the Niobrara Formation be designated as a tight formation under § 271.703(d).

**DATE:** Comments on the proposed rule are due on April 30, 1984.

**Public Hearing:** No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 30, 1984.

**ADDRESS:** Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NW., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On February 24, 1984, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Niobrara Formation located in Larimer and Weld Counties, Colorado, be designated as a tight formation. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Colorado's recommendation that the Niobrara Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

##### II. Description of Recommendation

The Niobrara Formation is located in Weld County, Colorado, in Township 4 North, Range 68 West, Sections 4 through 6; and in Larimer County, Colorado, in Township 4 North, Range 69 West, Sections 1 through 10, 15 through 22; Township 5 North, Range 68 West, Sections 19 through 21, 28 through 33; and Township 5 North, Range 69 West, Sections 25 through 36, 6th P.M. No federal acreage is included in the recommended area and the area contains approximately 42 square miles.

The Niobrara Formation underlies the Pierre Shale and overlies the Codell Formation. Shales, mudstones, limestones, and dolomites comprise the Niobrara Formation. The top of the Niobrara Formation varies in depth from zero to 7,000 feet and averages 3,000 feet. The Niobrara Formation averages 300 feet in thickness and the formation is of Cretaceous age.



### III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG-43 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by Colorado that the Niobrara Formation as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation under § 271.703.

### IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 30, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-226 (Colorado-38), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, view, data, or otherwise

participate at a public hearing should notify the Commission in writing that they want to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than March 30, 1984.

### List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Colorado's recommendation.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulations.

### PART 271—[AMENDED]

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(201) to read as follows:

#### § 271.703 Tight formations.

\* \* \*

#### (d) Designated tight formations.

\* \* \*

(201) *Niobrara Formation in Colorado.* RM79-76-226 (Colorado-38).

(i) *Delineation of formation.* The Niobrara Formation is located in Weld County, Colorado, in Township 4 North, Range 68 West, Sections 4 through 8; and in Larimer County, Colorado, in Township 4 North, Range 69 West, Sections 1 through 10, 15 through 22; Township 5 North, Range 68 West, Sections 19 through 21, 28 through 33; Township 5 North, Range 69 West, Sections 25 through 36, 6th P.M.

(ii) *Depth.* The average depth to the top of the Niobrara Formation is 3,000 feet. The Niobrara Formation averages 300 feet in thickness.

[FR Doc. 84-7408 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

### DEPARTMENT OF JUSTICE

#### Drug Enforcement Administration

#### 21 CFR Part 1308

#### Schedules of Controlled Substances; Proposed Rescheduling of Sufentanil From Schedule I to Schedule II of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Administrator of the Drug Enforcement Administration (DEA) proposes to reschedule the Schedule I narcotic drug, sufentanil, to Schedule II of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). This action is initiated upon DEA's receipt of a letter from the Assistant Secretary for Health, Department of Health and Human Services (DHHS), recommending that sufentanil be rescheduled from Schedule I to Schedule II. According to the Food and Drug Administration, sufentanil is a narcotic drug with a high potential for abuse and a New Drug Application for sufentanil will be approved in the near future. DEA's final decision concerning the relative abuse potential of sufentanil will take account of the Assistant Secretary's recommendation and any information received in response to this proposal. The effects of this rule would be to require that the manufacture, distribution, dispensing, security, registration, recordkeeping, inventory, exportation and importation of this drug be subject to controls for Schedule II narcotic substances.

**DATE:** Comments and objections must be received on or before April 19, 1984.

**ADDRESS:** Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

**FOR FURTHER INFORMATION CONTACT:** Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

#### SUPPLEMENTARY INFORMATION:

#### List of Subjects on 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

By Federal Register final rule (45 FR 64571; September 30, 1980), sufentanil was controlled under Schedule I of the CSA, effective December 1, 1980. On February 22, 1984, the Assistant Secretary for Health, on behalf of the



Secretary, Department of Health and Human Services, sent to the Administrator of the Drug Enforcement Administration a letter recommending that sufentanil be rescheduled into Schedule II once it is approved for marketing and that sufentanil continue to be defined as a narcotic. Enclosed with the letter was a document entitled "Basis for the Rescheduling of Sufentanil From Schedule I to Schedule II of the Controlled Substances Act." The document contained the factors which the CSA requires the Secretary to consider and the summarized considerations of the Secretary in recommending rescheduling of sufentanil.

The factors considered by the Secretary concerning sufentanil were:

- (1) Its actual or relative potential for abuse;

- (2) Scientific evidence of its pharmacological effect;

- (3) The state of current knowledge regarding the substance;

- (4) Its history and current pattern of abuse;

- (5) The scope, duration and significance of abuse;

- (6) What, if any, risk there is to the public health;

- (7) Psychic or psychological dependence liability; and

- (8) Whether the substance is an immediate precursor of a substance already controlled.

Based on the scientific and medical evaluation and the recommendation of the Secretary, Department of Health and Human Services, with respect to sufentanil, received in accordance with Section 201(b) of the CSA (21 U.S.C. 811(b)), and under the authority vested in the Attorney General by Section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Administrator by regulations of the Department of Justice (28 CFR 0.100), the Administrator hereby proposes that 21 CFR 1308.11(b)(44) be redesignated as 1308.12(c)(23) to read as follows:

#### PART 1308—[AMENDED]

##### § 1308.12 Schedule II.

(c) \* \* \*

(23) Sufentanil.....9740

##### § 1308.11 [Amended]

21 CFR 1308.11(b) (45)–(46) is redesignated as 21 CFR 1308.11(b) (44)–(45).

All interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the

reasons for his belief. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Attention: DEA Federal Register Representative.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant a hearing, the Administrator will publish in the Federal Register an order for a public hearing which will summarize the issues to be heard and set the time for the hearing that will not be less than 30 days after the date of the order.

Pursuant to Title 5, United States Code, Section 605(b), the Administrator certifies that the rescheduling of sufentanil, as proposed herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). Many of the regulatory requirements imposed on Schedule II substances are similar to those imposed on Schedule I substances. Additionally, substances in Schedule II may be used in medical treatment in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this proposal to reschedule sufentanil from Schedule I to Schedule II is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

Dated: March 13, 1984.  
Francis M. Mullen, Jr.,  
Administrator, Drug Enforcement  
Administration.

[FR Doc. 84-7457 Filed 3-19-84; 8:45 am]  
BILLING CODE 4410-09-M

#### DEPARTMENT OF DEFENSE

##### Office of the Secretary

##### 32 CFR Part 142

[DoD Directive 5535.xx]

##### Copyrighted Sound and Video Recordings Used for Entertainment Purposes

**AGENCY:** Office of the Secretary, DoD.  
**ACTION:** Proposed rule.

**SUMMARY:** The increasing availability of videotaped movies and taped sound recordings has created a demand among military personnel for facilities on DoD

installations for the reproduction of these recordings for personal use. Although there is some uncertainty regarding the application of U.S. copyright laws to such activities, it is considered appropriate for general policy guidelines to be established. This rule sets out policies concerning the use of government equipment and facilities for the duplication of sound and video recordings for personal use. The rule also states the policy that permission of the copyright owner will be required when copyrighted sound and video recordings are publicly performed on any DoD facility.

**DATES:** Written comments must be received by May 4, 1984.

**ADDRESS:** Office of the General Counsel, Department of Defense, the Pentagon, Washington, D.C. 20301.

**FOR FURTHER INFORMATION CONTACT:** Mr. David W. Ream, 202-695-3272.

##### SUPPLEMENTARY INFORMATION:

*Executive Order 12291:* The Department of Defense has determined that this rule, if promulgated, will not be a major rule for the purposes of E.O. 12291.

*Paperwork Reduction Act:* This proposed rule, if implemented, would impose no information requirements affecting the public.

*Regulatory Flexibility Act, section 610:* This proposed rule, if promulgated, will not have a significant economic impact on small entities.

##### List of Subjects in 32 CFR Part 142

Military personnel, Entertainment, Video recordings.

Accordingly, it is proposed to amend Chapter I, 32 CFR, by adding a new Part 142, reading as follows:

##### PART 142—COPYRIGHTED SOUND AND VIDEO RECORDINGS USED FOR ENTERTAINMENT PURPOSES

Sec.  
142.1 Purpose.  
142.3 Applicability.  
142.3 Policy.  
142.4 Procedures.  
142.5 Responsibilities.  
Authority: 10 U.S.C. 133.

##### § 142.1 Purpose.

This Directive provides policy, prescribes procedures, and assigns responsibilities regarding the use of copyrighted sound and video recordings for entertainment purposes within the Department of Defense.



**§ 142.2 Applicability.**

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

**§ 142.3 Policy.**

(a) It is DoD policy:

(1) To recognize the rights of U.S. copyright owners while establishing specific guidelines for the use of U.S.-copyrighted works within the DoD community, consistent with its unique mission and worldwide commitments.

(2) Not to condone, facilitate, or permit unlawful reproduction or performance for private or personal use of U.S.-copyrighted sound or video recordings using Government (appropriated fund or nonappropriated fund-owned or -leased) equipment or facilities.

(b) This policy does not necessarily represent DoD's interpretation of U.S. copyright laws although the laws were considered.

**§ 142.4 Procedures.**

(a) Permission or licenses from copyright owners shall be obtained for public performances of U.S.-copyrighted sound and video recordings for entertainment purposes except when:

(1) Such performances are held in bachelor officer or enlisted quarters or some other residential facility or a physical extension thereof, such as a dayroom. A place of entertainment, such as a club, library, or open mess, may not be considered a physical extension of a residential facility for purposes of this Directive.

(2) The performances otherwise are legally permitted.

(b) Government audio and video duplicating facilities may not be used for personal purposes.

**§ 142.5 Responsibilities.**

Heads of DoD Components shall establish procedures to comply with this Directive and shall provide necessary local guidance and legal interpretation.

M. S. Healy,

OSD Federal Register Liaison Officer,  
Department of Defense.

March 15, 1984.

[FR Doc. 84-7413 Filed 3-19-84; 8:45 am]

BILLING CODE 3810-01-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 51 and 52**

[A-9-FRL 2544-6]

**Compliance With the Statutory Provisions of Part D of the Clean Air Act**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of additional comment period.

**SUMMARY:** On February 3, 1983 (48 FR 4972) the Environmental Protection Agency (EPA) published a proposed rulemaking regarding nonattainment areas having a conditionally approved State Implementation Plan, the conditions of which remain unfulfilled. The San Joaquin Valley portion of Kern County, California is one such area. The February 3, 1983 proposal stated that EPA intends to promulgate a finding that the Plan is inadequate, and that such finding will invoke, among other statutory consequences, a ban on major stationary source construction or modification. EPA's proposal was followed by two consecutive 45-day public comment periods.

In March, 1983 the EPA and U.S. Department of Justice executed a settlement agreement with the petitioners in *Chevron USA Inc. v. U.S. Environmental Protection Agency*, No. 81-7703 (9th Cir.) and *Western Oil Gas Association, et. al. v. U.S. Environmental Protection Agency*, No. 81-7704 (9th Cir.). EPA therein agreed that it would provide an opportunity for notice and comment before invoking a construction ban in Kern County pursuant to the conditional approval of the Plan. Today's notice provides the opportunity for comment pursuant to the agreement, because EPA intends to invoke the construction ban for failure to meet the condition requiring a revised New Source Review rule.

**DATES:** Comments may be submitted up to April 19, 1984.

**ADDRESSES:** Comments may be sent to: Regional Administrator, ATTN: Air Management Division, Air Programs Branch, State Liaison Section, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

**FOR FURTHER INFORMATION CONTACT:** James C. Breitlow, State Liaison Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-7650.

**SUPPLEMENTARY INFORMATION: Background**

On February 3, 1983 EPA published in the *Federal Register* (48 FR 4972) a notice of proposed rulemaking regarding, among other things, nonattainment area plans which had been conditionally approved but the condition(s) of approval remained unfulfilled. The San Joaquin Valley portion of Kern County, California was identified as one such area (48 FR 5006). To review all of the unfulfilled conditions, the reader should refer to EPA's August 21, 1981 conditional approval of the Plan (46 FR 42450), and to EPA's notices of December 14, 1982 (47 FR 55919) and August 24, 1983 (48 FR 38467) which revoked some of the original conditions of approval.

The February 3, 1983 notice stated that EPA intends to promulgate a finding that areas with unfulfilled conditions have failed to comply with the requirements of the Act and, therefore, the Plan is inadequate. EPA stated further that the official finding of the Plan's inadequacy will invoke certain statutory consequences, including but not limited to, a ban on major stationary source construction or modification. By that notice, EPA solicited comment upon this and other facets of noncompliance with the requirements of the Act. This notice provided a 45 day comment period ending on March 21, 1983. On March 21, 1983 EPA extended the public comment period an additional 45 days to May 5, 1983 for Plans proposed to be disapproved.

On November 2, 1983 EPA published a notice (48 FR 50686) responding to the major comments received on legal and policy issues. EPA also set forth a general policy for correcting the problems identified in the February 3, 1983 proposal. Under this policy, EPA intends to invoke the construction ban for failure to fulfill the condition requiring that the new source review rule be revised to satisfy Section 173 of the Clean Air Act and 40 CFR 51.18 (as of August 7, 1980). The ban would apply to the construction or modification of major stationary sources of (1) hydrocarbons and particulate matter in the San Joaquin Valley portion of Kern County, and (2) carbon monoxide in the Bakersfield metropolitan area. The other remaining unfulfilled conditions are being addressed in a separate rulemaking notice.

In March, 1983 EPA and the U.S. Department of Justice executed an agreement for dismissal of petitions for review filed in the United States Court of Appeals for the Ninth Circuit by the Western Oil and Gas Association.



Chevron USA, Inc., and Getty Oil Company. In pertinent part, the agreement with the petitioners stated:

On August 21, 1981, EPA lifted the ban on construction of major new or modified sources when it conditionally approved the San Joaquin Valley Air Basin Nonattainment Area Plan for Kern County, California. 46 FR 42450-61. If EPA should decide to reimpose the ban pursuant to that conditional approval, EPA agrees that it will first provide an opportunity for notice and comment on this decision.

#### Solicitation of Public Comment

Although EPA's February 3, 1983 notice provided opportunity for comment on the prospective construction ban as a consequence of finding the Plan inadequate, EPA is by today's notice providing additional notice and opportunity for comment. This notice is given pursuant to the aforementioned agreement for dismissal, and applies only to the Plan for the San Joaquin Valley portion of Kern County. EPA will not invoke the construction ban due to unfulfilled conditions until the comment period provided by this notice is closed and the comments are evaluated.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Sections 101, 107, 110, 118, 171-178, 301(a) and 316 of the Clean Air Act, as amended (42 U.S.C. 7401, 7407, 7410, 7416, 7501-08, 7601(a), and 7616); Section 129(a) of the Clean Air Act Amendments of 1977 (Pub. L. No. 95-95, 91 Stat. 685 (August 7, 1977)).

Dated: February 13, 1984.

John Wise,

Regional Administrator.

(FR Doc. 84-8925 Filed 3-19-84; 8:45 am)

BILLING CODE 5560-50-M

#### 40 CFR Part 52

[A-5-FRL 2546-8]

#### Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA announces proposed disapproval of several proposed revisions to the Illinois State Implementation Plan (SIP) for Ozone. These proposed SIP revisions would, if approved, provide alternative

compliance schedules for Getty Synthetic Fuels Inc., All Steel Inc., Arvey Corp., Moore American Graphics, Inc., Meyercord Company, Georgia Pacific Corp., and St. Charles Manufacturing. Getty Synthetic Fuels Inc., Arvey Corp., Moore American Graphics, Inc., and Meyercord Company are located in Cook County, Illinois. All Steel, Inc., and St. Charles Manufacturing are located in Kane County, Illinois. Georgia Pacific Corp. is located in Will County, Illinois. These Counties are part of the Chicago Ozone demonstration area. USEPA's action is based upon several requests which were submitted by the State of Illinois.

DATE: Comments on this revision and on the proposed USEPA action must be received by April 19, 1984.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Uylaine McMahan, at (312) 353-0396 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), USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine McMahan, Air and Radiation Branch (5AR-26), USEPA, Region V, Chicago, Illinois 60604, (312) 353-0396.

SUPPLEMENTARY INFORMATION: On March 14, 1983, March 17, 1983, May 2, 1983, May 27, 1983, June 23, 1983, and August 15, 1983, respectively, the Illinois Environmental Protection Agency (IEPA) submitted proposed revisions to its ozone SIP for Getty Synthetic Fuels, Inc., All Steel Inc., Arvey Corp., Moore American Graphics, Inc., Meyercord Company, Georgia Pacific Corp. and St. Charles Manufacturing. These SIP revisions are in the form of Illinois Pollution Control Board (IPCB) Final Orders. These facilities are located in Cook County, Illinois, Kane County, Illinois, and Will County, Illinois.

These facilities are all volatile organic compounds (VOC) sources, requesting extension of the compliance date approved as part of Illinois' 1979 ozone SIP. The reader is referred to the technical support document (TSD) available at U.S. EPA's Region V office

for further description of these sources and final compliance dates.

The State claims that the compliance date extensions for the seven sources located in the Chicago nonattainment area will not jeopardize expeditious attainment because the approved 1979 ozone SIP predicts that, by 1983, emissions in the area would be 84,000 tons per year below the level needed to assure reasonable progress toward attainment of the standard. The State claimed that this 84,000 ton per year surplus, or "growth margin," could accommodate the increase in emissions resulting from each of the compliance date extensions.

Under USEPA's policy for a State to secure EPA approval of a relaxation and continue overall approval status, the State would need to show that the SIP as a whole, despite the relaxation, would continue to "provide for" attainment as expeditiously as practicable, but no later than 1987 in extension areas. For VOC this generally will require a data base and modeling demonstration consistent with that applied in extension areas. This policy statement applies to the seven proposed SIP revisions.

At present, the current and reliable analysis does not exist for the Chicago area. Illinois 1982 SIP submittal also appears not to conform to current guidance, leading to USEPA to proposed on February 3, 1983 (48 FR 5110-5114), to disapprove the revised attainment demonstration. It is possible that correction of the apparent deficiencies cited in the February 3, 1983, Federal Register notice would lead to a conclusion that attainment may not be achieved by 1987 (and reasonable interim progress may also not be achieved) even without the source-specific SIP revisions requested by Illinois. Illinois 1979 SIP for the Chicago area does not use current information and does not conform to current guidance.

Therefore, the additional emissions reductions allowed by the compliance date extensions could exacerbate a nonattainment problem rather than being absorbed by a growth margin. That is, USEPA believes that the State has not adequately demonstrated that the continuation of in emissions resulting from the compliance date extension will not interfere with reasonable further progress.

The growth margin and reasonable further progress demonstration contained in the State's 1979 Ozone SIP which EPA approved February 21, 1980 (45 FR 11472), should not be used as a basis for compliance date extensions for



at least two additional reasons. First, Illinois has not implemented the Vehicle Inspection and Maintenance (I/M) portion of the 1979 Ozone SIP which required the State to establish a mandatory I/M program in the Chicago Metropolitan Area by January 1, 1983. Second, the State's RACT II (Reasonably Available Control Technology) rules were finally adopted and implemented later than anticipated by the SIP. Until a revised analysis of the growth margin and RFP demonstration based on these changes is completed, which is consistent with 1982 Ozone SIP modeling guidance, USEPA has determined that it is inappropriate to rely on this growth margin as a basis for compliance date extensions.

These sources are all located in the Chicago demonstration area. All of these sources except Georgia Pacific are located in an urban nonattainment area. Georgia Pacific is located in Will County, which is currently designated attainment. However, the State has included Will County as part of the Chicago Ozone demonstration area in both of their 1979 and 1982 Ozone SIP revision, implying that increased emissions from this source may help cause excessive ozone concentrations in the Chicago area.

For the reasons discussed above, USEPA is proposing disapproval of Illinois' seven SIP revisions.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before (30 days from publication) will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office at the front of this notice.

Under 5 U.S.C. Section 605(b), I certify that this SIP disapproval will not have a significant economic impact on a substantial number of small entities, because the effect of this disapproval is to leave in effect existing emissions limitations. Therefore, there is no change or any impact on any source or community.

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, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide,

Hydrocarbons, Intergovernmental relations.

(Sec. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a)))

Dated: September 26, 1983.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 84-7432 Filed 3-19-84; 8:45]

BILLING CODE 6560-50-M

#### 40 CFR Part 61

[AH-FRL 2546-4]

#### National Emission Standards for Hazardous Air Pollutants Proposed Standards for Inorganic Arsenic

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of public comment period and request for comments.

SUMMARY: The public comment period for the proposed national emission standards for inorganic arsenic for glass manufacturing plants is being reopened. This reopening is for two limited purposes. The first purpose is to receive comments concerning the emission of inorganic arsenic from glass manufacturing plants which produce soda-lime glass. Data received since the proposal of these standards indicate that a substantially higher portion of inorganic arsenic emissions from furnaces producing soda-lime glass may be in vapor phase than from furnaces producing other types of glass. EPA is requesting comments on three regulatory options that are being considered for soda-lime furnaces. The second purpose for reopening the comment period is to receive comments on a possible revision of the zero production rate offsets. The deadline for comments on all other aspects of the proposed standards was January 31, 1984.

DATE: Comments must be received on or before April 19, 1984.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. Specify Docket Number A-83-8.

FOR FURTHER INFORMATION CONTACT: Mr. R. E. Myers or Mr. J. U. Crowder, Industrial Studies Branch, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919)541-5601.

SUPPLEMENTARY INFORMATION: On June 5, 1980, inorganic arsenic was listed by EPA as a hazardous air pollutant under

Section 112 of the Clean Air Act (44 FR 377886). Standards for the control of emissions of inorganic arsenic from glass manufacturing plants were proposed in the Federal Register on July 20, 1983 (48 FR 33112).

The preamble to the proposed standards identifies add-on particulate matter control devices, such as electrostatic precipitators (ESP) or fabric filters, as the best available technology (BAT) for the control of inorganic arsenic emissions from glass manufacturing plants that emit greater than 0.40 Mg (0.44 ton) of arsenic per year. In investigating the factors affecting the performance of particulate matter control devices, EPA evaluated the effect of gas stream temperature on the formation of vapor-phase arsenic. Arsenic in vapor form would not be collected by a control device such as a fabric filter or ESP. The preamble discussion points out that the vapor pressure characteristics of arsenic trioxide (the form of arsenic theoretically expected to be found in the emissions from glass melting furnaces) would indicate that at temperatures typical of flue gas streams from glass furnaces, all arsenic would be theoretically in the vapor phase. The data collected on this question prior to the proposal of the standards, however, revealed a very large fraction of the arsenic to be in the solid phase.

To summarize briefly the test results given in the proposal preamble, EPA examined test data from two glass manufacturing plants that use liquid arsenic acid (rather than powdered arsenic trioxide) in the batch materials. In the first test on a lead glass furnace, less than 1 percent of the total arsenic in the gas stream was found to be in the vapor phase, even though at the flue gas temperature of 204°C (400°F) all of the arsenic would be expected to be in the vapor phase if present as arsenic trioxide. At the second plant producing borosilicate glass, the control device temperature of 138°C (280°F) was also high enough that all arsenic would be expected to be in the vapor phase, but the control device (a fabric filter) was found to be 93 percent efficient in reducing arsenic emissions. This indicated that the arsenic was primarily in the solid phase. Based on these test data, EPA concluded at the time of proposal that it was not certain that the cooling of the gas stream would be effective in increasing the arsenic emission reduction efficiency of the particulate matter control devices at glass manufacturing furnaces that use arsenic acid.

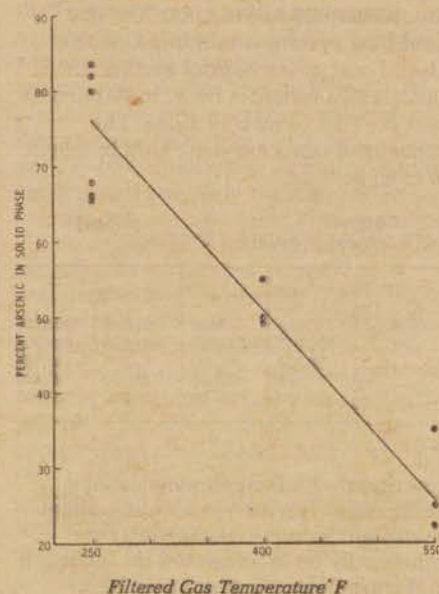


As noted in the preamble to the proposed regulation, EPA has continued its testing program for arsenic emissions from glass manufacturing furnaces. This testing effort has been directed at an investigation of the effects of flue gas temperature and of the use of arsenic acid versus arsenic trioxide on control efficiency. For the purposes of this investigation, emission tests were conducted on two glass furnaces. One test was conducted on a lead glass furnace equipped with an ESP. Arsenic emissions were measured by the proposed EPA Reference Method 108 at the inlet and the outlet of the ESP with arsenic trioxide being added to the batch. In order to determine the temperature effects, single point monitoring (sampling without traversing) was also conducted with the gas temperature maintained at 121°C and 288°C (250°F and 550°F) at the filter of the sampling train. Four weeks later, another set of Method 108 tests was conducted on the same furnace with liquid arsenic acid being added to the batch. Single point monitoring was also conducted at 121°C and 288°C (250°F and 550°F). The test results showed no difference in arsenic emissions from the use of arsenic trioxide versus arsenic acid. The arsenic control efficiency of the ESP was in both cases found to be greater than 97 percent at a flue gas temperature of about 196°C (385°F). The single point tests showed no significant impact of temperature on the solid fraction of arsenic captured by the sampling train. Solid-phase arsenic was greater than 99 percent at both 121°C and 288°C (250°F and 550°F). Therefore, EPA has concluded that the use of arsenic acid would not increase arsenic emissions reduction by particulate control devices.

A second test was performed on a furnace that manufactures glass from a soda-lime recipe, and which operates within a particulate control device. EPA Method 108, as well as single point tests at 121°C, 204°C, and 288°C (250°F, 400°F, and 550°F), were conducted. Individual runs on Method 108 showed that between 68 and 84 percent of the arsenic was in the solid phase. The single point test data showed that for that particular furnace the vapor-phase arsenic content of the vent stream increased with an increase in gas stream temperature above 121°C (250°F). Although the test data show a lack of consistency in the percent of solid-phase arsenic present in the gas stream at 121°C (250°F) and 204°C (400°F), a general trend toward decreasing solid-phase arsenic with increasing temperature is apparent. These data indicate that there is a

relationship between gas stream temperature and the percentage of solid-phase arsenic for soda-lime glass furnaces. This relationship is depicted in Figure 1.

Figure 1. Solid/Vapor Arsenic Phase Relationships With Temperature



This finding has significant implications for strategies intended to control inorganic arsenic emissions from soda-lime glass furnaces. Since the amount of arsenic being emitted in the vapor phase cannot be controlled with particulate matter control devices, the achievable arsenic emission reduction will be limited by the percent of the arsenic that is in the solid phase at the operating temperature of the particulate control device. An analysis of the test data from the soda-lime glass furnace indicates that at a flue gas temperature of 288°C (550°F), only 20 to 30 percent of the arsenic emitted would be in solid phase. This percentage of arsenic in the solid phase would be increased to approximately 50 percent if the gas stream were cooled to 210°C (400°F) and to approximately 76 percent if the gas stream is cooled to 121°C (250°F). This analysis is available for review in the docket, or from Mr. R.E. Myers at the telephone number listed at the beginning of this notice.

Based on the above conclusions, EPA is considering three regulatory options for possible application to soda-lime glass furnaces which would be subject to any add-on control requirements that may be included in the final standard. The first option would place no restrictions on the gas stream temperature entering the particulate matter control device at a soda-lime glass furnace. Available information

indicates that flue gas temperatures for soda-lime glass furnace range from about 232°C (450°F) to 510°C (950°F). The resulting arsenic control achieved by an effective particulate matter control device would, therefore, be substantially less than 50 percent, depending on the temperature. This option would not require any additional cost for cooling the gas stream, and the cost of control would remain comparable with that for glass furnaces producing other types of glass. The capital and annualized costs would be the costs associated with the installation and operation of the particulate control device.

The second option under consideration would be to restrict the gas stream temperature for a soda-lime glass furnace to about 10°C to 20°C (18°F to 36°F) above the acid dew point of the gas stream. This level would avoid acid condensation that can adversely impact the effectiveness of ESPs or fabric filters and increase system maintenance costs by causing premature deterioration of fabric filter bags or corrosion of piping, precipitator plates, and other system components. The temperature range at which the control device should operate would differ for each furnace, since the acid dew point of individual gas streams varies significantly with the batch composition, the moisture in the flue gas, and the fuel used in the glass furnace. Consequently, were this option adopted, the temperature range required by the standard would have to be tailored individually for each facility.

The second option would result in a higher percentage of the arsenic in the gas stream being in the solid phase. Consequently, greater emission reductions would be achieved through the use of particulate matter control devices than are achievable under the first option. However, with this option, a significant percentage of the inorganic arsenic in a gas stream will continue to be in the vapor-phase. This percentage would vary with the temperature or the flue gas from the individual soda-lime furnace. Because arsenic in the vapor-phase cannot be controlled with either a fabric filter or an ESP, this vapor-phase arsenic would be vented to the atmosphere. In some cases, the additional cost of cooling the gases (e.g., with an evaporative cooler) may be completely offset by the reduced cost of the control device resulting from the decrease in the flue gas volume.

The third option would require that the gas stream temperature entering a particulate matter control device be restricted to 121°C (250°F). This represents the lowest temperature at



which data on the solid-phase fraction of inorganic arsenic emissions from soda-lime glass furnaces have been collected, and for which the proportion of solid-phase arsenic can be determined without extrapolation. At this temperature, however, it is expected that most furnace operators will begin to experience problems with acid condensation in the gas stream, as discussed above. Consequently, it will probably be necessary to install a dry scrubber upstream of the particulate control device in order to remove the acidic components of the gas stream.

TABLE 1.—CAPITAL AND ANNUALIZED COSTS OF DRY SCRUBBER SYSTEMS

Furnace Size, Mg/Day (Tons/Day)	23(25)	45(50)	91(100)	181(200)
Capital cost, dollars	508,000	530,000	611,000	729,000
Capital recovery, dollars	82,700	86,300	99,400	118,500
Annual O&M costs, dollars	18,400	20,000	26,600	38,400
Total annualized cost, dollars per year	101,100	106,500	126,000	156,900

As stated previously, EPA is considering each of these regulatory options as a potential response to the effect of high gas stream temperatures on the control of inorganic arsenic emissions from soda-lime glass furnaces. EPA is requesting comments or information from any interested parties on these or other regulatory approaches to controlling arsenic from soda-lime glass furnaces. These comments will be considered by the Agency as a part of the rulemaking proceedings for inorganic arsenic emissions from glass furnaces.

In addition to reviewing regulatory options for soda-lime glass manufacturing, EPA is also reevaluating the application of zero production offsets. These offset values were determined during the development of the new source performance standards for glass manufacturing plants (40 CFR Part 60). The emission limits for glass furnaces are expressed in terms of grams of particulate emissions per kilogram of glass produced. The emission levels in this format, which are achievable by best demonstrated technology, vary according to the production level of the glass manufacturing furnace. The purpose of the zero production offsets is to express the emission limits for each type of glass in a mathematical form that represents the emissions achievable at any level of production. The offsets included in the existing NSPS were not intended to apply to glass furnaces as small as some of the existing glass furnaces that may be subject to the NESHAP. The existing zero production offsets applied to such small furnaces may result in emission limits that are higher than would be

The capital and annualized costs for a dry scrubbing system are shown in Table 1. The capital costs for these systems for soda-lime glass furnaces are projected to be about \$500,000 to \$725,000 depending upon the furnace size. The annualized costs range from about \$101,000 to \$157,000. The dry scrubbing system would increase the capital cost of the control system for various size furnaces by 30 to 70 percent over the cost of an ESP alone. The annualized costs are increased by about 30 to 45 percent.

appropriate for best demonstrated technology. The zero production offset values are being reviewed and new values may be recalculated for inclusion in the promulgated standards. EPA invites comments on the zero production offset values.

Dated: March 9, 1984.

John C. Topping, Jr.,  
Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-7236 Filed 3-19-84; 8:45 am]

BILLING CODE 5560-50-M

#### 40 CFR Part 464

[OW-FRL 2545-7]

#### Metal Molding and Casting Industry, Point Source Category, Effluent Limitations Guidelines, Pretreatment Standards, and Standards of Performance for New Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comments.

SUMMARY: The EPA proposed regulations on November 15, 1982, to limit effluent discharge to waters of the United States and introduction of pollutants into publicly owned treatment works from metal molding and casting (foundry) facilities (47 FR 51512). The comment period on the proposed regulations, originally scheduled to close on January 14, 1983, was extended to February 14, 1983, by the Agency to allow increased participation by interested parties. EPA announces today the availability for public review of

technical and economic data and related documentation received after proposal of the regulations. EPA is requesting comments on these supplementary record materials and on the Agency's preliminary analysis of how these materials might influence final rulemaking.

DATES: Comments must be submitted on or before May 4, 1984.

ADDRESS: Comments may be mailed to Mr. Donald F. Anderson, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: EGD Docket Clerk, Metal Molding and Casting (Foundry) Rules; or delivered to the Docket Clerk, Room 911, East Tower, Waterside Mall, between the hours of 9:00 a.m. and 4:00 p.m. The supplementary information and data received and the revised technical and economic data evaluation summaries will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear), Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Anderson (202) 382-7189 for information regarding the technical data, and John W. Kukulka (202) 382-5388 for information regarding the economic data.

#### SUPPLEMENTARY INFORMATION:

##### Organization of This Notice

- I. Summary of Proposed Regulations
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  - B. BAT
  - C. NSPS
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  - E. PSNS
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- F. Control Technology Cost Development
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  - A. Industry Characterization
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  - G. Small Plant Data
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  - I. Case Study Analysis
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- VI. Solicitation of Comments
- VII. Appendices

# I. Summary of Proposed Regulations

On November 15, 1982, EPA proposed regulations to control the discharge of wastewater pollutants from metal molding and casting operations to navigable waters and to publicly owned treatment works (POTWs) (47 FR 51512). The proposed regulations included effluent limitations based upon the best practicable control technology currently available (BPT), the best available technology economically achievable (BAT), new source performance standards (NSPS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS).

The notice of proposed rulemaking and the supporting technical development document explain the proposal fully. Below is a brief summary of key aspects of the proposal.

The proposed regulation separated the metal molding and casting industry into six subcategories according to type of metal cast and a total of 19 process segments within these subcategories according to the types of manufacturing processes used. Differences in the physical and chemical properties of the various types of metals cast result in differences in manufacturing processes, raw materials, process chemicals used, sources of air pollution and methods of control, water use, and process wastewater characteristics. Further discussion of the subcategorization scheme is presented in Section IV of this notice, Industry Profile and Subcategorization.

The preamble to the proposed regulation and the development document presented a number of available control and treatment technologies which were generally practiced in the industry and considered in developing the proposed regulations. These technologies include methods which achieve no discharge of process wastewaters by complete recycle, and methods for end-of-pipe treatment of

process wastewaters discharged where complete recycle is not practiced.

## A. BPT

EPA proposed complete recycle with no discharge of process wastewater pollutants for 14 process segments, as follows: nine process segments among the ferrous, copper, and magnesium casting subcategories, and five process segments in the other three subcategories. The Agency found that plants in the nine process segments were achieving no discharge by a variety of technologies, including simple settling and complete recycle, or coagulation with lime and sedimentation ("lime and settle") with complete recycle. Oil and grease removal also was used in some segments. Die lubricant reclamation through cyclonic separation and complete recycle is the basis for the aluminum die casting process segment. For five process segments (aluminum casting quench, copper mold cooling and casting quench, lead grid casting, and magnesium grinding and dust collection scrubbers), treatment technology was found to be uniformly inadequate. For these five process segments, complete recycle with no discharge of process wastewater pollutants was proposed based on transfer of control and treatment technology from certain of the nine process segments in the industry where it was found to be practiced.

EPA proposed allowances for discharge and effluent limitations for four process segments, as follows: investment casting, melting furnace scrubber, and die casting in the aluminum casting subcategory, and melting furnace scrubber in the zinc casting subcategory.

EPA proposed BPT effluent limitations for the aluminum investment casting subcategory based on lime and settle technology. No wastewater recycle was practiced in this process segment.

EPA proposed BPT effluent limitations for aluminum melting furnace scrubbers based on the performance of lime and settle technology with oil skimming and assuming 95 percent recycle.

EPA proposed BPT effluent limitations for aluminum die casting based on the performance of chemical emulsion breaking, lime and settle, and filter technology, and assuming 85 percent recycle.

EPA proposed BPT effluent limitations for zinc melting furnace scrubbers based on chemical emulsion breaking, skimming, lime and settle performance, and assuming 95 percent recycle.

BPT effluent limitations for the lead continuous strip casting segment were

not proposed because there were no direct dischargers.

For those process segments with allowable discharges, EPA proposed mass-based limitations (kilograms (kg) of pollutants discharged per 1000 kilograms of metal poured per process). The pollutants proposed to be regulated by the BPT effluent limitations were lead, zinc, phenols (4AAP), TSS, oil and grease, and pH. Each of these pollutants was proposed to be regulated in one or more process segments.

## B. BAT

EPA proposed BAT to be the same as BPT for the 14 process segments where BPT was based on complete recycle with no discharge of process wastewater pollutants. BAT effluent limitations for the aluminum die casting process segment were based on the performance of BPT technology (lime and settle, plus filters) and an increased rate of recycle, from 85 percent at BPT to 95 percent at BAT. BAT effluent limitations for the zinc melting furnace scrubber process segment were based on increasing the recycle rate from 95 percent at BPT to 100 percent at BAT.

For those process segments with allowable discharges, the toxic pollutants specifically limited by the proposed BAT effluent limitations were lead, zinc, acenaphthene, 2,4,6-trichlorophenol, parachloro-meta cresol, chloroform, phenol, butyl benzyl phthalate, chrysene, tetrachloroethylene, and phenols (4AAP). Each of these pollutants was proposed to be regulated in one or more process segments.

## C. NSPS

EPA proposed NSPS based on the best available demonstrated technology to be the same as BPT and BAT for the 15 process segments where complete recycle with no discharge was proposed. EPA proposed NSPS to be the same as BPT for aluminum investment casting and melting furnace scrubbers. EPA proposed NSPS to be the same as BAT for aluminum die casting. EPA proposed NSPS based on lime and settle plus filter for lead continuous strip casting.

The pollutants proposed to be regulated under NSPS included all of the toxic pollutants regulated under BAT, plus TSS, oil and grease, and pH. Each of these pollutants was proposed to be regulated in one or more process segments.

## D. PSES

EPA concluded for the metal molding and casting category that the toxic metals and organic pollutants that



would be regulated under the proposed standards pass through publicly owned treatment works (POTWs). In addition, toxic metals do not degrade in POTWs, but rather are removed in sludges and, therefore, may limit a POTW's chosen sludge disposal method.

EPA proposed PSES for 15 of the 19 process segments. There are no indirect dischargers in the two magnesium process segments and, therefore, EPA did not propose PSES. Also, EPA did not propose PSES for the aluminum investment casting and melting furnace scrubber process segments because the levels of suspended solids and oil and grease in these wastewaters were considered compatible with POTWs. PSES was proposed equal to BAT for 13 process segments where BAT was based on complete recycle with no discharge. PSES was proposed equal to BAT for aluminum die casting. PSES was proposed based on lime and settle plus filter for lead continuous strip casting.

#### E. PSNS

EPA proposed PSNS to be the same as for NSPS in 15 process segments where complete recycle with no discharge was proposed. As for PSES, PSNS was proposed equal to BAT for aluminum die casting. Again, as for PSES, EPA did not propose PSNS for the investment casting and melting furnace scrubber process segments of the aluminum subcategory because the levels of suspended solids and oil and grease in these wastewaters were considered compatible with POTWs. As for PSES, PSNS was proposed equal to NSPS for lead continuous strip casting.

The pollutants proposed to be regulated by PSES and PSNS were the same as for BAT, but not all pollutants were proposed to be regulated in all process segments.

#### F. Pollutants and Process Segments Excluded From Regulation

A substantial number of toxic pollutants were proposed to be excluded from regulation because they were: (a) not detectable by Section 304(h) analytical methods or other state-of-the-art methods (see 47 FR 51532, Appendix C), (b) detected in trace amounts, at or below the nominal limits of analytical quantification (see 47 FR 51533, Appendix D), (c) detected in effluents of only one plant, were uniquely related to that plant, or not treatable using technologies identified by the Administrator (see 47 FR 51534, Appendix E), or (d) adequately controlled by regulation of other specific pollutants (see 47 FR 51535, Appendix F).

In addition, EPA did not propose to regulate certain process segments (nickel casting, tin casting, titanium casting) because no wastewaters are generated by these processes. Investment casting and melting furnace scrubber process segments of the aluminum subcategory were excluded from BAT because toxic pollutants discharged after application of BPT technology were below treatability levels. Lead continuous strip casting was proposed to be excluded from BPT and BAT because there were no direct dischargers. Magnesium dust collection and melting furnace scrubbers were proposed to be excluded from PSES because there were no indirect dischargers.

#### G. Cost and Economic Impacts

The methodology used to perform the economic assessment for the proposed regulation is presented in the document entitled *Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Foundry Industry*, EPA 440/2-082-016. This report details the investment and annual costs for the industry and for each metal type covered by the proposed regulation. Compliance costs are based on engineering estimates of incremental capital requirements above the water pollution control equipment already in place. The report assesses the impact of effluent control costs in terms of plant closures, employment effects, and balance of trade effects and impacts on small businesses. These impacts for each of the regulatory options are discussed in the report.

The economic analysis projected total capital costs, needed for existing plants to comply with the proposed regulation, to be about \$92.7 million in capital costs, with annual costs of approximately \$22.2 million, including depreciation and interest (1982 dollars). The analysis projected that, as a result of compliance with the proposed regulation, 25 plant closures (10 direct dischargers and 15 indirect dischargers) might occur with total unemployment of approximately 484 workers. The figures for closures and unemployment represented less than one percent of the total population of plants and employment expected in the foundry industry in 1984. The Agency determined that closures would occur at the BPT and PSES levels of control. No additional closures were expected as a result of compliance with the proposed BAT effluent limitations. The analysis projected that price increases and balance of trade effects would not occur.

#### H. Non-Water Quality Impacts and Other Aspects of Proposed Regulations.

Discussion of factual and policy findings supporting the proposal are presented at 47 FR 51527-29 and in the development document, and will not be repeated here.

#### I. Solicitation of Comments

The Agency also solicited additional comments and information on six specific issues as part of the notice of proposed rulemaking (refer to Section XXIV, 47 FR 51529 and 51530). Data were sought on: (1) small plant production, employment, sales, revenues, and capitalization; (2) processes which may not be able to operate properly at 100 percent recycle; (3) long-term raw and treated effluent analytical data for plants with well-operated lime and settle treatment systems with 90 percent recycle of treated process wastewater; (4) comparison between 100 percent recycle and the two discharge alternatives of 90 percent and 50 percent recycle for fifteen process segments; (5) the feasibility of substituting non-toxic materials such as phenol-free sand binders for other materials which may contain toxic organic pollutants; and (6) economic information not only on plant closures and job losses, but also on modernization or expansion plans, ability to pass price changes through, plant profitability, the need for additional employees to operate and maintain pollution control equipment, international competitiveness, the availability of less costly control technology, and an additional way to develop criteria for a determination of "small" plants.

#### II. Major Issues Raised in Comments

The Agency received numerous comments on the proposed regulation. These comments criticized data and analyses that were fundamental to the regulation and prompted the Agency to verify its data base and to reconsider many aspects of the regulation. Interested persons are urged to review the rulemaking record for a complete understanding of the many issues raised in comments. Listed below are those issues that appeared to be of greatest concern to commenters and that warranted further study by the Agency.

##### A. Feasibility of Complete Recycle

The most prevalent comment received by EPA was that the proposed requirement for complete recycle with no allowance for wastewater discharge was not feasible technically. It was asserted that recycle systems must have



discharge ("blowdown") to remove dissolved solids and other pollutants which would otherwise build up in these systems, causing scaling and corrosion. Commenters asserted that sophisticated technology (e.g., reverse osmosis, ion exchange, etc.) was necessary to achieve complete recycle and that these technologies were not demonstrated in the industry. Further, it was asserted that the feasibility of recycle systems to achieve complete recycle is dependent upon the dissolved solids content of the intake water supply available to individual plants to make-up for water losses such as evaporation and moisture removed in sludges.

#### *B. Data Base Supporting Complete Recycle*

Trade associations and some members of the industry asserted that numerous individual plants indicated by EPA to demonstrate complete recycle with no discharge were misrepresented in the data base. These commenters asserted that most of the plants in EPA's data base which employ wastewater recycle systems have periodic discharges to allow equipment maintenance and repair, regular removal of "wet" sludges, "discharges" to groundwater, discharges that are removed for off-site disposal by contract haulers, and discharges to adjacent industrial treatment facilities. As such, commenters claimed that these plants do not demonstrate the proposed requirement for complete recycle with no discharge.

#### *C. Treatment Effectiveness Data Base*

A number of comments indicated that the Agency did not use an appropriate basis for establishing effluent limitations for those process segments where discharges were allowed. It was asserted that the Agency's use of the Combined Metals Data Base (the data base from well operated lime and settle treatment systems, used in other industries, that was used to establish lime and settle treatment effectiveness for the metal molding and casting industry) was not appropriate because these data represent treatment of wastewaters from industries whose wastewaters are not comparable to the metal molding and casting industry.

#### *D. Mass-Based Effluent Limitations and Standards*

Some commenters indicated that effluent limitations and standards for the metal molding and casting industry should be based on allowable concentration-based limitations, rather than mass-based limitations. Further, it was asserted that there was no valid

statistical relationship between the mass of pollutants discharged and the mass of metal poured (or any other production normalizing parameter).

#### *E. Die Casting*

EPA received many comments which asserted that die casting operations discharge very small quantities of wastewaters and, therefore, that die casters should not be regulated.

#### *F. Compliance Costs*

Many Commenters asserted that EPA's estimates of the cost to comply with the proposed regulations were understated substantially. These commenters asserted that the true cost of complying with the proposed regulations was substantially in excess of \$100 million per year.

#### *G. Economic Impact*

Many commenters indicated that the Agency's economic analysis vastly understated the impact of the proposed regulations because it did not consider the major downturn in the economy since 1979, the consequent reduction in demand for cast products, and the generally state of the industry (profits, reduced employment, and significant plant closures). Also, it was asserted that EPA did not consider the impact of foreign imports in the analysis. In a similar vein, it was asserted that EPA did not adequately consider the impact of the proposed regulation on small plants. It was suggested that all small plants, as defined by the Small Business Administration (SBA), should be exempted from complying with the regulations.

### **III. Data Gathering Efforts**

Since proposal, the Agency has reviewed much of the data base for background documentation, accuracy and applicability. In its review of the data base, the Agency has corrected any errors noted in comments relating to previously reported data, including water use rates, production levels, recycle ratios, applicability of no discharge limitations, and costs of appropriate treatment technology.

In addition, EPA also has conducted an extensive program to verify comments received on the major issues raised during the comment period. This effort included requesting plants in all subcategories of the industry to verify information in the Agency's files. These requests were sent to all plants in EPA's data base that were believed to have complete recycle systems with no discharge.

Many adverse comments on the proposal were made by die casters and

their trade association. All die casting plants which submitted comments were requested to support their assertion that they should be excluded from regulation because their discharges are environmentally inconsequential. Numerous requests also were made to die casting plants and to other metal molding and casting plants to obtain (1) long term data on the performance of wastewater treatment systems, (2) cost data on existing treatment systems and technology believed necessary to comply with the proposed regulation, (3) information and data on the technical feasibility of complete recycle/no discharge systems, (4) confirmation of discharge status and previous submissions (Data Collection Portfolios [DCP's], and telephone surveys) by all plants included in EPA's data base as having complete recycle with no discharge (except those plants known to have closed), and (5) metal molding and casting process data where none was previously available to provide a basis for interpreting and other data submissions, and related information. The formats and a number of the specific inquiries used in these requests were developed, in part, with the cooperation of the American Foundrymen's Society (AFS) and the American Die Casting Institute (ADCI). These industry trade associations also provided assistance to the EPA in selecting plants for site and sampling visits.

As a direct result of the above data gathering and review efforts, the Agency has acquired a significant amount of additional information on which to base its rulemaking. EPA has analyzed its supplemented data base with the information and data received to date in order to verify or modify, on a preliminary basis, as appropriate, the important underlying facets of the regulations, including: The industry profile and subcategorization; water use and waste load generation; the applicability of complete recycle of treated process wastewater; the performance and cost of control and treatment technologies as applied by direct dischargers and by users of publicly owned treatment works (POTWs); treatment system effectiveness data and the appropriateness of the combined metals data base; economic analysis; and the applicability of metal molding and casting regulations to the die casting segment of the industry. The Agency also performed a model analysis of recycle systems to supplement and confirm industry data on demonstrated



rates of recycle and blowdown, if any. The results of that analysis are discussed in a subsequent section of this notice, and a report on the analysis is included in the record.

The purpose of the balance of this notice is to make available for further comment from the public and the regulated community the additional data that have been gathered since the close of the comment period and the Agency's preliminary analysis of the verified data and the supplemented record. This preliminary analysis is made available by the Agency to ensure the fullest possible public participation in the development of this regulation.

#### IV. Preliminary Data Analysis—Technical

The Agency's analysis of the supplemented record to date as it relates to major issues concerning the regulations are summarized below:

##### A. Industry Profile and Subcategorization

In developing the proposed regulations, EPA identified six subcategories within the metal molding and casting industry on the basis of the type of metal poured. Each of the six subcategories was further broken down into two to five segments related to manufacturing processes (e.g., die casting, die lube, investment casting, slag quench, sand washing, mold cooling, and casting quench) or to air pollution controls (scrubbers associated with dust collection, melting furnace, and grinding operations). The six subcategories and their segments were as follows:

1. Aluminum Casting Subcategory:
  - a. Investment Casting Operations
  - b. Melting Furnace Scrubber Operations
  - c. Casting Quench Operations
  - d. Die Casting Operations
  - e. Die Lube Operations
2. Copper Casting Subcategory:
  - a. Dust Collection Operations
  - b. Mold Cooling and Casting Quench Operations
3. Ferrous Casting Subcategory:
  - a. Dust Collection Operations
  - b. Melting Furnace Scrubber Operations
  - c. Slag Quench Operations
  - d. Casting Quench and Mold Cooling Operations
  - e. Sand Washing Operations
4. Lead Casting Subcategory:
  - a. Continuous Strip Casting Operations
  - b. Grid Casting Operations
  - c. Melting Furnace Scrubber Operations

##### 5. Magnesium Casting Subcategory:

- a. Grinding Scrubber Operations
  - b. Dust Collection Operations
- ##### 6. Zinc Casting Subcategory:
- a. Die Casting and Casting Quench Operations
  - b. Melting Furnace Scrubber Operations

Upon further review of the industry, and in response to public comment, EPA is considering several changes in the proposed subcategorization scheme. All three of the process segments in subcategory 4, Lead Casting, will be deleted from the metal molding and casting industry category because all of the data available to the Agency on lead casting concerns these operations as practices as part of battery manufacturing. See Vol. 49 of the Federal Register for March 9, 1984, at page 9108. As a result, rulemaking covering that industry would better serve to regulate the discharges from lead casting operations. All other changes being considered at this time involve revisions to the segments listed under each subcategory. The Agency received comments which asserted that some operations, which are normally a part of metal molding and casting facilities, were not covered in the proposed regulations. In an effort to respond to these comments, to eliminate certain inconsistencies, and to provide regulations covering most process wastewater sources typically found at metal molding and casting plants for which data are now available, the rearrangement of segments described below is being considered by the Agency.

The Agency has identified additional processes not covered in the proposed regulations which are found at many metal molding and casting facilities. The total waste load from these additional processes is small by comparison to the total waste load already covered by the proposed regulations. Moreover, some plants previously supplied information and data which included the waste loads from these processes but were not identified specifically or broken out with separate estimates.

1. Aluminum Casting Subcategory—Combine segment (e), Die Lube Operations, with segment (d) Die Casting operations because they cannot be meaningfully separated. Add four new segments as follows:

- (e) Dust Collection Scrubber Operations
- (f) Mold Cooling Operations
- (g) Grinding Scrubber Operations
- (h) Casting Cleaning

These operations were identified during the review of the entire data base

now available for the aluminum casting subcategory.

2. Copper Casting Subcategory—Divide segment (b), Mold Cooling and Casting Quench Operations, into separate parts:

- (b) Mold Cooling Operations
- (c) Casting Quench Operations

Also, four additional operations have been identified, either during the data base review or as a result of comments from the industry. These may now be included as new segments as follows:

- (d) Direct Chill Casting Operations
- (e) Investment Casting Operations
- (f) Grinding Scrubber Operations
- (g) Melting Furnace Scrubber Operations

3. Ferrous Casting Subcategory—Divide segment (d), Mold Cooling and Casting Quench Operations, into separate parts:

- (d) Mold Cooling Operations
- (e) Casting Quench Operations

Redesignating segment (e), Sand Washing Operations, as segment (f) Wet Sand Reclamation Operations to represent more accurately the wastewater sources covered by that segment. Also, as a result of the data base review, three additional operations associated with ferrous casting have been identified, leading to new segments as follows:

- (g) Investment Casting Operations
- (h) Casting Cleaning Operations
- (i) Grinding Scrubber Operations

4. Lead Casting Subcategory—Deleted from metal molding and casting industry category; reserved.

5. Magnesium Casting Subcategory—As a result of the data base review, one additional operation was identified, providing the following new segment:

- c. Casting Quench Operations

6. Zinc Casting Subcategory—Divide segment (a), Die Casting and Casting Quench Operations, into separate parts:

- (a) Die Casting Operations
- (b) Casting Quench Operations

Redesignate segment (b) as segment (d), retaining its name Melting Furnace Scrubber Operations. As a result of the data base review, add one additional new segment:

- (d) Mold Cooling Operations

Appendix C includes a list of the proposed subcategories and process segments, and the revised subcategories and process segments now being considered.



**B. Verification of Data Base Supporting Complete Recycle**

Many commenters objected to the EPA's proposal that 14 of the 19 process segments be required to practice 100 percent recycle (no discharge) of process wastewater pollutants. Reasons cited for this objection included purported errors in EPA's data base and the Agency's interpretation of the data as support for rulemaking.

Commenters identified a number of individual plants which they believed were misrepresented in the Agency's

data base of plants achieving complete recycle with no discharge. However, only a portion of the plants in this data base were covered in the comments. In view of the questions raised in the comments, EPA requested all plants with processes identified as having complete recycle with no discharge to verify the status of recycle and discharge, except where plants were known to be closed and could not be contacted. This request was accompanied by copies of previously completed Data Collection Portfolios

(DCPs) and telephone surveys (as appropriate) which led to no discharge findings for each of these plants, and an explanation of what was considered "complete recycle" for purposes of these regulations. This explanation as sent to these plants is presented in Appendix D of this notice. At the present time (as of February 15, 1984), about 80 percent of the plants requested to verify their discharge status have responded. Table 1 provides a summary of responses to EPA requests for verification of recycle and discharge status.

TABLE 1.—RESPONSES TO EPA REQUESTS TO VERIFY STATUS OF PROCESSES PREVIOUSLY IDENTIFIED AS COMPLETE RECYCLE NO DISCHARGE

Metal and process	Originally classified no discharge	Confirmed	No response	Incomplete	Other	NDNW	Discharge	Total
<b>Aluminum:</b>								
Investment casting								0
Melting furnace scrubber	1						1	1
Casting quench	4	1				1	2	4
Die casting	2	1				1		2
Dust collection scrubber	1						1	1
Mold cooling								0
Grinding scrubber								0
Casting cleaning								0
<b>Copper:</b>								
Dust collection scrubber	5	2		1	1		1	5
Mold cooling	1					1		1
Casting quench	3					1	2	3
Direct chill casting								0
Investment casting								0
Grinding scrubber	1			1				1
Melting furnace scrubber	1			1				1
<b>Ferrous:</b>								
Dust collection scrubber	80	22	9	3	11	9	26	80
Melting furnace scrubber	47	18	3	3	7	2	14	47
Slag quench	21	3	2	2	4	4	6	21
Mold cooling	3	1				1	1	3
Casting quench	8		1	1			6	8
Wet sand reclamation	1						1	1
Investment casting								0
Casting cleaning								0
Grinding scrubber	3	1	1	1				3
<b>Magnesium:</b>								
Grinding scrubber	1	1						1
Dust collection scrubber								0
Casting quench								0
<b>Zinc:</b>								
Die casting								0
Melting furnace scrubber	1		1					1
Mold cooling								0
Casting quench	3			1			2	3
<b>Total</b>	<b>187</b>	<b>50</b>	<b>17</b>	<b>14</b>	<b>23</b>	<b>20</b>	<b>63</b>	<b>187</b>

## Key to Response Designations:

CR/ND: Complete Recycle/No Discharge.

NDNW: No Discharge to Navigable Waters and Not Including CR/ND Processes.

Other: Processes in Plants that Could Not Be Contacted Due to Closure, etc.

A significant number of respondents confirmed that they are not discharging process wastewaters to navigable streams or POTWs even though they may transfer wastewaters to other surface impoundments periodically, or dispose of sludges in landfills. Thirty-one process operations originally considered to have no discharge have not been confirmed to date; EPA has received no response from some plants, and incomplete responses from others. Another group of twenty-three process operations originally thought to have no discharge are for plants that have

temporarily shut down or permanently closed. EPA is undertaking further follow-up efforts to resolve the discharge status of the operating and temporarily shut down plants. However, until a response is received, all previously supplied recycle and discharge data will be considered valid. The remaining systems have been deleted from the list of plants with no discharge. Among those deleted are a number of process operations reported previously by plants as no discharge systems which actually discharge to receiving streams or POTWs on a

periodic basis. This period is often only once or twice a year (in one case only once in five years), but these operations will no longer be listed as no discharge. Also deleted are plants which have process wastewater hauled to off-site disposal or reclaiming facilities, plants which discharge to other industrial wastewater treatment facilities, and plants with known or suspected losses of wastewater by seepage to groundwater.

The incoming responses also are being reviewed with respect to size and the presence of more than one complete



recycle operation on-site. While single process operations are in the majority (more than 75 percent are single process operations), several large plants reported more than one process wastewater recycle system with no discharge. One large gray iron foundry has three separate plants with no discharge from melting furnace and dust collection scrubbers. Another gray iron plant achieves no discharge for two melting furnace scrubbers, four dust collection scrubbers and two slag quench operations. A medium-sized malleable iron foundry also attains no discharge for a melting furnace scrubber, dust collection scrubber and slag quench. Among smaller plants, those with more than one no discharge process at a single plant are virtually non-existent, although some of these plants do achieve no discharge for two or more dust collection scrubbers at a given site. All data received on small plants, particularly nonferrous plants and die casters, will be evaluated in further detail to determine if size and presence of more than one process operation are significant factors in the ability of a plant to achieve complete recycle with no discharge.

### C. Review of High Rate and Feasibility of Complete Recycle Systems

1. *Plant Data.* EPA conducted a review of all plant data, as verified to date by responses received on recycle systems, to ascertain preliminarily a range of practical recycle rates for plant operations. EPA analyzed preliminarily the data available to date for recycle rates which might serve as a basis for final limitations. As noted previously, the data on recycle considered in this analysis includes responses to Agency comment verification requests from plants which confirmed the operation of complete recycle systems with no discharge. Also included are data previously in the record from DCP's plant visits, and other sources. Some data also are included from plants that have temporarily shut down or have closed, but still are considered to be valid data sets. Table 2 shows the results of that preliminary analysis for each process segment for which regulations are being considered. Table 2 also shows the number of plants in each process segment being considered for regulation which reported on recycle systems used for that process, and the number of these plants that recycle process wastewater. The balance of Table 2 displays, for the plants which recycle, the number of plants which are achieving recycle rates equal to or greater than 50 percent, 90 percent, 95 percent, 98 percent, and 100 percent.

From Table 2, it should be noted that a total of 125 process operations out of 340 reporting recycle are shown as complete recycle with no discharge. Referring to Table 1, 50 of these process operations have been confirmed as complete recycle with no discharge; 23 process operations are for plants that either have shut down or closed and thus have not been verified; and a total of 31 operations at plants that have either not responded to date or have not provided sufficient information to confirm discharge and recycle status. These combined for a total of 104 process operations as displayed on Table 1. This group of 125 process operations considered to be complete recycle with no discharge also includes 21 process operations not considered in the

proposal. Information on these 21 processes comes from recent responses to EPA comment verification requests, plant visits, and data in the record for proposal that was not considered; 15 of these processes have been confirmed to be complete recycle with no discharge. Appendix F is a list of the plant names and locations which represent the 125 process operations indicated to be complete recycle with no discharge, with notations for the 65 process operations confirmed among those considered to be complete recycle with no discharge. EPA believes that all of these processes have been properly characterized as complete recycle with no discharge. However, EPA will consider any contrary information submitted during the comment period.

Table 2.—Recycle Rate Profile

Metal process	Number of plants		Number of plants which recycle with rate greater than or equal to—				
	With recycle information	Which recycle	50 pct.	90 pct.	95 pct.	98	CR/ND <sup>1</sup>
<b>Aluminum:</b>							
Investment casting.....	3	0	0	0	0	0	0
Melting furnace scrubber.....	8	7	8	4	3	1	0
Casting quench.....	20	4	4	3	1	1	1
Die casting.....	22	8	7	5	3	2	1
Dust collection scrubber.....	3	0	0	0	0	0	0
Mold cooling.....	10	4	3	3	2	0	0
Grinding scrubber.....	3	0	0	0	0	0	0
Casting cleaning.....	3	1	1	1	1	0	0
<b>Copper:</b>							
Dust collection scrubber.....	12	5	5	5	5	5	4
Mold cooling.....	11	3	3	3	2	1	0
Casting quench.....	19	4	4	4	3	2	0
Direct chill casting.....	5	4	4	4	2	1	0
Investment casting.....	1	0	0	0	0	0	0
Grinding scrubber.....	4	2	2	2	2	2	2
Melting furnace scrubber.....	2	1	1	1	1	1	1
<b>Ferrous:</b>							
Dust collection scrubber.....	153	106	101	88	77	68	47
Melting furnace scrubber.....	91	81	75	62	60	48	35
Slag quench.....	77	47	45	32	30	18	12
Mold cooling.....	10	5	4	1	1	1	1
Casting quench.....	47	19	19	14	14	12	6
Wet Sand reclamation.....	14	5	4	1	1	0	0
Investment casting.....	1	0	0	0	0	0	0
Casting cleaning.....	11	1	1	1	1	1	1
Grinding scrubber.....	22	13	13	11	8	8	8
<b>Magnesium:</b>							
Grinding scrubber.....	2	2	2	2	2	1	1
Dust collection scrubber.....	0	—	—	—	—	—	—
Casting quench.....	2	0	0	0	0	0	0
<b>Zinc:</b>							
Die casting.....	6	1	1	1	1	1	0
Casting quench.....	24	6	5	4	3	2	1
Melting furnace scrubber.....	5	4	4	3	2	2	1
Mold cooling.....	5	4	4	4	4	3	3

<sup>1</sup> CR/ND denotes complete recycle/no discharge systems, including those that have been confirmed, those for plants that have either closed permanently or temporarily shut down, and those for plants that have not as yet responded to EPA's request for verification of recycle and discharge status.

2. *Recycle Analysis.* In their comments on the proposed regulations, the industry stated that the EPA should complete a more detailed technical analysis of water chemistry and its effect on a plant's ability to recycle process water at high rates. Many plants commented that the build-up of dissolved solids and other constituents in high rate recycle systems would force these systems to shut down due to

scaling, corrosion, or other fouling tendencies. In EPA's efforts to verify the complete recycle/no discharge data base, questions were asked as to whether scaling, fouling, and corrosion problems caused plant or process shut downs.

Responses to these questions did not demonstrate that a large number of plants actually have experienced major



problems operating high rate or complete recycle systems. Available information in these responses seem to indicate that complete recycle systems do not corrode or scale at rates leading to widespread and frequent unplanned (i.e., "emergency") shutdowns, as reported in industry comments on the proposed regulations. Most respondents indicated that shutdowns for routine maintenance, for example during annual vacation periods, weekends, or periodic scheduled maintenance periods, were utilized for correction of any recycle system problems due to scaling, fouling, or corrosion. Those few respondents that did indicate unplanned shutdowns reported that they typically occurred infrequently (once in a year or longer) and were typically of short duration (eight hours). Tabulation of these responses is included in the record.

Nevertheless, the Agency has completed additional analysis to provide a greater technical understanding of the feasibility of operating high rate and complete recycle systems. The analysis was undertaken to supplement the information and data supplied by the industry on recycle, as displayed in Table 2. More specifically the analysis was intended either to confirm the feasibility of complete recycle systems and the water chemistry which permits them to operate, or to identify water chemistry conditions which might prevent systems from operating at complete recycle. Finally,

the analysis was intended to supplement industry data in identifying achievable recycle rates for those processes and water chemistry conditions for which complete recycle may not be possible.

In order to complete this analysis, the Agency has compiled all available water chemistry data on typical foundry make-up waters and process wastewaters. In so doing, the Agency found that relatively few plants had sufficient data on water chemistry parameters pertinent to recycle system analysis. The Agency has acquired some additional water chemistry data from plants sampled since proposal. In addition, the Agency has developed a computerized metal molding and casting process model which can simulate water use and recycle systems. This model computes Langelier Saturation and Ryznar Stability Indices, and can be used to analyze other recycle conditions such as calcium carbonate and calcium sulfate scaling, silica scaling, corrosion, and total dissolved solids (TDS) build-up.

The model's assumptions and constraints have been tested against actual foundry recycle water quality data and against other recycle simulation models submitted to the Agency by the industry in their comments on the proposed regulations. The model's predictions of pollutant concentration build-up as recycle is increased has correlated well with actual industry data, as have intake

water conditions, evaporation rates, and pollutant removals across treatment systems.

The Agency has used the model to analyze achievable levels of recycle for 19 of 31 metal molding and casting processes being considered for regulation. This analysis included a study of the effect of factors such as make-up water quality, evaporation rates, and solids removal, on the ability to recycle process water. Also, additional treatment requirements (i.e., water softening, scale and corrosion inhibitor addition, polymer additions) have been identified for certain circumstances by using the recycle model. A preliminary report is included in the record which describes the model, its operation, and the preliminary findings covering 19 of the 31 process segments being considered for regulation for which adequate data are available. The results of the model analysis are summarized in Table 3, which presents achievable recycle rates without chemical addition and with chemical addition, as well as the circumstances (if any) limiting recycle, and the chemicals added.

The recycle model analyses and responses from plants on recycle systems have identified several important aspects of metal molding and casting process wastewater recycle systems:

TABLE 3.—RECYCLE RATE SUMMARY; PROCESS MODEL ANALYSIS

Process segment	Without chemical addition		With chemical addition			
	Recycle rate (percent)	Limiting factor	Recycle rate (percent)	Chemical added	pH range	Limiting factor
<b>Ferrous:</b>						
Dust collection scrubber.....	40	CC	97.5	HCl	6.8-7.7	Silica
Melting furnace scrubber.....	80	CC	95.0	HCl	6.9-7.9	Silica
Mold cooling and casting quench <sup>1</sup> .....	20	CC	99.5	HCl	6.8-7.9	CS
Slag quenching.....	93	Silica	NA	NA	7.8-8.3	Silica
Wet sand reclamation.....	92	CC	97.0	HCl	6.4-7.5	CS
<b>Aluminum:</b>						
Dust collection scrubber <sup>1</sup> .....	100		100	None	7.8.8	
Melting furnace scrubber.....	90	CC	100	HCl	7.0-8.1	
Die casting.....	70	CC	100	HCl	6.7-7.6	
Casting quench.....	80	CC	100	HCl	7.9-8.6	
Investment casting.....	0	Corrosion	85.0	NaOH	7.0-8.1	CS
<b>Copper:</b>						
Dust collection scrubber.....	100		100	None	7.8.1	
Direct chill casting <sup>1</sup> .....	98.5	CC	100	HCl	6.8-7.9	
Mold cooling <sup>1</sup> .....	98.5	CC	100	HCl	7.2-8.2	
<b>Magnesium:</b>						
Dust collection <sup>1</sup> .....	94	Corrosion	100	NaOH	7.4-8.4	
Grinding scrubber <sup>1</sup> .....	92	CC	100	HCl	7.3-8.3	
<b>Zinc:</b>						
Casting quench.....	20	CC	97.5	HCl	7.2-8.2	Silica
Die casting.....	30	CC	98.5	HCl	7.6-8.6	Silica
Melting furnace scrubber <sup>1</sup> .....	0	Corrosion	100	NaOH	6.8-7.9	

<sup>1</sup>Based on data from one plant.

<sup>2</sup>Maximum.

CC—Scaling due to calcium carbonate. CS—Scaling due to calcium sulfate. NA—Not applicable. Chemical addition will not result in an increase in the achievable recycle rate. Silica—Scaling due to silica.

a. High rate or complete recycle are feasible for all processes analyzed. The

ability of metal molding and casting plants to operate high rate or complete

recycle systems for all of the 19 process operations analyzed has been



conformed using the Agency's recycle model. Acceptable water chemistry and treatment conditions exist at numerous plants that were analyzed which enable them to operate in a complete recycle mode without experiencing scaling or corroding conditions. Also, more plants could operate successfully either at higher than present recycle rates, or complete recycle systems by using chemical additives in their recycle loops. In many cases, calcium carbonate scaling limits recycle. However, this can be controlled easily under most circumstances by acid addition which lowers pH in recycle systems and prevents calcium carbonate scaling.

The model has been used to confirm the conditions where complete recycle is possible, and to identify those circumstances where complete recycle may not be possible.

b. *The quality of make-up water can affect a plant's ability to recycle at high rates.* Most of the plants (65 out of 67) responding to questions dealing with make-up water quality in the Agency's comment verification requests state that there are no constituents in their make-up water which would adversely affect their ability to recycle. However, the recycle model has shown that plants with similar processes can have different estimated maximum levels of recycle because of differences in make-up quality. Several plants analyzed by the Agency that were able to achieve a high rate of recycle would not be severely impacted if they had a slightly different make-up water source. The Agency has conducted additional work on this issue to better define make-up water quality requirements and any necessary make-up water treatment practices that would permit greater than current recycle or complete recycle. In addition, the Agency intends to analyze the sensitivity of achievable recycle rates to varying make-up water qualities.

c. *The concentration of total dissolved solids (TDS) in the recycle loop is not usually the critical factor influencing a plant's ability to recycle.* While it is true that TDS build-up at selected facilities has the potential to cause recycle systems to scale or foul, the concentration of TDS in recycled wastewater was not the factor limiting recycle at the plants analyzed. Some plants successfully operate high rate and complete recycle systems with TDS concentrations above 40,000 mg/l. Often these plants tolerate these high levels by using chemical additives (polymers) to keep the TDS from interfering with the operation of the recycle system. Other plants are able to keep TDS

concentrations at acceptable levels by removing a sufficient amount with their treatment system sludges, or by having good quality (low TDS levels) make-up water. Industry comments that high levels of dissolved solids will adversely affect the ability to recycle do not appear to be widely applicable.

d. *Violation of air emissions standards by scrubbers operating at high rate recycle does not appear to be a significant problem.* Another key issue raised by several commenters was that increasing recycle rates will have an adverse impact on the ability of air scrubbers to comply with air emission standards. Respondents were asked how often they failed to comply with air emissions standards because of using a high rate or complete recycle system for scrubber wastewater. Thus far, with most responses reviewed, only one reply has asserted that this has resulted in non-compliance. EPA will continue to evaluate all incoming responses and make further inquiries with state and EPA air pollution control agencies.

3. *Recycle Rates Being Considered.* The Agency has reviewed preliminarily the information and data on recycle systems submitted by metal molding and casting plants, and the results of the recycle system model analysis for 19 of the 31 process segments being considered for regulation. Recycle rates being considered are presented in the following discussion for each of the 31 process segments. It is the Agency's intent in developing regulatory options for processes to be covered in the final regulations that the highest rate of recycle (i.e., lowest rate of blowdown) that is practicable, including complete recycle with no discharge, will be selected for BPT, BAT and PSES options, as well as for new sources with both direct (NSPS) and indirect (PSNS) discharge. This will be done in order to minimize the size and cost of end-of-pipe blowdown treatment technology options for BPT, BAT, PSES, and new sources for those process segments in which complete recycle is not the selected recycle option. In the case of process segments where there is minimal or no recycle demonstration by existing plants, such as for investment casting, the Agency will consider establishing recycle rates for existing and new sources that are based on the highest recycle rate demonstrated by a plant in that segment or transferred from another segment, or on recycle rates derived from the recycle model analysis. Also included is the median applied flow rate for each process segment, based on the supplemental record to date (see Appendix F). The flow rates,

together with recycle rates, are used to determine blowdown flow rates to be treated by end-of-pipe control technologies where less than complete recycle is being considered. End-of-pipe treatment technologies are discussed in a later section. End-of-pipe treatment effectiveness data, used to develop the effluent limitations being considered, also are discussed in a later section. The effluent limitations being considered are presented in Appendix F. The Agency solicits comments on the recycle and blowdown rates being considered.

a. *Aluminum Subcategory. (1) Investment Casting.*—The proposed regulations for this process segment were not based on recycle because no plants for which the Agency had data were practicing recycle. This finding has not changed. Transfer of recycle technology for this process wastewater from other process segments in this industry will be investigated. Engineering analysis of recycle systems indicates that 85 percent recycle can be achieved with chemical addition to control pH and, therefore, EPA is considering establishing regulations based on 85 percent recycle. The median applied flow rate for this process segment was determined to be 4900 gallons per ton (2450 gallons per 1000 pounds) of metal poured. With no recycle, the entire volume would require end-of-pipe treatment. At 85 percent recycle, 735 gallons per ton would require treatment. Application of treatment technology and achievable effluent concentrations discussed in later sections results in effluent limitations now being considered, as presented in Appendix F, based on 85 percent recycle.

(2) *Melting Furnace Scrubber.*—The proposed regulations for this process segment were based on 95 percent recycle. The supplemented record indicates that among the eight plants supplying information on recycle for melting furnace scrubbers, seven operate wastewater recycle systems. Three of these plants recycle at rates of at least 95 percent. Recycle model analysis indicates that high rate (90 percent) recycle can be achieved without chemical addition. Therefore, the Agency is still considering establishing regulations based on 95 percent recycle as the appropriate rate of recycle for this segment. The median applied flow rate for this process segment was determined to be 2800 gallons per ton (1400 gallons per 1000 pounds) of metal poured. At 95 percent recycle, a blowdown of 140 gallons per ton would require treatment. The



resulting effluent limitations being considered are presented in Appendix F.

The recycle model analysis also indicates that complete recycle can be achieved with chemical addition. A substantial number of plants in the ferrous subcategory operate melting furnace scrubbers at complete recycle. Transfer of technology from the ferrous subcategory and the recycle model results serve as the basis for also considering complete recycle with no discharge.

(3) *Casting Quench*—The proposed regulations for the casting quench process segment were based on complete recycle with no discharge. Complete recycle was not practiced in this process segment. Therefore, transfer of complete recycle technology as practiced in the zinc casting quench process segment was used as the basis for this proposal. Twenty plants with this process operation provided information on recycle, and four of these plants reported using recycle systems. Among the four plants with recycle, one operates at complete recycle. The recycle model analysis indicates that complete recycle can be achieved with chemical addition. Therefore, maintaining the complete recycle/no discharge requirement for this process segment is still being considered. In addition, the Agency also is considering establishing regulations based on 98 percent recycle, based on transfer of recycle rates from casting quench systems in the ferrous and copper subcategories. The median applied flow rate in this process segment is 221 gallons per ton (110 gallons per 1000 pounds) of metal poured. The resulting effluent limitations being considered, based on end-of-pipe treatment technology and treatment effectiveness data, are presented in Appendix F.

(4) *Die Casting*—The proposed BPT regulation for the die casting process segment was based upon 85 percent recycle. The proposed BAT, NSPS, PSES, and PSNS regulations were based on increasing recycle from 85 percent to 95 percent. As noted in the previous discussion of subcategorization, the Agency is considering combining the die casting and die lube operations into one process segment. The Agency has data in the record on recycle systems for twenty-two plants with information on the combined process, eight of which operate recycle systems. Three of the eight plants operate at recycle rates greater than or equal to 95 percent, and one plant operates a complete recycle system. Recycle model analysis indicates that complete recycle can be achieved with chemical addition. On the

basis of the recycle model analysis and the one plant, complete recycle with no discharge is being considered. In addition, the Agency also is considering establishing regulations based on a recycle rate of 95 percent. The median applied process water flow rate is 1655 gallons per ton (828 gallons per 1000 pounds) of metal poured. The resulting effluent limitations for blowdown (83 gallons per ton) treatment, based on end-of-pipe treatment technology and treatment effectiveness data, are presented in Appendix F.

(5) *Dust Collection Scrubber*—Wet dust collection scrubbers in the aluminum subcategory were not covered in the proposed regulations. Information and data on recycle are available for three plants with wet dust collection scrubbers; however, none indicated that recycle systems were being operated. Recycle model analysis indicates that complete recycle is achievable. Further, complete recycle systems for dust collection scrubbers have been demonstrated in the copper and ferrous subcategories. Therefore, the Agency is considering establishing regulations based on complete recycle for this process segment.

(6) *Mold Cooling*—The proposed regulations did not cover the mold cooling process in the aluminum subcategory. Ten plants employing this process supplied information and data on recycle, and two of these plants operated at 95 percent recycle. Therefore, the Agency is considering 95 percent recycle as the basis for establishing effluent limitations and standards for this process segment. The median applied process water flow rate is 2860 gallons per ton (1430 gallons per 1000 pounds) of metal poured. The resulting effluent limitations for blowdown (143 gallons per ton) treatment being considered, based on end-of-pipe treatment technology and treatment effectiveness data, are presented in Appendix F.

(7) *Grinding Scrubber*—The proposed regulations did not cover process wastewaters from grinding scrubbers. Three plants supplied information and data on recycle for this process; however, none of these plants recycled these process wastewaters. The Agency does have information on recycle for plants with this process in the copper and ferrous subcategories, and transfer of recycle technology is being considered. Complete recycle is being achieved by plants in both of these subcategories, and can be achieved by plants in the aluminum subcategory because of similarities in the constituents of these wastewaters.

Therefore, the Agency is considering establishing regulations based on complete recycle for grinding scrubbers in the aluminum subcategory.

(8) *Casting Cleaning*—The proposed regulations did not cover process wastewaters from casting cleaning. Recycle information was provided by three plants with this process; one of these plants operated a system with 95 percent recycle. Therefore, the Agency is considering establishing regulations based on 95 percent recycle for casting cleaning. The median applied process water flow rate is 480 gallons per ton (240 gallons per 1000 pounds) of metal poured. The resulting effluent limitations being considered for blowdown (24 gallons per ton) treatment are presented in Appendix F.

b. *Copper Subcategory*. (1) *Dust Collection Scrubber*—The proposed regulations for this process segment were based on complete recycle with no discharge as practiced by plants with this process. Among twelve plants that provided information and data on recycle, five plants operate recycle systems. Four of these five plants indicated operating at complete recycle, and the remaining plant at 98 percent recycle. Recycle model analysis indicates that complete recycle is achievable. Therefore, complete recycle with no discharge is being considered.

(2) *Mold Cooling*—In the proposed regulations, the mold cooling process segment was combined with casting quench. The proposed regulations for the combined process segment were based upon complete recycle with no discharge. Complete recycle was not practiced in these segments. Therefore, complete recycle technology as practiced in the ferrous mold cooling and casting quench process segment was transferred to this combined process segment.

As noted previously, the Agency is considering separating this segment into two process segments. EPA has recycle information and data on eleven plants with the mold cooling process; three of these plants operate recycle systems. One of the three plants operates a system with 98 percent recycle, and the other two plants operate at recycle rates of greater than 90 percent. Recycle model analysis indicates that very high rate recycle (greater than 98 percent) is achievable without chemical addition and that complete recycle is achievable with chemical addition. Based on available data, the Agency believes that 95 percent recycle can be achieved in the mold cooling process segment of the aluminum subcategory. On the basis of these demonstrated rates in both the



copper and aluminum subcategories and as confirmed by the recycle model analysis, the Agency is considering establishing regulations based on 95 percent recycle for this process. The median process water flow rate is 1458 gallons per ton (729 gallons per 1000 pounds) of metal poured. The resulting effluent limitations for blowdown (73 gallons per ton) treatment being considered are presented in Appendix F.

(3) *Casting Quench*—As noted above, the proposed regulations combined casting quench operations with mold cooling. Transfer of complete recycle technology from ferrous mold cooling and casting quench served as the basis for the proposed no discharge requirements. The Agency is now considering casting quench as a separate process segment. Information and data on recycle are available for 19 plants, with four of these plants operating recycle systems. All four plants indicated operating at 90 percent recycle or greater, with two plants operating at 98 percent or greater. Therefore, the Agency is considering establishing regulations based on a recycle rate of 98 percent. The median applied process water flow rate is 496 gallons per ton (248 gallons per 1000 pounds) of metal poured. Effluent limitations for blowdown (10 gallons per ton) treatment being considered are presented in Appendix F.

(4) *Direct Chill Casting*—Wastewaters from the copper direct chill casting process were not included in the proposed regulation. As noted previously, the Agency is considering including this process for casting of copper in the metal molding and casting category. The Agency has information and data on recycle from five plants; four of these plants operate recycle systems at rates of greater than 90 percent, and two of the four plants operate at 95 percent recycle or greater. Recycle model analysis indicates that a very high rate of recycle (98.5 percent) is achievable without chemical addition, and complete recycle is achievable with chemical addition. Therefore, the Agency is considering establishing regulations based on a recycle rate of 95 percent for direct chill casting based primarily on the recycle rates demonstrated by plants with this process. The median applied process water flow rate is 4018 gallons per ton (2009 gallons per 1000 pounds) of metal poured. The Agency is considering effluent limitations for blowdown (201 gallons per ton) treatment as presented in Appendix F.

(5) *Investment Casting*—Process wastewaters from investment casting of

copper were not covered in the proposed regulations. The Agency is considering including this process in the final regulation. Information and data on recycle are available from one plant; however, this plant does not operate a process wastewater recycle system. Data pertinent to recycle system water chemistry were not available and, therefore, recycle model analysis was not performed. However, data were available for aluminum investment casting and the recycle model analysis indicated 85 percent recycle was achievable. Therefore, the Agency is considering establishing regulations based on 85 percent recycle using the recycle model analysis transferred from the aluminum subcategory. Effluent limitations are being considered, as presented in Appendix F, based on 85 percent recycle.

(6) *Grinding Scrubber*—Process wastewaters for grinding scrubbers in the copper subcategory were not covered in the proposed regulations. However, the Agency is considering including this process in the final regulations. Data and information on recycle are available from four plants with this process, and two of these plants recycle their process wastewaters. Both of the plants with recycle operate at complete recycle. Therefore, EPA is considering establishing regulations based on complete recycle.

(7) *Melting Furnace Scrubber*—The proposed regulation did not include process wastewaters from wet scrubbers for melting furnaces in the copper subcategory. The Agency is considering including this process segment in the final regulation. Data and information on recycle are available for two copper casting plants with wet scrubbers for melting furnaces, and one of these plants operates a complete recycle system. A regulation for this process based on complete recycle appears feasible because of the practice of complete recycle in the ferrous subcategory where wet scrubbers are in use for melting furnaces. Therefore, complete recycle is being considered as the basis for regulations for this additional process.

c. *Ferrous Subcategory*. (1) *Dust Collection Scrubber*—The proposed regulations for this process segment were based on complete recycle with no discharge. Information and data on recycle is available from 153 plants with wet dust collection scrubbers; 106 of these plants recycle their scrubber process wastewaters. Among the 106 plants, 68 plants operate at recycle rates of 98 percent or greater, and 47 plants

indicate operation of complete recycle systems. Therefore, the Agency is still considering complete recycle with no discharge for the final regulation. Recycle model analysis indicates that very high rate recycle (97.5 percent) is achievable with chemical addition, but also that complete recycle may not be possible due to silica scaling. In light of this finding, the Agency also is now considering establishing regulations based on 98 percent recycle which is being demonstrated by 68 of 106 plants which recycle. The median applied process water flow rate is 380 gallons per ton (190 gallons per 1000 pounds) of total sand used. Effluent limitations being considered for blowdown (8 gallons per ton) treatment, based upon end-of-pipe treatment technology and treatment effectiveness data discussed later in this notice, are presented in Appendix F.

(2) *Melting Furnace Scrubber*—The proposed regulations for process wastewaters from melting furnace scrubbers in the ferrous subcategory were based on complete recycle with no discharge. The Agency has information and data in the record on recycle systems for 91 plants; 81 of these plants recycle melting furnace scrubber wastewaters. Complete recycle systems have been indicated at 35 plants. Therefore, the Agency is still considering establishing final regulations based on complete recycle. Recycle model analysis indicates that very high rate recycle (95 percent) is achievable with chemical addition, but also that complete recycle may not be possible due to silica scaling. Therefore, the Agency also is considering establishing regulations based on 98 percent recycle which is being demonstrated by 48 of 81 plants which recycle. The median applied process water flow rate is 2217 gallons per ton (1109 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (44 gallons per ton) treatment, based upon end-of-pipe treatment technology and treatment effectiveness data discussed later in this notice, are presented in Appendix F.

(3) *Slag Quench*—The proposed regulations were based on complete recycle. Information and data on recycle are available from 77 plants, and 47 plants indicate recycle of wastewater. Among these 47 plants, 12 plants indicated complete recycle/no discharge. Therefore, EPA is still considering establishing final regulations based on complete recycle. Recycle model analysis indicated that high rate recycle (93 percent) could be achieved without chemical addition, but



that complete recycle may not be feasible due to silica scaling. A total of 18 plants indicated recycle rates of 98 percent or greater were being achieved. Therefore, EPA also is considering establishing final regulations based on 98 percent recycle. The median applied process water flow rate is 614 gallons per ton (307 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (12 gallons per ton) treatment are presented in Appendix F.

(4) *Mold Cooling*—The proposed regulations were based on complete recycle with no discharge for a combined process segment covering mold cooling and casting quench. The Agency is considering separate process segments for both mold cooling and casting quench operations. The Agency has information and data on mold cooling process wastewater recycle systems from 10 plants, with five of these plants operating recycle systems. One of the five plants indicated the operation of a complete recycle system and, therefore, complete recycle still is being considered as a basis for establishing final regulations. Recycle model analysis, of combined mold cooling and casting quench wastewaters, indicates that very high rate (99.5 percent) recycle can be achieved with chemical addition, but that complete recycle may not be feasible due to calcium sulfate scaling. In the aluminum subcategory, 95 percent recycle was demonstrated. Therefore, the Agency also is considering establishing regulations based on 95 percent recycle for mold cooling in the ferrous subcategory. The median applied process water flow rate is 427 gallons per ton (214 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (21 gallons per ton) are presented in Appendix F.

(5) *Casting Quench*—The proposed regulations for ferrous casting quench process were combined with mold cooling, and were based on complete recycle with no discharge. Forty-seven plants have supplied information and data on process wastewater recycle, and 19 of these plants indicated that casting quench wastewaters are recycled. Among these 19 plants, six plants indicated that they operate systems with complete recycle and no discharge. On this basis, the Agency still is considering establishing regulations based on complete recycle. Recycle model analysis, for one plant with combined mold cooling and casting quench wastewaters, indicates that very high rate recycle (99.5 percent) is

achievable, but that complete recycle may not be achievable due to calcium sulfate scaling. Twelve plants reported achieving recycle rates of 98 percent or greater. Therefore, the Agency also is considering establishing regulations based on 98 percent recycle. The median applied process water flow rate is 310 gallons per ton (155 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (6 gallons per ton) treatment are presented in Appendix F.

(6) *Wet Sand Reclamation*—The Agency proposed regulations requiring no discharge for sand washing process wastewaters. As described previously, the Agency is considering redefining this process segment to reflect more accurately the generation of wastewaters from this operation. Fourteen plants with the wet sand reclamation process provided information and data on the use of wastewater recycle systems, with five of these plants indicating that wastewaters are being recycled. Among these five plants, one plant reported recycling at a rate of 95 percent, one plant is operating at 80 percent recycle, and two more plants reported operating at recycle rates greater than or equal to 50 percent. Recycle model analysis indicates that very high rate recycle (97 percent) is achievable with chemical addition. The analysis also indicates, however, that complete recycle may not be achievable due to calcium sulfate scaling. Therefore, the Agency is not considering complete recycle. However, 95 percent recycle, as achieved by one plant and confirmed by the model analysis, is being considered as the basis for establishing regulations. A recycle rate of 80 percent recycle, as achieved by two of five plants with recycle, also is being considered as the basis for establishing regulations. The median applied process water flow rate is 1104 gallons per ton (550 gallons per 1000 pounds) of total sand used in the process. Effluent limitations being considered for a 20 percent blowdown rate (221 gallons per ton) are presented in Appendix F.

(7) *Investment Casting*—The proposed regulation did not cover process wastewaters from ferrous investment casting operations. Information and data on recycle is available from one plant, but this plant does not operate a process wastewater recycle system. Recycle model analysis of aluminum investment casting indicated that 85 percent recycle was achievable with chemical addition. Transfer of recycle model analysis from the aluminum investment casting process is being considered to establish

regulations based on a recycle rate of 85 percent for the ferrous subcategory. Median applied process water flow rate for ferrous investment casting is 300 gallons per ton (150 gallons per 100 pounds) of metal poured. Effluent limitations now being considered, as presented in Appendix F, are based on 85 percent recycle.

(8) *Casting Cleaning*—The proposed regulation did not cover process wastewaters from casting cleaning operations. Eleven plants which generate process wastewaters from casting cleaning operations provided information and data on the use of recycle systems. One of the 11 plants indicated operation of a system with complete recycle, with no other plants operating recycle systems for this process. An achievable recycle rate of 95 percent was identified in the aluminum subcategory. Therefore, the Agency also is considering establishing regulations based on a 95 percent recycle for the ferrous subcategory. The median applied process water flow rate is 145 gallons per ton (73 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (7 gallons per ton) treatment are presented in Appendix F.

(9) *Grinding Scrubber*—Process wastewaters from ferrous grinding scrubbers were not covered by the proposed regulations. Recycle information and data are available from 22 plants with this process, with 13 of these plants operating wastewater recycle systems. Among these 13 plants, eight plants operate systems with complete recycle and no discharge, with three more plants operating recycle systems at rates of 90 percent or higher. Therefore, final regulations for grinding scrubbers based on complete recycle are being considered.

d. *Magnesium Subcategory*.—(1) *Grinding Scrubber*—The proposed regulations for magnesium grinding scrubber process wastewaters were based on complete recycle with no discharge. This technology was not practiced by plants in the magnesium subcategory. Therefore, transfer of complete recycle technology as practiced in the dust collection process segment of the ferrous subcategory served as the basis for the proposed no discharge requirement in this process segment. The Agency now has information and data on recycle systems for two plants, one indicating that it operates a complete recycle system. Complete recycle was found to be feasible for grinding scrubbers in the copper and ferrous subcategories. Recycle model analysis indicates that



complete recycle is achievable with chemical addition. On this basis, the Agency is still considering establishing regulations based on complete recycle with no discharge.

(2) *Dust Collection Scrubber*—The proposed regulations for process wastewaters from the dust collection scrubber process segment were based on complete recycle with no discharge, as practiced in and transferred from the ferrous dust collection scrubber process segment. The Agency currently does not have data on recycle systems for wet dust collection scrubbers at magnesium casting plants. Recycle model analysis indicates that complete recycle is achievable with chemical addition. Therefore, the Agency still is considering establishing regulations based on complete recycle for magnesium grinding scrubbers, which, in turn, is transferred from the ferrous subcategory.

(3) *Casting Quench*—The proposed regulations did not cover process wastewaters from casting quench operations in the magnesium subcategory. Two plants which have casting quench operations provided information and data on recycle, but neither of these plants indicated recycle of process wastewaters. Therefore, the Agency is considering basing the final regulation on transfer of recycle technology as practiced in other subcategories (e.g., copper, ferrous). The Agency believes that a recycle rate of 98 percent could be achieved on a consistent basis in these subcategories and, therefore, 98 percent recycle is being considered as the basis for establishing regulations for casting quench wastewaters in the magnesium subcategory. Median applied process water flow rate is 533 gallons per ton (267 gallons 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (11 gallons per ton) treatment are presented in Appendix F.

e. *Zinc Subcategory. (1) Die Casting*—The proposed regulations included both die casting and casting quench operations in one process segment. The proposed regulations for this combined process segment were based on complete recycle with no discharge as practiced by plants in this subcategory. The Agency has information and data on recycle for six plants in this process segment; one of these indicated use of a recycle system operating at 98 percent recycle. Based on available data, the Agency believes that a recycle rate of 95 percent is achievable in the aluminum die casting process. Recycle model analysis indicates that very high rate

recycle (98.5 percent) also is achievable in the zinc die casting process with chemical addition, but that complete recycle may not be achievable due to silica scaling. Therefore, the Agency is considering establishing regulations based on a 95 percent recycle rate as demonstrated by three of six plants with this process and as confirmed by the recycle rate being considered for aluminum die casting. The median applied process water flow rate is 1143 gallons per ton (572 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (57 gallons per ton) treatment are presented in Appendix F.

(2) *Casting Quench*—As noted above, the proposed regulations for casting quench process wastewaters were based on complete recycle with no discharge for the process segment which combined zinc die casting with casting quench. Information and data are available on recycle for 24 plants, and six of these plants indicate recycle of casting quench process wastewaters. One of the six plants which recycle indicates operation of a system with complete recycle and no discharge. Therefore, the Agency still is considering establishing regulations based on complete recycle. One other plant indicates a recycle rate equal to or greater than 98 percent. A recycle rate of 98 percent was determined to be achievable for casting quench in the copper and ferrous subcategories. Recycle model analysis indicates that very high rate recycle (97.5 percent) is achievable with chemical addition, and that complete recycle may not be achievable due to silica scaling. Therefore, the Agency also is considering establishing regulations based on 98 percent recycle for zinc casting quench. Median applied process water flow rate is 533 gallons per ton (267 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (11 gallons per ton) treatment are presented in Appendix F.

(3) *Melting Furnace Scrubber*—The proposed BPT regulations for process wastewaters from wet melting furnace scrubbers in the zinc subcategory were based on 95 percent recycle. The proposed BAT, NSPS, PSES, and PSNS regulations increased this to complete recycle with no discharge. The Agency has information and data on recycle systems for wet melting furnace scrubbers at five plants, with four of those plants indicating that process wastewaters are recycled. Among these four plants, one plant indicates operation of a complete recycle system

with no discharge, with one other plant operating at approximately 98 percent recycle. Recycle model analysis indicates that complete recycle is achievable with chemical addition. Also, a substantial number of plants demonstrate complete recycle for the melting furnace scrubber process in the ferrous subcategory. Therefore, complete recycle is being considered as the basis for establishing regulations for the melting furnace scrubber process segment of the zinc subcategory.

(4) *Mold Cooling*—Process wastewaters from the mold cooling process in the zinc subcategory were not covered in the proposed regulations. The Agency has available information and data on recycle systems for five plants, four of which indicate that process wastewaters are recycled. Three of the four plants which recycle operate systems with complete recycle and no discharge, and one plant operates at greater than 95 percent recycle. On this basis the Agency is considering establishing regulations based on complete recycle with no discharge. However, the Agency also is considering establishing regulations based on a recycle rate of 95 percent on the basis of recycle model findings for the ferrous subcategory and demonstrated rates of recycle in the copper subcategory. The median applied process water flow rate is 2945 gallons per ton (1473 gallons per 1000 pounds) of metal poured. Effluent limitations being considered for blowdown (147 gallons per ton) treatment are presented in Appendix F.

#### C. Treatment Effectiveness Data Base

Another important technical issue raised by the commenters dealt with the Agency's use of the combined metals data base (CMDB) to establish limitations on process wastewater discharges. The major objection of the commenters pertained to the absence of metal molding and casting plants in the CMDB. Respondents argued that their wastewater characteristics were markedly different from the CMDB industries, and, therefore, no conclusions about the applicability of lime and settle technology to foundry wastewater treatment could be made on the basis of the CMDB.

The Agency has performed additional analyses on two data sets in order to respond to these comments. The general objective of the analyses was to assess the applicability of the CMDB treatment effectiveness values to the metal molding and casting industry. One of the data sets was collected at metal molding and casting plants under Agency supervision using EPA sampling and



analytical protocols. This data set consists of three to six concentration measurements of selected pollutants in eight to 24 hour composite samples taken from the untreated raw waste streams and the treated effluent waste streams of seven metal molding and casting plants with well-operated lime and settle treatment systems.

The other set of data that was analyzed was obtained subsequent to proposal by soliciting long-term monitoring data from all plants which indicated in a 1977 questionnaire response that they had self monitoring data on their treatment systems. Requests for all available data were sent to these plants. The Agency also obtained data from its regional offices and from state agencies. In addition, data were obtained from plants that were visited, whether for sampling purposes or not, in the course of regulation development. Each plant, visited subsequent to proposal, was asked to provide available raw wastewater and treatment system performance data for their operations.

The monitoring data obtained by the Agency from metal molding and casting plants were evaluated prior to analysis. As a result of the evaluation, the data from four discharge streams at three metal molding and casting facilities with technically acceptable lime and settle treatment are presently available. It should be emphasized, however, that the conclusions resulting from the analysis of these industry-collected monitoring data are preliminary. Additional analysis, to be conducted prior to promulgation, will utilize a larger data base as more data are received and determined to be relevant technically. As described below, EPA's preliminary analysis shows that the CMDB treatment effectiveness concentrations are achievable by plants in the metal molding and casting category with well-operated lime and settle treatment systems.

The EPA and the industry-collected pollutant concentration data from the metal molding and casting category have been used to conduct two analysis. First, the EPA data from the metal molding and casting category have been compared statistically with the revised combined metals data base (CMDB). The revised CMDB is described in a memorandum in the record titled "Revisions to Data and Analysis of the Combined Metals Data Base" which is included in the record of the metal molding and casting rulemaking. The method used in the statistical analysis is known generally as analysis of variance; it allows examination of statistical

differences in the mean untreated influent and treated effluent pollutant concentrations among industrial categories or groups of industrial categories. The analysis procedures are documented in a report, which is in the administrative record, titled "A Statistical Analysis of the Combined Metals Industries Effluent Data." The analysis was used primarily to compare the influent and effluent concentrations of certain pollutants in the waste streams of plants in the industrial categories in the CMDB with the concentrations of these pollutants in the waste streams of plants in the metal molding and casting category. The pollutants proposed for regulation in the metal molding and casting category are copper, lead, zinc, oil and grease, total phenols, and total suspended solids (the CMDB does not contain oil and grease or total phenols data). The analysis of these pollutants will be considered in this notice. A detailed report regarding analyses of all of the pollutants measured in metal molding and casting wastewaters is described in a memorandum in the record titled "An Analysis of Pollutant Concentrations in the Wastewaters of Plants in the Metal Molding and Casting Category."

The first analysis compared the pollutant concentrations in metals molding and casting plants with pollutant concentrations in plants in the group of industrial categories in the CMDB. Copper and zinc concentrations measured in the untreated influent and treated effluent wastewaters of industrial categories in the CMDB were not significantly different from the copper and zinc concentrations measured in the metal molding and casting category wastewaters. The results of the analysis also indicate that, although total suspended solids concentrations are higher in metal molding and casting raw wastewaters than in the raw waste of categories in the CMDB, they are not different in the effluent. Despite higher raw waste concentrations, treatment is sufficient to reduce effluent concentrations of total suspended solids to levels that are not different from the CMDB. Influent and effluent wastewater lead concentrations were larger in the metal molding and casting category than in the CMDB industrial categories. A similar situation occurred with the effluent lead concentrations measured in plants in the battery manufacturing category. The analysis included in the CMDB report indicated that effluent lead concentrations were significantly greater in the battery manufacturing category than in the other CMDB

categories. In response to comments on the battery manufacturing proposed rulemaking and because of the results of the CMDB lead analysis, the Agency obtained additional self monitoring data for lead from a battery manufacturer. The final lead treatment effectiveness concentrations, based on the expanded battery manufacturing lead data set, are larger than those estimated using the CMDB lead data alone. Comparison of the revised battery manufacturing lead concentrations with monitoring data from well-operated lime and settle systems in metal molding and casting plants is discussed below and suggests that the lead concentrations are achievable. Accordingly, EPA is still considering using the CMDB, as expanded by data from the battery manufacturing category, to derive effluent limitations and standards for lead for the metal molding and casting industry. The calculation of the battery manufacturing industry lead treatment effectiveness concentrations is documented in a memorandum which is included in the record titled "Calculation of Lead Treatment Effectiveness Concentrations for the Battery Manufacturing Point Source Category."

The Agency has conducted a second analysis which compares the long term industry monitoring data from the metal molding and casting category with the treatment effectiveness concentrations developed from the CMDB. Oil and grease monitoring data from the metal molding and casting category were compared with the treatment effectiveness concentrations for oil and grease that have been used for other combined metals industries. Daily effluent pollutant concentration measurements were available from three foundries which had a total of four discharge points. These four discharge points supplied a large amount of data; a total of 4,449 concentration measurements for nine pollutants were available. For five of the pollutants being considered for regulation, there were 1033 effluent concentration measurements for zinc, 900 for total suspended solids, 1028 for lead, 262 for copper, and 849 for oil and grease.

First, the Agency compared each pollutant measurement with the corresponding one day maximum treatment effectiveness concentration estimated from the revised CMDB (except for lead and oil and grease as described above) to determine, for each pollutant, how many of the industry monitoring values exceed the one day maximum value. All of the copper daily concentration values were below the



revised CMDB one day maximum. Over 90 percent of the total suspended solids, zinc, and oil and grease values were below the CMDB one day maximums. The percent compliance of the metal molding and casting data with the battery manufacturing one day maximum value for lead was 54 percent. Most of the exceedances were due to two discharge points from one plant. If the 254 lead concentration values from the two remaining discharge points are considered, 93 percent of the lead concentrations are below the battery manufacturing one day maximum concentration for lead.

The industry-submitted data also were compared with the monthly ten day average treatment effectiveness concentrations for each pollutant. A rigorous check of the monthly (ten day) average concentrations is not possible because the data were not collected to support such a comparison and do not conform to a ten sample per month pattern. An approximate check on the monthly (ten day) average concentrations was conducted using ten day averages estimated from the industry monitoring data using the following methodology. First, each pollutant concentration measurement at each discharge point was sorted by date. Then a ten day average pollutant concentration was calculated from each sequential group of ten pollutant concentration measurements. Each observation in the new derived data set of ten day average values was compared with the corresponding ten day average treatment effectiveness concentration. For each discharge point the percent of values for each pollutant in the derived ten day average data set that exceeds the proposed monthly ten day average treatment effectiveness concentration was determined. One hundred percent of the copper ten day averages were below the proposed monthly ten day average treatment effectiveness concentration for the metal molding and casting category. Ninety-eight percent of the total suspended solids and 88 percent of the oil and grease derived ten day average values were below the proposed monthly ten day average treatment effectiveness concentrations for metal molding and casting. Twenty-two percent of the lead ten day averages and 50 percent of the zinc ten day averages were below the ten day average treatment effectiveness concentration for the metal molding and casting category. Similar to the exceedances of the one day maximum lead value, the exceedances for zinc and lead are largely due to two discharge points from one plant. If these two

discharge points are not considered, 88 percent of the lead and 92 percent of the zinc ten day averages are below the proposed monthly ten day average treatment effectiveness concentrations.

The results of these analyses indicate that the revised CMDB treatment effectiveness concentrations are achievable by plants in the metal molding and casting category using well-operated lime and settle systems. The statistical comparison of the CMDB with the EPA metal molding and casting data generally indicates that there is no significant difference between the wastewater pollutant concentrations found in the metal molding and casting category and the concentrations found in combined metals industries wastewaters. The analysis of the metal molding and casting industry monitoring data indicates that plants in the metal molding and casting category can achieve the treatment effectiveness concentrations estimated from the CMDB.

The analysis of the industry monitoring data suggests that some plants may have difficulty consistently achieving the CMDB lead or zinc treatment effectiveness values. However, the analysis indicates that the zinc values are achievable by most metal molding and casting plants. Specifically, the analysis indicates that CMDB zinc concentrations are not significantly different from EPA's zinc data from metal molding and casting plants. In general, except for one plant, the metal molding and casting industry appears to be able to achieve the battery manufacturing treatment effectiveness concentrations for lead and the CMDB treatment effectiveness for zinc. Continuing analysis of additional long term foundry monitoring data, prior to promulgation, may indicate the need to establish treatment effectiveness values for lead or zinc from another source.

The treatment effectiveness data base for toxic organic pollutants utilized by EPA for the proposed regulations is the same data base the Agency is now considering using for the final regulation. The technologies being considered for removal of the toxic organic pollutants include emulsion breaking, oil removal, and chemical oxidation (e.g., permanganate and peroxide). Discussions of the removal capabilities of these technologies were presented in Section VII of the development document. Discussion of the removal capabilities of simple settling, a less costly technology than sedimentation in clarifiers, also were presented in the development document.

Briefly, the Agency found that oil removal technologies, including emulsion breaking followed by flotation, belt skimmers, and surface skimmers on clarifiers, remove significant amounts of many of the toxic organic pollutants found in raw wastewaters generated by this industry. Chemical oxidation by potassium permanganate or other similar chemicals also removes significant quantities of phenolic compounds, some of which are measured as total phenolic compounds by the 4AAP method. Both oil removal and chemical oxidation (for processes with treatable concentrations of phenolic compounds), are incorporated into the basic lime and settle wastewater model treatment trains. Emulsion breaking and oil removal and chemical oxidation for die casting wastewaters precede lime and settle for metals removal. Effluent limitations being considered for total phenol (4AAP) based on chemical (permanganate) oxidation, as applied to phenol destruction for blast furnace blowdown treatment in the iron and steel category, are presented in Appendix F. Effluent data being considered for toxic organic pollutants, based on incidental removed by emulsion breaking and oil removal and chemical oxidation, and the Agency's analysis of the supplemented data base are included in the record. The preliminary effluent limitations being considered are presented in Appendix F.

Removal of residual toxic metals not removed by simple lime and settle technology was based on filtration technology. Proposed effluent limitations and standards for aluminum die casting were based on lime and settle plus filtration. Also, the proposed NSPS, PSES, and PSNS regulations for the lead continuous strip casting process segment were based on lime and settle plus filtration. This technology is still being considered for all process segments in which blowdown treatment may be selected. The development document discussed the derivation of achievable effluent limitations by the combination of lime and settle followed by filtration. Effluent concentrations achievable by this technology that are being considered, as updated for the canmaking category, are included in the record. The methodology for deriving these updated effluent concentrations also is included in the record.

Removal of residual toxic organic pollutants, not removed by emulsion breaking and oil removal, and chemical oxidation, can be accomplished by granular activated carbon columns. This is the same technology presented as a



proposed BAT option for the aluminum die casting process. EPA will consider this technology for removal of toxic organic pollutants for processes where less than complete recycle is being considered and where such pollutants remain in treatable quantities after oil removal and chemical oxidation. For example, treatable quantities of organic pollutants remain in wastewaters from die casting, melting furnace and dust collection scrubbers, and wet sand reclamation wastewaters. The development document discussed the Agency studies which served as the basis for effluent concentrations achievable by this technology.

(1) *Pollutants Being Considered for Regulation.* The pollutants being considered by EPA for regulation by BPT, BAT and NSPS for process segments where less than complete recycle is being considered are as follows: Phenols (4AAP), Lead, Zinc, Copper, Oil and Grease, TSS, and pH. Not all of these pollutants are being considered for regulation in all subcategories and process segments. Pollutants will be regulated only where the pollutants appear in treatable concentrations in raw wastewaters. The pollutants being considered for regulation by PSES and PSNS are the same as for BPT, BAT, and NSPS, except that Oil and Grease, TSS, and pH will not be regulated because these pollutants are considered compatible with POTWs.

The Agency also is considering for regulation by BAT, NSPS, PSES, and NSNS toxic organic pollutants, as listed in Appendix G, by process segment. Not all of these pollutants are being considered for regulation in all subcategories and process segments; The Agency contemplates regulation only where they were found in treatable concentrations. Consideration also is being given to an effluent limitation for total toxic organics (TTO). The treatment effectiveness basis for such a limitation would be the same as for those toxic organic pollutants as described briefly above and in the development document for the proposed regulations. Such a limitation could be used as an alternative limitation for specific toxic organic pollutants to ensure that the total concentration of all of these pollutants does not exceed such a limitation for TTO. This approach is similar to that used for regulation of toxic organic pollutants in the aluminum forming category, as discussed in the proposed regulations (47 FR 52626; November 22, 1982) and the final regulations (48 FR 49126; October 24, 1983). In any instances where the TTO

limitation is violated, the permit writer could require monitoring, at a minimum, for those specific toxic organic pollutants of concern which comprise the TTO limitation for the process segment and subcategory of concern.

#### *D. Mass Based Effluent Limitations and Standards; Production Normalizing Factors*

Numerous companies and trade associations raised comments on the proposed regulation questioning the Agency's use of tons of metal poured and tons of sand used as appropriate production normalizing factors. These commenters stated that first, they did not feel that this was a reasonable approach to deriving limitations and, second, that the Agency did not demonstrate sufficient correlation between flow rates and production levels to justify the development of the proposed production normalizing factors.

To develop the proposed limitations, the Agency used mass-based (lb/1000 lbs of metal poured or sand used) effluent limitations and standards for process segments where discharges were proposed. The Agency investigated that use of concentration-based standards, but determined that this means of regulation would not control the discharge pollutant loadings as well as the use of mass-based standards.

The Agency then reviewed and analyzed its data base to derive reasonable production normalizing factors that would accurately relate pounds of pollutants generated and discharged to some operating characteristic at the plant. As described in detail in the proposed development document, two production normalizing factors were originally derived—tons of metal poured and tons of sand used—that, when combined with flow rates and pollutant concentrations, yielded representative pollutant load generation rates and pollutant discharge limitations.

The Agency has reviewed preliminarily its data base, as supplemented to date, and revised the flow and production data based upon comments and updated responses to the comment verification requests. The data for individual process wastewater sources from Data Collection Portfolios (DCPs) were compiled with attention given to quantities that relate to water use and production. This included data on the type of metal cast, tons of metal poured (TPD), wastewater and source, applied and typical water flows, sand use, and percent recycle.

A listing of each plant's production (TSD) with the corresponding water use

(GPD) was made to test the relationship between water use and production. A correlation analysis was performed using the linear regression function based upon the least squares method of curve fitting. If the gallon per ton (GPT) data were sufficiently correlated for all plants analyzed, then the method was applied to all individual subsets of the category as a further test of correlation. Preliminary results have been calculated with data for foundry processes involving wet scrubbers. The correlation analysis results of these processes are provided below:

Process	Number of values compared	Correlation coefficient	Degree of correlation
Melting furnace scrubber	113	0.83	High
Grinding scrubber	34	0.54	Moderate
Dust collection	94	0.58	Do.

The preliminary correlation analyses completed to date confirm the Agency's earlier use of tons of metal poured as a basis for regulation. The Agency intends to expand this analysis to include the other regulated processes once all updated information and data are received from the industry. Also, the preliminary analysis will be revised to reflect any additional data received.

#### *E. Die Casting*

Numerous comments and public hearing statements raised issues pertaining to the die casting segments of the metal molding and casting industry category. The American Die Casting Institute (ADCI) and the Casting Effluent Technology Fund provided the majority of the comments. Many of the responses from specific plant or company officials reiterated comments from the trade association, often repeating the same support documents cited by the plant commenters.

Most commenters stated that die casting wastewaters contained very small quantities of pollutants and asserted that die casting wastewaters are environmentally inconsequential. These commenters contended that the principal contaminants (TSS and oil and grease) are effectively controlled by in-plant treatment or publicly owned treatment works (POTWs). Another issue raised centered around the dissimilarities between die casting and foundry operations. The most often listed comment argued that the regulations are intended to apply to the conventional foundry operations and not die casting operations. It was argued that the Agency has not adequately considered the effect of these differences and, in



particular, the effect on small operations.

A total of 13 plant visits were made by the Agency in order to observe die casting operations and in-place treatment technologies. One of these visits led to a three day sampling visit which allowed the Agency to collect additional analytical data on die casting wastewaters. This visit supplemented data gathered by sampling visits at five other die casting facilities prior to proposal of the regulations.

The Agency also has requested supporting data and documentation to verify comments received from all companies with die casting operations which commented on the proposed regulations. The Agency requested data for raw (untreated) wastewaters; recycle systems; treatment system performance; specific cost data for existing treatment systems and any additional treatment facilities believed necessary to comply with the proposed regulations; and basic information on metal molding and casting operations at plants for which EPA previously had not received any information.

Preliminary analysis of information and data received to date, primarily from plant visits, and sampling data for six plants, indicates that wastewaters from die casting operations contain substantial concentrations of pollutants including oil and grease from die lubricants and certain toxic organic pollutants. Therefore, while the volumes of these process wastewaters can be small, especially at small plants, the amount and toxicity of the pollutants generated by die casting plants are significant and appear to justify national regulation. Moreover, in reviewing comments received and discussions with representatives of individual companies and trade associations during plant visits and meetings, it has become apparent that there is misunderstanding regarding the wastewaters proposed to be regulated. Specifically, non-contact waters, such as cooling water, would not be regulated by the metal molding and casting regulations. However, non-contact cooling waters which come into contact with metals cast, raw materials, or otherwise become process wastewaters through recycle or leaks, will be regulated. See Appendix D for the definitions of process wastewaters and non-contact waters.

#### *F. Control Technology Cost Development*

\* Many of the comments the Agency received questioned the estimated costs of the proposed regulation. The commenters asserted that the Agency

did not adequately address critical cost elements such as sludge disposal costs, retrofit costs, piping, and other site specific costs. The actual cost of complying with the proposed regulation has been significantly underestimated according to comments by the industry.

The Agency has undertaken considerable revisions in response to these comments. Unit costs have been updated from 1978 to first quarter 1983 dollars to reflect inflation. In addition, the Agency's data base of the number of facilities is being upgraded to 1982 to reflect properly the current status of the industry.

Cost curves have been developed in order that accurate costs may be derived on the basis of flow through each treatment component. Models that consider the cost of combined treatment of wastewaters from more than one metal molding and casting operation have been developed based on typical process combinations found at plants in the Agency's data base. These combined treatment system models should reflect more accurately common treatment practice especially for medium and large sized plants. Finally, model treatment system costs will include costs for engineering and contingencies, as well as in-plant wastewater piping and pumping to treatment facilities, and recycle water piping and pumping back to existing plant process water delivery systems. In summary, the Agency has found that the revised costs for control technology components have not changed substantially from those presented at proposal, after consideration of inflation factors has been excluded.

In order to supplement the Agency's cost data, EPA solicited cost data from a number of plants that raise cost issues in comments on the proposed regulation. The record includes a preliminary comparison of revised model plant costs with actual plant costs submitted. This comparison indicates that, in the aggregate, the cost of control technology was somewhat higher (approximately 25 percent) as estimated by EPA cost data compared to the industry submitted data. However, the EPA estimates for individual plants were both higher and lower than industry data, probably due to site specific factors not known to EPA.

The cost data received by the Agency are available in the record. Additionally, all supporting information outlining the Agency's cost methodology and resulting unit costs, as well as a summary discussion of the Agency's cost development methodology, are available in the record.

#### *G. Treatment Systems to be Considered for the Final Regulation*

As is indicated in the preceding discussion of recycle systems, the Agency will consider allowing some discharge for certain process segments of the industry that would have been allowed no discharge at proposal. The preamble to the proposed regulation indicated that the Agency was considering allowing some discharge, and evaluated treatment systems that could be applied to foundry wastewaters and that might form the basis of effluent limitations and standards for the final regulation. The technical development document supporting the proposal contained additional information about technologies that were under consideration as alternatives to complete recycle.

The Agency has continued its examination of treatment systems that might form the basis of limitations and standards for the final regulation. In response to comments on the proposal, the Agency has refined its analysis of such systems. In general, it appears that the most likely alternative to complete recycle with no discharge for many process segments would be high rate recycle (greater than 90 percent) and blowdown treatment. A discussion of the Agency's intentions regarding selection of options for recycle and blowdown rates has been presented in a preceding section of this notice. Below, the Agency presents the technology components and treatment trains that will be considered, as alternatives to complete recycle, for blowdown treatment if this option is found to be necessary for any process segments. The Agency is considering that blowdown treatment where appropriate as the basis of BPT and BAT effluent limitations and PSES most likely will be comprised of oil removal, preceded by emulsion breaking for the die casting process in the aluminum and zinc subcategories, chemical addition for phenol destruction for those processes where phenolic compounds are found (e.g., melting furnace scrubber, dust collection, wet sand reclamation), and coagulation with sedimentation (lime and settle). It is also the Agency's intention that additional treatment technologies for removal of the remaining toxic metal and organic pollutants (i.e., filtration and granular activated carbon columns) will be considered as options for BAT, PSES, and new sources. These treatment trains are presented for generic process segments (e.g., dust collection, melting



furnace scrubber) because of similarity in wastewater pollutants and treatability across metal types. However, the particular design of treatment system components and chemical addition rates, and, therefore, the investment and operating costs, will vary across metal types with the specific blowdown flow rates and pollutant concentrations to be treated. The Agency also will consider less expensive control technologies, such as simple settling, in those process segments where potential economic impacts may be disproportionate. The cost of simple settling is included among cost curves for treatment system components in the record.

In connection with evaluating treatment systems, the Agency re-examined the status of treatment in-place in the industry. The Agency has visited more than 35 plants and has requested an update of treatment status through letters sent to over 200 facilities. The responses received through these visits and letters have confirmed that the status of in-place treatment technology has not changed significantly over the past four or five years. Moreover, about 80 percent of the plants in the industry have installed little or no equipment to control discharges of pollutants.

**1. Treatment Technology Components.** General descriptions of the treatment system components EPA is now considering to control the discharges of toxic, conventional, and nonconventional pollutants are provided in the following section.

**a. Recycle:** Recycle is both an in-plant and end-of-pipe treatment operation used to reduce the volume of wastewater discharged. Wastewater reuse reduces the discharge flow and the pollutant load discharged from the process. A detailed discussion of recycle by process segment has been presented previously in this notice.

**b. Simple Settling:** Simple settling is a process where large sized solids particles are removed from a liquid by gravity. This is done by reducing the velocity of the feed stream in a small volume, short detention time settling tank, drag tank, roughing clarifier, or other similar device.

**c. Chemical Addition:** Chemical addition for coagulation and precipitation generally involves adjusting pH and adding a flocculating chemical such as lime, caustic, alum, ferric chloride, and polymers, to precipitate out of solution metal ions and certain anions. This is usually accomplished as a part of or directly upstream from sedimentation facilities. Chemicals, such as permanganate, also

are added to destroy certain constituents in wastewaters such as phenolic compounds. This is usually accomplished upstream from flocculation and sedimentation facilities. Finally, chemicals are added to the process wastewater recycle system to facilitate control of scaling, corrosion, and fouling.

**d. Sedimentation:** Sedimentation is the process where finer sized solids particles are removed from a liquid by gravity. This is done by reducing the velocity of the feed stream in a large volume tank, clarifier, tube-plate settler, lagoon, or other similar device so that extended gravitational settling can occur.

**e. Filtration:** Filtration is most usually performed by gravity or under pressure. The filtration medium employed is usually sand of different size grades, or the combination of sand and anthracite coal ("multi-media"). Filtration is practiced to reduce the levels of suspended material from process wastewater streams containing solids and suspended metals particles. Plants often use filters for polishing after sedimentation, or other similar operations. Chemical addition can sometimes be used in conjunction with this technology to enhance the performance of the filters.

**f. Oil Skimming:** Oil and other materials with a specific gravity less than water often float unassisted to the surface of the wastewater. Skimming removes these floating wastes usually in a tank designed to allow floating debris to rise while the water flows to an outlet located below the floating layer. A variety of devices are used to remove the floating layer from the surface.

**g. Chemical Emulsion Breaking:** Chemical emulsion breaking is used to break stable oil-water emulsions. By adding flocculating chemicals, and adjusting the pH usually with acid, the oil-water attraction induced in the emulsion is greatly diminished allowing the oil fraction to separate and float on the water surface where it can be skimmed off.

**h. Carbon Adsorption:** The use of activated carbon to remove dissolved organics is one of the most efficient organic pollutant removal processes available. The carbon removes contaminants from water by the process of adsorption or the attraction and accumulation of one substance on the surface of another. Activated carbon preferentially adsorbs organic compounds and because of this selectivity, is particularly effective in removing organic compounds from aqueous solution.

**i. Biological Oxidation:** In several of the process segments, including die casting, wastewaters were found to contain substantial concentrations of materials which exert biochemical oxygen demand (BOD<sub>5</sub>). Moreover, a number of toxic organic pollutants were detected in levels far in excess of treatability levels. Biological treatment is a well known, and demonstrated, method of reducing the levels of phenols (4AAP) and certain toxic organic pollutants from process wastewaters. In the activated sludge biological treatment process, wastewater is stabilized biologically in a reactor (aeration basin) under aerobic conditions. After the wastewater is treated in an aeration basin, the resultant biological mass and suspended solids are separate from the reactor in a settling tank or clarifier, with the separated solids recycled back to the aeration basin.

**2. Treatment Systems Being Considered for the Metal Molding and Casting Processes.** The technologies described below are being considered as bases for the regulation for each of the eleven generic metal molding and casting processes. Where the process was included in the proposed regulation, the model treatment system proposed at that time is also discussed. As noted previously, the design and cost of installing and operating the model treatment system for each generic process will vary across metal subcategories due to differences in applied process water flow rates, recycle and blowdown wastewater flow rates requiring treatment, and the pollutant concentrations in the blowdown (i.e., O&M costs for chemical addition to destroy phenols, precipitate metals, and maintain high rates of recycle if necessary). These variations also will result in different rates of mass discharge, thus supporting the subcategorization scheme based on metal type. As noted in the development document for the proposed regulations, these treatment systems being considered by EPA are similar or identical to treatment systems now generally in place in the industry. The only exceptions to this are filtration, which is in use at a limited number of plants in this industry but widely used in other industrial applications, and granular activated carbon columns which have been used in very few industrial applications, and only at one plant in this industry. Treatment train schematic diagrams are presented in the record for each of these generic process segments.

**a. Casting Cleaning:** This process was not included in the proposed regulation,



but based on data gathered since the time of proposal, the Agency has determined that casting cleaning is a foundry process suitable for regulation in the ferrous and aluminum subcategories.

Casting cleaning wastewaters contain elevated levels of solids, oils, and toxic metal pollutants. The treatment components now considered by the Agency have been developed to reduce the levels of these pollutants prior to discharge. The anticipated treatment components for the casting cleaning process include sedimentation (clarifier) equipped with oil skimming, recycle, and solids dewatering, followed by filtration.

**b. Casting Quench:** The casting quench process is being considered for all five metal groups. The wastewater from this process was found to vary somewhat from metal group to metal group, but, in all metal groups, high levels of suspended solids, oils and greases, and toxic metals were detected.

The model treatment system included in the proposed regulation consisted of sedimentation followed by complete recycle over cooling towers. The Agency is now considering sedimentation in a clarifier with oil skimming, with recycle over a cooling tower, followed by filtration. A less costly alternative also is being considered, including a simple settling tank with an oil removal device.

**c. Die Casting:** As described previously, the die casting process description has been revised to include wastewater contributions from waste die lubricants. This process now encompassed all process water contributions associated with the die casting process.

At proposal, a range of technologies was considered for die casting operations. The model treatment system for zinc die casting included sedimentation, oil skimming, and complete recycle. The proposed aluminum die casting model included physical-chemical treatment by emulsion breaking, hydroxide precipitation, sedimentation, filtration, and solids dewatering equipment.

Most wastewater constituents originate in leaks from the die casting machine hydraulic systems, and die lubricant solutions. The combined wastewater from the die casting process, though it can be of small volume at numerous plants, is highly contaminated. High levels of toxic metals and toxic organic pollutants were detected at all six die casting plants sampled by EPA. The wastewater also is contaminated with high levels of suspended solids and emulsified and free oils and greases. To control the

discharge of these pollutants, the Agency is considering two treatment trains for the die casting process: one based on physical-chemical technology as proposed and the other alternative based on biological treatment technology.

Physical-chemical technology consists of an emulsion breaking, chemical precipitation and sedimentation in a clarifier, followed by recycle. The biological treatment technology alternative would consist of equalization tanks, followed by an activated sludge biological treatment system consisting of aeration, chemical feed systems, sedimentation, sludge return lines, followed by filtration. Waste sludge could be dewatered by vacuum filters or by sludge drying beds. Less costly alternatives also are being considered. One less costly alternative involves a simplified biological treatment process which approximates the activated sludge process in a single tank. Clear effluent is separated from biological and other solids in the single aerated tank by means of a synthetic membrane with micron-sized openings, thus eliminating secondary clarification and return sludge piping and pumps. This process was pilot tested at small scale on die casting wastewater and produced very high quality effluent. Also, the Agency is considering a simplified physical-chemical treatment system consisting of emulsion breaking and oil separation, which will achieve a moderate removal of suspended solids and oil and grease at reduced cost.

**d. Direct Chill Casting:** This process is now being considered by the Agency under the metal molding and casting category. This process was not separately identified as a distinct casting process in the proposed regulation.

The principal pollutants of concern in direct chill casting wastewaters are toxic metals, suspended solids, and oil and grease. The treatment components now being considered by the Agency to control the levels of these pollutants include recycle of untreated process water over a cooling tower, and treatment of the blowdown flow by oil skimming, chemical precipitation and sedimentation in a clarifier, followed by filtration. Solids removed from the system would be dewatered by vacuum filters or filter presses. Less costly technology also being considered is simple settling with oil skimming.

**e. Dust Collection:** The Agency is considering the dust collection process in all metal groups except zinc. The wastewater from the dust collection process can contain high levels of toxic metals, suspended solids, and oil and

grease. Also, at several plants, high levels of phenols (4AAP) and several organic toxic pollutants were detected.

The model treatment system included in the proposed regulation for dust collection consisted of sedimentation (drag tank) with oil skimming followed by complete recycle.

An additional option being considered by the Agency includes sedimentation (e.g., drag tank) followed by recycle, with blowdown flow being treated by oil skimming, chemical precipitation and sedimentation in a clarifier, and filtration. This blowdown treatment would control the high levels of toxic metal pollutants found in dust collection wastewaters. Consideration also is being given to a less costly blowdown treatment system, such as a simple settling tank with oil skimming.

As a final consideration, the Agency is investigating alternate technologies that would be capable of reducing the levels of phenols (4AAP) and toxic organic pollutants detected at numerous dust collection operations. Technologies under considerations include oxidation by potassium permanganate and carbon adsorption.

**f. Grinding Scrubber:** The Agency is considering the grinding scrubber process in the aluminum, copper, ferrous, and magnesium subcategories. Grinding scrubber wastewaters contain elevated levels of suspended solids, oil and grease, and several toxic metals, primarily lead and zinc.

The model treatment system included in the proposed regulation for the grinding scrubber process consisted of sedimentation followed by complete recycle with no discharge.

In the event that complete recycle with no discharge is not selected and blowdown treatment is necessary, another treatment model is being considered by the Agency for grinding scrubber operations. This model would consist of settling followed by recycle, and blowdown treatment by oil skimming, chemical precipitation and sedimentation in a clarifier, followed by filtration, and solids dewatering. The Agency also will consider less costly blowdown treatment methods, such as simple settling.

**g. Investment Casting:** The Agency is considering the investment casting process for the aluminum, copper, and ferrous subcategories. The wastewater for this process contains high levels of suspended solids and moderate amounts of oil and grease. No other pollutants were detected at significant levels in investment casting process wastewaters.



The model treatment system included in the proposed regulation consisted of chemical addition followed by sedimentation in a clarifier. This model system is still appropriate for this process and, at the present time, the Agency is not considering making any major changes to this model. Recycle is being considered based on technology transfer. Less costly sedimentation technology also will be considered, such as simple settling tanks.

**h. Melting Furnace Scrubber:** The agency is considering the melting furnace scrubber process in all metal groups except magnesium. No magnesium plans in the Agency's data base reported having wet melting furnace air pollution controls.

The wastewaters from this process can contain high levels of toxic metals and suspended solids and moderate levels of oils and greases. Also, at several plants, phenols (4AAP) and organic toxic pollutants were detected.

The model treatment system included in the proposed regulation for the melting furnace scrubber process varied slightly depending upon the major metal group, but generally consisted of sedimentation followed by recycle (aluminum and zinc) or complete recycle (ferrous), with provisions for oil skimming, chemical addition, and sedimentation in a clarifier. Solids removed from the system would be dewatered by vacuum filters. In the zinc subcategory, potassium permanganate addition was also included to reduce the high levels of phenols (4AAP) found in zinc melting furnace scrubber wastewater.

The treatment model now being considered for this process consists of sedimentation (either internally in the scrubber unit or externally in drag tanks) followed by high rate or complete recycle. If a blowdown option is eventually selected by the Agency, then blowdown treatment would consist of oil skimming, chemical addition and sedimentation in a clarifier to control solids and metals levels, followed by filtration, and treatment for phenols and toxic organic pollutants. Less costly blowdown treatment also will be considered, such as simple settling tanks, or treatment schemes providing no treatment for toxic organic pollutants.

**i. Mold Cooling:** The Agency is considering the mold cooling process for all metal groups, except magnesium. No plants in the magnesium subcategory reported having a process water discharge due to mold cooling operations. The wastewater from this process contains elevated levels of suspended solids, oil and grease, and

toxic metals, primarily lead and zinc. Additionally, the temperature of the process wastewater is elevated, and numerous plants use cooling towers to maintain acceptable temperature levels when high rate recycle is practiced.

The model treatment system included in the proposed regulation consisted of sedimentation followed by complete recycle over a cooling tower. Should less than complete recycle be selected for the final regulation, blowdown treatment will consist of coagulation, oil skimming, sedimentation in a clarifier, followed by filtration. Less costly blowdown treatment also is being considered, such as simple settling tanks.

**j. Slag Quench:** The Agency is considering the slag quench process in the ferrous subcategory, the only metal group where slag is produced by the melting process and is eventually quenched. The wastewater from this process contains elevated levels of suspended solids and toxic metals. No other pollutants were detected at significant levels in slag quench wastewaters.

The model treatment system included in the proposed regulation consisted of sedimentation in a drag tank followed by complete recycle. The Agency also is considering blowdown treatment to include chemical precipitation and sedimentation in a clarifier, followed by filtration.

**k. Wet Sand Reclamation:** The Agency is considering the wet sand reclamation process (formerly the "sand washing" process) in the ferrous casting subcategory. The primary pollutant of concern in this process is suspended solids which is present in average levels of more than 1,300 mg/l. There are also toxic metals present, primarily copper, lead, and zinc.

The model treatment system utilized for the proposed regulation consisted of settling in drag tanks, chemical addition for phenol destruction and metals precipitation, sedimentation in a clarifier, and complete recycle.

At the present time, the Agency also is considering a model treatment system for blowdown in the wet sand reclamation process which consists of the following: primary sedimentation with oil skimming, chemical addition (for metals precipitation and phenol destruction) and sedimentation in a clarifier followed by filtration and recycle. Solids removed from the system will be dewatered using a vacuum filter.

## V. Preliminary Data Analysis—Economic

Major economic comments on the proposed regulations focused on five

areas and are summarized briefly as follows: (1) Technical Costs: Industry commented that EPA severely underestimated the costs of compliance for the recommended technologies; (2) Industry Characterization: Industry commented, among other things, that EPA failed to adequately recognize the economic impacts of the 1981-83 recession and its effect on the structure and composition of the foundry industry; (3) Analytical Methodology: Commenters questioned the validity of the current impact methodology and the specific criteria used to determine plant closures; (4) Foreign Competition: The industry commented that the effects of foreign competition on individual castings demand had not been adequately addressed, nor had the Agency recognized the consequent effects that the proposed regulation would have on further reducing the competitiveness of small plants in the market; and (5) Small-Plant Impacts: Commenters asserted that a significant number of small foundries would be more severely affected by the proposed regulation and that a Regulatory Flexibility Analysis must be conducted and, furthermore, the Agency did not provide an adequate avenue of relief for these plants.

EPA has carefully reviewed these comments and has taken a number of steps to respond to these concerns. The preliminary results of the Agency's evaluation of these comments and a presentation of new economic information gathered since proposal is being made available for comment and is summarized below.

### A. Industry Characterization

**1. Costs.** The Agency is presently in the process of revising existing costs and estimating new costs for the various options it is considering. At the present time, the cost curves developed to accompany this notice do not include factors for depreciation and the cost of capital. These factors will be included in the documents accompanying promulgation and will contain financing charges contingent upon establishment size. EPA estimates that plants with populations of (1-49) will face interest charges of the 1985 forecast prime rate of 12.25 percent plus 6 percent. Plants with an employee size of 50 to 249 will face an interest rate of prime plus 5 percent, and plants with 250 employees and above will face the 1985 prime rate plus 3 percent. These estimates reflect the perceived risk by lenders, scale economies, and other traditional factors considered by lenders when determining interest expenses. These rates appear to



be in accord with current lending practice in the banking community and are further supported by the preliminary results of the eight plant case study conducted by the Agency over the summer of 1983, and discussed later in this notice.

**Baseline Conditions.** EPA has conducted a comprehensive review and update of the forecast of expected economic conditions for the foundry industry in 1985. Nineteen hundred and eighty five was selected initially as the baseline year because the Agency believed that 1985 would be the year in which expenses for pollution control equipment for compliance with this regulation would be reflected on a plant's balance sheet. For promulgation of this regulation, the Agency is considering using 1986 as the baseline year for direct and indirect dischargers. If the Agency uses 1986 as the baseline year, we will extend the present forecasts and additional year and continue to use the methodology outlined below for determining impacts. The forecasts presented in this notice of industry conditions in 1985, incorporate specific concerns expressed by industry regarding the recent effects of the 1981-1983 recession and historical growth and decline trends for each metal that have been manifest in the industry since the late 1970's.

Forecasts of total industry production were calculated from 1982 through 1985. The 1985 production was then disaggregated to each metal type giving the Agency total 1985 production for each metal.

The analysis then further disaggregated the production in each metal type to arrive at a total level of production for each employee size segment. By using these data, the Agency was able to observe clearly the production changes brought about by the recession on each metal and employee size segment, and more accurately reflect the structural shifts in each industry segment. In the next step, the Agency sought to establish the number of plants expected to exist and the total number of employees expected to sustain the forecast levels of production for 1985. This was accomplished by extrapolating the historical (1972-1977) trends of productivity per employee and productivity per plant to 1985. These data were augmented using actual 1981 production data and foundry population. With estimates of both total production and average productivity per employee and productivity per establishment, the Agency derived the forecast for the number of foundries and employees

within each of the five employment size subcategories, 0-9, 10-49, 50-250, and 250 and above, within each metal type for the 1985 baseline.

**2. Analytical Methodology.** EPA has also reevaluated and revised the methodology used for developing the model plant financial profiles and the methodology used for assessing the economic impact of the costs of complying with the proposed regulation. These revisions are discussed below.

**3. Model Plant Financial Characteristics.** In the analysis performed at proposal, the Agency assumed that model plant financial profiles in 1985 would be identical in all respects to typical 1978 financial statements. A substantial number of comments on the proposal asserted that the use of 1978 data did not represent the current financial conditions in the industry, and that the Agency mis-specified the values for the ratios used to determine the economic impacts. In light of these comments, the Agency has reviewed the basis for selecting a reference year and a method for developing financial statements. The Agency has chosen, on the basis of generally held forecast theory, to assume that similar economic conditions will generally lead to similar financial ratios in the balance sheet of companies in the same industry. Although the absolute size of financial statement items will be different, the relative proportions linking such items as sales to net worth, return on sales and debt to net worth are expected to be similar.

In the Agency's revised methodology, EPA examined forecasts of economic conditions expected for the foundry industry in 1985 and compared them to the actual economic conditions of the previous 5 years. It was established that although sales, revenues, foundry population and employment in 1985 will be considerably different from 1978, the patterns of many relevant economic indicators which influence the proportions in many financial ratios, such as growth in casting shipments, changes in metal price indices, changes in GNP, and prime interest rates forecast for 1985, will be similar to 1978.

To derive the 1985 baseline financial profiles, the Agency used selected 1978 financial ratios for each employment size group in each metal and combined them with forecast average 1985 sales for similar size groupings to obtain dollar values for required line items in the model financial profiles. As a result, the analysis constructs a 1985 baseline financial profile for each employee size and metal type using specific 1978 ratios and forecasts 1985 sales per foundry.

These profiles were developed exclusively from 1978 job shop financial statements from the Dun and Bradstreet data used by EPA. For the purpose of this analysis, captive operations are assumed to have the same financial characteristics as job shops. This assumption is identical to the position taken in the proposal and is discussed below.

#### *B. Sources for Financial Profiles*

The Agency has used 1978 Dun and Bradstreet data for the development of the financial profiles in this analysis because they reflect the most comprehensive source of financial statement data available in the public domain. The use of this data also responds to SBA's comment suggesting that EPA use Finstat data. The Dun and Bradstreet data used by the Agency include the Finstat information suggested by SBA and reflect the voluntary submission of financial information by foundries who wish to be rated for the purposes of securing credit from suppliers, banks and/or investors. The Dun & Bradstreet data showed a wide range of firms with varying degrees of financial health. The Agency also discovered that the composite ratios used in the analysis are only developed in the Dun and Bradstreet data by four digit SIC level. Therefore, aggregate 1978 financial information for ductile iron, zinc and magnesium were not available and had to be compiled from individual 1977 balance sheets that were available from Dun and Bradstreet. The Agency requests further 1978 financial information from firms in these three segments to increase the current data base.

#### *C. Closure Tests*

In the proposed impact assessment, the closure analysis was based on the use of three independent financial ratios with specific closure criteria. Public comments questioned the use of the particular financial ratios chosen and their specific closure criteria. In response to these comments, the Agency conducted an extensive review of the financial literature and generally accepted accounting principles to determine the validity of these tests. As a result of this analysis, the Agency believes that the use of financial ratios are an effective means of determining economic impacts, including closures. However, the Agency has modified its selection of specific financial ratios and adjusted the specific closure criteria. The new ratios and closure criteria have better empirical support and are more amenable to study using the



currently available financial data. This assessment is further supported by the Agency's separate review of the actual financial circumstances of three recent bankruptcy cases for plants within the same SIC codes.

In the proposed analysis, three measures were used to predict job shop closures. The three measures were debt to net worth, interest coverage, and return on net worth. Debt to net worth compared the amount of interest bearing debt to the net worth of the firm. A threshold value of 1 to 1 was used to determine impact. In the interest coverage test, EPA estimated post compliance pretax income, and determined whether the income was more than two times estimated post compliance interest expense. If this threshold was exceeded, EPA assumed that no impact would result. The third test looked at a plant's post compliance return on net worth and determined that any return below 5 percent would cause closure. This test was based on the Agency review of financial data which indicated that a 5 percent return on net worth was acceptable for investors in this particular industrial segment.

In the proposed impact analysis, the criterion for closure was based on the failure of any single test. In the present analysis, this has been modified so that a closure is estimated if any two tests are failed. This change in closure criteria is based upon the Agency's review of recent bankruptcy cases and the 1979-1981 reported financial ratios obtained from Dun and Bradstreet on the Foundry Industry. Preliminary results from the case study analysis conducted on selected foundries in the summer of 1984 lend further support to this decision. The three tests which are currently being employed for this closure analysis are reviewed below.

1. *Return on Assets (ROA)* This test looks at the net income of the foundry after taxes divided by total book assets. This ratio measures the efficiency of the firm to generate income from its asset base. In selecting the threshold value, it was recognized that the decision to close a business, especially in the foundry industry, is undertaken only in extreme circumstances. As a result, the closure criterion was established to be below what is customarily observed in the lowest quartile of solvent firms listed in the Dun and Bradstreet data. In addition, the Agency's examination of bankrupt firms tended to show a pattern of firms obtaining ROA values in a range of 2 to 4 percent. The analysis uses 2.5 percent ROA as the threshold value. This reflects the finding that firms that later declared bankruptcy only did

so when their ROA fell below 2 percent and that, for many segments of the foundry industry, 25 percent of all plants earn less than 3.5 percent ROA. This 2.5 percent ROA indicates a positive income stream which has taken into account all expenses, including pollution control equipment to the firm.

2. *Total Debt to Total Assets* is the ratio of all debt (long-term and short-term interest and noninterest bearing) to total assets. The criterion chosen for this test has been traditionally fixed by the financial community at approximately .50 debt to assets. This .50 proportion reflects the view of the banking community which considers it very important that the owners of a firm have more at stake in the firm than the bank. However, in the Agency's review of the foundry industries which reported in their Dun and Bradstreet statements, it was found that substantial structural shifts in the economy have taken place and are reflected in the company's balance sheets, which show that companies at all levels have taken on considerably more debt. Since 1978 the shift has been particularly noticeable, with many foundries carrying debt to total assets between .50 and .67. The review of bankrupt firms indicates that these firms carried debt to asset positions of up to .80 before closure. This study has chosen .70 as the cut-off value before a potential closure is forecast.

3. *Beaver Ratio*. The final closure test in the analysis is known as the "Beaver Ratio" after William Beaver's 1964 seminal study on the use of financial ratios for forecasting bankruptcies. This test relates cash flow to total debt. Cash flow is defined as net income after taxes plus depreciation. This test indicates the firm's ability to repay the interest and principal of borrowed funds. In Beaver's study, he noted that the incidence of bankruptcy rose sharply when this ratio dropped below .50 one year before failure to .11 five years before failure. This test has chosen the one year threshold as a basis for determining closure because all studies of the use of financial ratios showed greater predictive power over shorter time spans. In addition, the Agency's assessment of data for recently failed firms, currently solvent firms, and the general trends in the economy has led it to conclude that .08 is an appropriate threshold value for this test.

#### D. Captive/Jobber Closure Tests

To further measure economic differences, the proposed economic impact analysis (EIA) separated foundries into job shop and captive categories on the bases of proportions of

customer sales by foundries that were operating in 1978. Job shops were defined as plants that sold 50 percent or more of their production to customers in the open market. Captive operations were defined as plants that sold more than 50 percent of their production to operations of the company that owned the foundry. The current analysis maintains the same criteria.

In analyzing closures of captive operations, the proposed analysis assumed that captive plants would have access to funds through the parent corporation. The problem of forecasting closure was then reduced to determining the conditions under which a parent firm would elect to close its foundry operation rather than advance funds. The Agency's threshold criteria concluded that a transfer price increase of 5 percent or more would lead the parent to close its foundry operation.

The Agency intends to subject both captive and job shop foundries to the same closure tests. This is based on a general economic assumption of rationality. This assumes that the owner of a captive operation would apply the same financial requirements of profitability as the owner of a job shop foundry when determining closure. In addition, the data given in Dun and Bradstreet only reflects job shop financial information. The Agency invites comments on this criteria from captive operations. Submission of decision criteria for financial performance of captives operations is specifically desired.

#### E. Price Pass Through

The proposed impact analysis also assumed that affected job shop foundries could not pass on increased operating costs in the form of price increases to their customers. This assumption is based on the economic argument that the number of affected wet foundries is small relative to the total number of foundries in the industry and therefore this small number of foundries has no real control over establishing prices. If the small number of affected foundries were to attempt to increase prices to cover their costs for pollution control equipment, they would put themselves at a competitive disadvantage and consequently, lose sales and suffer reduced profitability. This assumption has been retained and has been verified by public comment and by interviews with foundry owners in the case study analysis conducted over the summer of 1983. This study showed that price pass through is extremely difficult especially today, and currently many foundries are being



pressured to roll back prices. The Agency believes that for most foundries this condition will not change significantly enough to warrant a change in the original assumption.

#### *F. Import/Export Analysis*

In the proposed EIA, the Agency concluded that imports of castings play a minimal role in the U.S. casting market. Public comments suggested that substantial amounts of imported castings may go unreported because they are included in the valuation of end market products.

In response to these comments, the Agency evaluated castings demand and imports and exports of 39 end markets, representing at least 54 percent of 1982 castings demand. The 1977 value of each of the 39 end markets and proportion of castings in those end markets were identified. This proportion was then applied to each of the 39 end markets in 1982 to generate the value of individual castings in each end market for 1982. The Agency found that (in nominal dollars) net exports of castings, as included in end markets, grew by 50 percent for iron, steel, and aluminum, and remained about the same for copper. In real (1972) dollars, net exports of steel castings grew from 1977 to 1982, net exports of aluminum castings stayed the same, and net exports of iron and copper castings dropped. Over the 1972-1982 time frame, there has been a large increase in net exports of castings in both nominal and real terms. This has occurred despite the deep recession in both the U.S. and world economies. Overall, net exports account for only 5.6 percent of the ferrous castings market, and less for the nonferrous castings market. Thus, while some foundries may have been adversely effected by changing export trends in some end markets (noticeably automobiles), others have benefited substantially through 1982 (noticeably turbines and generators, farm machinery, oil field machinery, and electronic computing equipment).

For the 1983-85 period, the Agency does expect a moderate growth in the world economy consistent with the increasing economic health of the U.S. economy. As this occurs, the Agency expects downward pressure on the value of the dollar which will improve the competitiveness of U.S. castings and generally increase world markets for these products.

#### *G. Small Plant Data*

In the development of this regulation, the Agency characterized the status of the foundry industry by metal type, production process, employee size, and

process wastewater generation. The results of the Agency's data assessment indicated that foundry operations with less than 10 employees usually do not generate a process wastewater. The Agency estimates show that approximately 98 percent of this group are "dry." At proposal, the Agency identified copper foundries with less than 10 employees as the only subcategory having "wet" foundries subject to this regulation. To determine impacts, financial models were developed from the Dun and Bradstreet data. The Agency has not received any public comments to indicate the existence of plants of this size in any other metal subcategory. During the update of the economic impact assessment, the Agency reviewed this information and concluded that this characterization, both financial and technical, of smaller wet dischargers accurately reflects the existing conditions in the metal molding and casting industry. The Agency invites comments on the veracity of this information.

#### *H. Die Casters*

A significant number of comments were received from the American Die Casting Institute (ADCI) regarding the relevance of the Agency's analysis to the die casting industry. Specifically, ADCI expressed its belief that the financial data used by the Agency for aluminum and zinc metal molding and casting plants do not accurately represent economic conditions in the die casting industry and, as a result underestimate the impacts on die casters.

To support its comments, ADCI submitted confidential financial data gathered from a survey of its membership. Although not in the same format as the financial data used by the Agency, the information included enough financial data, on profitability, corporate leverage, and balance sheet structure to allow a comparison to the data used by EPA in its analysis. ADCI also supplied a summary of the size of the die casters taking part in the survey. After reviewing this summary, the Agency concludes that the survey participants can not, in general, be considered small die casters. Sales levels shown for these plants were much higher than average sales levels for either members of ADCI that did not participate in the survey or non-members of ADCI.

The financial data supplied by ADCI was compared to the Agency's financial data for aluminum plants of 50 employees or more. The Agency could not determine substantive differences

between the ratios supplied by ADCI and the values obtained from the data used in the revised Agency analysis. Where discrepancies did exist, the values used by the Agency generally tended to increase the likelihood of failing the financial tests. Use of the data supplied by ADCI would result in lower impacts for plants with 50 employees or greater.

In summary, the Agency is unable to determine substantive differences between the financial ratios submitted by ADCI from their member die casters and the financial ratios obtained by the Agency from the Dun and Bradstreet data for foundries in general. The differences between the two data sets indicate that die casters are generally more financially sound than is shown by the Dun and Bradstreet data used by the Agency.

#### *I. Case Study Analysis*

In addition to the Agency's reassessment of its baseline determination and closure methodology, it was determined that a separate small plant case study analysis would be conducted. This analysis was conducted with the cooperation of the major trade associations of the foundry industry who provided the names of owners who would be willing to be interviewed by the Agency. The purpose of this study was to obtain overall economic information for the selected foundry through personal interviews by an Agency representative. These data would then be used to verify the broader assumptions used in the revised economic impact analysis for promulgation. The plants visited were selected from the aluminum and gray iron segments which showed the highest impacts in the analysis done for proposal.

The case studies gathered two types of information, overall economic and financial data from the years 1978 and 1982 and the owners' expectations for the future—1983 through 1985. For all plants studied except one, the impact of the recession of their 1982 financial position relative to 1978 was severe. Only one plant fared well, an aluminum sand caster with strong contracts with the military in aerospace and aircraft. The following generalizations apply to all plants visited and reflect a comparison between 1978 and 1982 economic conditions. Overall sales dropped between 40 to 60 percent with consequent impacts on revenues such that most plants showed negative profitability with a few plants showing marginal profitability. Employment at all plants except one declined over 50



percent. All plants dropped to one shift per day with many plants operating short work week schedules. With declining sales, competitive pressure increased as many foundries bid for jobs not normally in their production line. This caused increased downward pressure on prices and further aggravated their declining revenue and profitability.

Looking to the future, all foundry owners are very optimistic about the next three years. Management of every surveyed foundry expects its output to increase by more than their anticipated output gain of 10-13 percent for the whole economy by 1985. While they believe prices must hold for now, they expect that price increases through 1985 will range between 5 to 20 percent as compared with the general industry expectation of approximately 10 percent. Most expect to rehire a portion of their laid-off employees and expect modest wage increases to result. The general conclusion from this case study indicates that owners for these specific plants are very positive about their future and are anticipating that their economic position will improve considerably over the next three years.

#### *J. Revised Impact Analysis-Preliminary Results*

As noted in the technical section of this document, EPA is reassessing the compliance costs that would be associated with each of the options being considered. Since it is not known what those specific costs will be, it was not possible to assess the economic impacts. However, the Agency used the revised economic methodology for assessing impacts and the cost estimates used at proposal to calculate the potential for economic impacts, assuming the cost estimates applied to the final rule are not substantially different. These results may bear little resemblance to the final economic impact conclusions because of the Agency's reassessment of technologies and costs.

In 1985, it is expected that the existing foundry industry will have an overall population of 3849 plants. This reflects the changes that are expected to occur over the 1983-85 three years. The Agency calculated that there were approximately 150 baseline closures between 1981-1985. This new foundry population represents an industry which has experienced structural changes regarding its competitive nature, pricing, product mix and market position.

In 1985, the Agency estimates that there will be 584 foundries (15.2 percent of all plants) producing a process wastewater ("wet plants"); 280 plants

will be discharging into navigable waters and 304 plants will discharge their process wastewater to a publicly owned treatment works (POTW).

The economic analysis, based on costs used at proposal, shows that total capital costs needed for existing plants to comply with the regulation as proposed could be about \$86 million in capital costs, with annual costs of approximately \$20 million, including depreciation and interest. These costs are expressed in 1982 dollars. As a result of compliance with the regulation as proposed, 39 plant closures (18 direct dischargers and 21 indirect dischargers) with total unemployment of approximately 2,580 workers may result. These figures for closures and unemployment represent approximately one percent of the total population of plants and employment anticipated to be in the foundry in 1985. These closures are expected to occur at the BPT and PSES levels of control as proposed. An additional six closures are expected as a result of compliance with BAT as proposed, and an additional 12 at BAT option 2 as proposed, and two more at BAT option 3 as proposed. Price increases and balance of trade effects are not expected for BPT and PSES as proposed.

#### *K. Regulatory Flexibility*

Public Law 96-354 requires that a Regulatory Flexibility Analysis (RFA) be prepared for regulations that have a significant impact on a substantial number of small entities. An RFA was included in the proposed regulation and concluded that the proposed regulation would not have a significant impact on a substantial number of small entities. Preliminary results of closure tests conducted using the updated 1985 forecast and baseline financial data indicated that there will not be a significant impact on a substantial number of small entities. In preparing the final regulation, EPA will reevaluate this issue and will consider applying less stringent regulations to small plants if it appears that those plants will be affected more severely than other plants.

#### *VI. Solicitation of Comments*

EPA invites and encourages public participation in response to this notice of availability. EPA is particularly interested in receiving additional comments and information on the following issues:

1. The Agency is concerned that some plants, with processes previously considered to be complete recycle with no discharge, either have not responded to written requests to verify their

recycle and discharge status, or have not provided sufficient information in their responses to confirm or correct their status. EPA is pursuing further follow-up efforts to obtain responses for these plants. EPA strongly requests these facilities to provide the necessary information and solicits the assistance of interested parties, including trade associations, in encouraging these plants to respond with sufficient information to confirm or correct EPA's data with respect to their discharge status.

2. The Agency solicits from interested parties any information or data regarding the recycle and discharge status of plants in the record, including those that have confirmed their status as complete recycle with no discharge, which may still be in error. Unless and until information can be made available to the contrary, plants with processes now considered complete recycle with no discharge, either verified or not (e.g., plants that have permanently closed), will continue to be considered as such. A complete list of these plants is presented in Appendix E.

3. The Agency has completed a preliminary recycle model analysis to be utilized as a tool to provide information on the chemistry of recycle systems where limited information and data are now available. The results of this analysis are to be used to (a) confirm those recycle circumstances and processes which can be expected to operate successfully at complete recycle, (b) identify water chemistry circumstances which permit some plants to operate processes as complete recycle systems and prevent other plants from operating the same processes as complete recycle systems, (c) supplement data from the industry on demonstrated recycle rates, especially for metal subcategories and processes where data are very limited, and (d) assist EPA in identifying achievable recycle rates. The Agency solicits comments on all aspects of this recycle model analysis as described in a report included in the record. The Agency also solicits all available data on intake (city, well, river, etc.) water and recycled process water for those water chemistry parameters (e.g., pH, TDS, Sulfate, Alkalinity, Hardness, Silica, Chloride, Fluoride) which are pertinent to analysis of the achievability of high rate or complete recycle, and for those processes now being considered but for which no such water chemistry data are available.

4. The Agency solicits comments on (a) the recycle rates now being considered for each of the process



segments, (b) any water chemistry data or other engineering data which would bear on the general achievability of complete recycle with no discharge, (c) on blowdown rates where less than complete recycle is being considered, as appropriate for each of the process segments, and (d) the transfer of achievable recycle rates among process segments and metal subcategories.

5. The Agency solicits comments and supporting documentation on the influence of plant production capacity and the presence of more than one process operation on the ability of a plant to achieve complete recycle with no discharge.

6. The Agency already has received and reviewed wastewater treatment system performance data from a significant number of plants in the metal molding and casting industry in an effort either to confirm the applicability of effluent limitations developed from the Combined Metals Data Base, or to serve as the basis for alternate effluent limitations. The Agency solicits comments on the statistical methodology used to analyze the newly acquired data, and the findings of the analysis including the possibility that alternate effluent limitations for lead, zinc, and TSS may be developed using the new data. The Agency also solicits any additional historical data not already submitted to EPA on the performance of (a) lime and settle and (b) lime and settle plus filter treatment systems in metal molding and casting plants as it may bear on the achievability of the effluent limitations being considered.

7. The Agency solicits comments on the methodology and resulting cost data for wastewater treatment systems, as presented in the record. The Agency also solicits comments on the appropriateness of these systems and their components to facilitate achievement of the recycle rates and end-of-pipe effluent limitations being considered.

8. The Agency solicits any wastewater characterization data not already submitted which would relate to the assertion made in numerous comments that wastewaters from die casting operations contain levels of pollutants that do not justify regulation.

9. The Agency solicits comments on the appropriateness of the process segments now being considered for inclusion in the final regulations for the metal molding and casting industry. The Agency also requests information on the technologies and recycle rates now being considered as the basis of final regulations.

10. The Agency is concerned about the possible economic impact of this regulation on small plants. The majority of projected closures determined from the analysis done at proposal and the projected closures determined in the revised analysis indicates that the majority of firms potentially affected by this regulation are small plants. The Agency invites comment on whether the costs of these regulations would impose a disproportionate impact on small plants and, if so, what alternatives (including basing the effluent limitations and standards on any available less costly technology or a size cut-off for certain facilities) should be used to address these impacts.

Specifically, the Agency is soliciting comments on the appropriate definition of a small plant. At proposal, the Agency sought comment on a possible criterion for small plants using employee size as a determinant. EPA also requested comments regarding relationships between foundry employee population and production, sales per employee, and suggestions on any other appropriate measure of defining, as accurately as possible, small foundries.

At the present time the Agency believes that the most appropriate method for determining a small plant criterion is to relate production to individual employees. The Agency will be attempting to determine this relationship based on data submitted by industry through 1977 DCPs and additional data obtained since that time. A preliminary analysis is being added to the record. The Agency will also attempt to correlate sales to employees and fixed assets to employees as criteria for identifying small plants. The Agency invites data, comments, and recommendations on these approaches to defining small plants.

11. The Agency requests comments regarding the information characterizing the technical and financial characteristics of "wet" foundries having ten employees or less. These data should conform to the Agency's present impact methodology. Plants that identify themselves as dischargers are requested to submit economic data from their 1978 balance sheet which indicate total sales, net income, total debt (long term and short term), net worth (owner's equity) and net fixed assets.

#### List of Subjects in 40 CFR Part 464

Iron and steel foundries, Nonferrous foundries, Waste treatment and disposal, Water pollution control.

Dated: March 13, 1984.

Jack E. Ravan,  
Assistant Administrator, Office of Water.

#### VII. Appendices

##### APPENDIX A—LIST OF COMPANIES THAT RECEIVED COMMENT VERIFICATION REQUESTS

Company name	Plant location
A. C. Williams	Ravenna, OH.
ACF Industries, Inc.	Richmond, TX.
AMPCO-Pittsburgh	Milwaukee, WI.
Accurate Die Casting	Do.
Advance Pressure Casting Corp.	Denville, NJ.
AlResearch Casting	Torrance, CA.
Alhambra Foundry	Alhambra, CA.
Alloy Die Casting	Buena Park, CA.
Allen Foundry & Machine Works, Inc.	Lancaster, OH.
American Brass & Iron Foundry	Oakland, CA.
American Steel Foundries	Alliance, OH.
Appleton Electric Co.	South Milwaukee, WI.
Armco Midwestern Steel Division	Ishpeming, MI.
Arwood Corp.	City of Industry, CA.
Do.	Garland, TX.
Do.	High Point, NC.
Do.	Tilton, NH.
Atco Industries	Menden, CT.
Atlantic States Cast Iron Pipe Co.	Phillipsburg, NJ.
Atlas Die Casting	Farmingdale, NY.
Altwood Corp.	Lowell, MI.
Aurora Industries	Montgomery, IL.
Automatic Die Casting Specialties	Detroit, MI.
Babcock & Wilcox	Barberton, OH.
Badger Die Casting	Milwaukee, WI.
Banner Iron Works	St. Louis, MO.
Beatrice Food	Brillion, WI.
Benton Foundry	Benton, PA.
Berlin Foundry	Berlin, WI.
Bethlehem Steel	Bethlehem, PA.
Do.	Do.
Do.	Do.
Birdsboro Corp., PA. Engineering Corp.	Birdsboro, PA.
Blackhawk Foundry & Machine Co.	Davenport, IA.
Blaw-Knox Foundry & Mill Machinery	Wheeling, WV.
Briggs & Stratton	Wauwatosa, WI.
Buckley Foundry Co.	East Alton, IL.
Burnham Corp.	Zanesville, OH.
C. A. Norgren Co.	Littleton, CO.
CWC Castings	Muskegon, MI.
Do.	Plant No. 1.
Do.	Muskegon, MI.
Do.	Plant No. 3.
Do.	Muskegon, MI.
Do.	Plant No. 5.
Do.	Ravenna, MI.
Callen Manufacturing	Northlake, IL.
Canton Malleable Iron Co.	Canton, OH.
Carteret Die Casting	Middlesex, NJ.
Caterpillar Tractor Co.	Mapleton, IL.
Caudle Manufacturing	Miami, FL.
Cerro Metal Products	Bellefonte, PA.
Chase Brass & Copper	Solon, OH.
Chemung Foundry	Elmira, NY.
Chicago White Metal	Bensenville, IL.
Chrysler Corp.	Detroit, MI.
Chrysler Corp.	Indianapolis, IN.
Cincinnati Milacron	Cincinnati, OH.
Combustion Engineering, Inc.	Springfield, OH.
Consolidated Metco	Clackamas, OR.
Commercial Metals Co.	New Market, VA.
Connecticut Foundry	Rocky Hill, CT.
Cooper Energy Services	Grove City, PA.
Copeland Electric	Humboldt, TN.
Crouse-Hinds Co.	Syracuse, NY.
Crouse-Hinds Co.	Do.
Dayton Malleable	Dayton, OH.
Deere and Co.	Dubuque, IA.
Do.	East Moline, IL.
Do.	Waterloo, IA.
Do.	Do.
Del Mar Die Casting	Gardena, CA.
Die Caster, Inc.	Mauston, WI.
Doerr Electric Corp.	Cedarburg, WI.
Dresser Industries	Anniston, AL.
Do.	Depew, NY.
Du-Well Products	Bangor, MI.
Dunkirk Radiator	Dunkirk, NY.
E. V. Camp Steel Works, Inc.	Atlanta, GA.
Eaton Corp.	Vassar, MI.
Electron Corp.	Littleton, CO.
Eltra Corp.	Stowe, PA.



## APPENDIX A—LIST OF COMPANIES THAT RECEIVED COMMENT VERIFICATION REQUESTS—Continued

Company name	Plant location
Do.	Woodstock, IL.
Emhart Industries	Berlin, CT.
Empire Die Casting	Cleveland, OH.
Escast, Inc.	Addison, IL.
FMC Corp.	Annisston, AL.
Farley Metals, Inc., Doehler-Jarvis	Pottstown, PA.
Ford Motor Co.	Cleveland, OH.
G & C Foundry	Sandusky, OH.
Ganco Products Co.	Henderson, KY.
General Castings	Delaware, OH.
General Motors Corp.	Anderson, IN.
Do.	Bay City, MI.
Do.	Bedford, IN.
Do.	Danville, IL.
Do.	Defiance, OH.
Do.	Elyria, OH.
Do.	Flint, MI.
Do.	Do.
Do.	Indianapolis, IN.
Do.	Lansing, MI.
Do.	Massena, NY.
Do.	Pontiac, MI.
Do.	Rochester, NY.
Do.	Saginaw, MI.
Do.	Do.
Do.	Do.
Do.	Tonawanda, NY.
Do.	Trenton, NJ.
General Signal Corp.	Rochester, NY.
Giddings & Lewis Foundries	Madison, WI.
Great Lakes Casting	Ludington, MI.
Grede Foundries, Inc.	Hutchinson, KS.
Do.	Reedsburg, WI.
Griffin Pipe Prod.	Lynchburg, VA.
Do.	Florence, NJ.
Griffin Wheel Co.	Keokuk, IA.
Gulf & Western Manufacturing Co.	Southfield, MI.
Hamilton Allied	Hamilton, OH.
Harris Metals, Inc.	Racine, WI.
Harrison Steel Castings Co.	Attica, IN.
Hayes-Albon Corp.	Tiffin, OH.
Hitchcock Industries	Minneapolis, MN.
Do.	Danison, TX.
Hoover Universal Saline Die Casting	Saline, MI.
Howmet Turbine Components Corp.	Milwaukee, WI.
Hyatt Die Cast & Engineering Corp.	Cypress, GA.
ITT Grinnell Corp.	Statesboro, GA.
ITT Lester Ind., Inc.	Bedford Heights, OH.
Imperial Die Casting	Pickens, SC.
Indiana General Technologies	Valparaiso, IN.
Inland Die Casting	Wheeling, IL.
International Harvester	Waukesha, WI.
J. I. Case Co., Gardner-Denver	Pryor, OK.
J. I. Case Co.	Racine, WI.
J. P. Ward Foundries	Blossburg, PA.
Jefferson Foundry	Birmingham, AL.
Jenkins Brothers	Bridgeport, CT.
Johnson Controls	Watertown, WI.
Kelsey-Hayes Co.	Rockford, IL.
Kiowa Corp.	Marshalltown, IA.
Kippcast Corp.	Madison, WI.
Kline Foundries	Alburtis, PA.
Kohn Casting Corp.	Stevensville, MI.
Kuhns, Inc.	Dayton, OH.
Lacks Industries Rem Die Casting	Grand Rapids, MI.
Lancaster Malleable Castings Co.	Lancaster, PA.
Littler Die Cast	Albany, NY.
Lori Corp.	Southington, CT.
Mallin Brothers Iron & Metal Co.	Phoenix, AZ.
Maynard Electric Steel Casting Co.	Milwaukee, WI.
McGraw-Edison Corp., Worthington	Buffalo, NY.
Midland-Ross Corp.	Tempe, AZ.
Do.	Cicero, IL.
Minneapolis Electric Steel Castings Co.	Minneapolis, MN.
Mirrex, Inc.	Mt. Clemens, MI.
Motor Wheel Corp.	Lansing, MI.
Mueller Co.	Chattanooga, TN.
NBCO	Nacogdoches, TX.
National Roll Corp.	Avonmore, PA.
Neenah Foundry Co.	Neesah, WI.
Do.	Plant No. 2.
Do.	Plant No. 1.
Do.	Neenah, WI.
Do.	Plant No. 3.
Nelson Metal Prod.	Grandville, MI.
New Castle Foundry	New Castle, PA.
New Products Corp.	Benton Harbor, MI.

## APPENDIX A—LIST OF COMPANIES THAT RECEIVED COMMENT VERIFICATION REQUESTS—Continued

Company name	Plant location
New York Air Brake	Watertown, NY.
Oak Hill Foundry & Machine, Inc.	Oak Hill, OH.
Olin Corp.	East Alton, IL.
Oster Corp.	McMinnville, TN.
Outboard Marine	Waukegan, IL.
Paccar, Inc.	Bellevue, WA.
Pacific Die Casting	Vancouver, WA.
Parker White Metal	Fairview, PA.
Paul Krone Die-Casting Co.	Chicago, IL.
Paul Revere Corp.	Coldwater, OH.
Peerless Pump Foundry	Vernon, CA.
Pelton Casteel, Inc.	Milwaukee, WI.
Pemco Die Casting	Bridgman, MI.
Peterson's Machine Shop	Lewiston, ME.
Pioneer Die Casters	Los Angeles, CA.
Pioneer Foundry Company, Inc.	Jackson, MI.
Premier Die Casting	Avenel, NJ.
Quad City Die Casting Co.	Moline, IL.
Revere Copper & Brass, Inc.	Rome, NY.
Rexnord Inc.	Milwaukee, WI.
S & B Foundry	Bloomington, PA.
Saint Paul Metalcraft, Inc.	Saint Paul, MN.
Sandwich Iron Foundry	Plano, IL.
Scotch Die Casting	Sullivan, MO.
Sealed Power Corp.	Dowagiac, MI.
Do.	Alma, MI.
Do.	Muskegon, MI.
Skagit Corp.	Sedro Woolley, WA.
Spokane Steel Foundry Co.	Spokane, WA.
Springfield Die Casting Co.	Kenilworth, NJ.
Square D Co.	Clanton, AL.
Standard Foundry	Worcester, MA.
Star Brass Foundry	Salt Lake City, UT.
Stihl, Inc.	Virginia Beach, VA.
Stockham Valves & Fittings, Inc.	Birmingham, AL.
Sturges Foundry	Sturgis, MI.
TRW, Inc., Noblesville Casting	Noblesville, IN.
Teledyne Industrial Die Cast Co.	Chicago, IL.
Teledyne Ohiocast	Springfield, OH.
Temple Foundry	Alexandria, VA.
Tennessee Castings	Dickson, TN.
Texas Foundries, Inc.	Lufkin, TX.
The Dalton Foundries	Warsaw, IN.
The Dexter Co.	Fairfield, IA.
The Dotson Co.	Mankato, MN.
The Eastern Co.	Syracuse, NY.
The Falk Corp.	Milwaukee, WI.
The Mead Corp.	Radford, VA.
Do.	Lynchburg, VA.
Do.	Archer Creek, VA.
The Ohio Brass Co.	Mansfield, OH.
The Turner & Seymour Mfg. Co.	Torrington, CT.
The Vollrath Co.	Sheboygan, WI.
The Wheeland Foundry	Chattanooga, TN.
Thomas Industries	Sheboygan, WI.
Top Die Casting	Marengo, IL.
Trinity Foundries	Elmira, NY.
Twin City Die Casting Co.	Minneapolis, MN.
Tyler Pipe	Tyler, TX.
Do.	Muncie, PA.
U.S. Pipe & Foundry	Annisston, AL.
Do.	Union City, CA.
Do.	Bessemer, AL.
Do.	Chattanooga, TN.
U.S. Steel Corp.	Braddock, PA.
Ullrich Copper, Inc.	Kenilworth, NJ.
Universal Foundry	Oskosh, WI.
Urick Foundry	Erie, PA.
Veeder-Root	Altoona, PA.
Vilter Manufacturing	Milwaukee, WI.
Waupaca Foundry	Waupaca, WI.
Do.	Plant Nos. 1, 2, & 3.
West Irving Die Casting Co.	Bensenville, IL.
Westinghouse Air Brake Co.	Wilmerding, PA.
White Consolidated Industries Corp.	Cleveland, OH.
White Farm Equipment	Charles City, IA.
Wise Die Casting	Manchester, NY.
Wolverine Die Cast	Warren, MI.
Wyman-Gordon Co.	Milbury, MS.
Yankee Magoast Co.	Enfield, CT.

## APPENDIX B.—SAMPLING AND SITE VISITS

Company name/location	Type of visit
Accurate Die Casting/Milwaukee, WI.	Site.
Advance Pressure Casting/Denville, NJ.	Do.

## APPENDIX B.—SAMPLING AND SITE VISITS—Continued

Company name/location	Type of visit
American Steel Foundries/Alliance, OH.	Sampling.
AMPCO-Pittsburgh Corporation/Milwaukee, WI.	Site.
Athwood Corporation/Lowell, MI.	Do.
Bremen Castings, Inc./Bremen, IN.	Do.
Caterpillar Tractor Company/Mapleton, IL.	Sampling.
Chicago White Metal Casting/Bensenville, IL.	Site.
Chrysler Corporation/Indianapolis, IN.	Do.
Deere and Company/East Moline, IL.	Do.
Eaton Corporation/Vassar, MI.	Do.
Farley Industries/Pottstown, PA.	Do.
Ford Motor Company/Cleveland, OH.	Do.
General Motors Corporation:	
Bay City, MI.	Do.
Defiance, OH.	Do.
Indianapolis, IN.	Do.
Massena, NY.	Sampling.
Saginaw, MI.	Site.
Trenton, NJ.	Do.
Globe Union, Inc./Bennington, VT.	Do.
Grede Foundries, Inc./Reedsburg, WI.	Do.
Hoover Universal/Saline, MI.	Do.
ITT Lester/Bedford Heights, OH.	Do.
J.I. Case/Racine, WI.	Sampling.
Johnson Controls, Inc./Watertown, WI.	Site.
Kippcast Corporation/Madison, WI.	Do.
Lancaster Malleable/Lancaster, PA.	Do.
Oak Hill Foundry and Machine/Oak Hill, PA.	Do.
Ohio Brass Company/Mansfield, OH.	Do.
Olin Corporation/East Alton, IL.	Sampling.
Outboard Marine Corporation/Waukegan, IL.	Site.
Sealed Power Corporation/Muskegon, MI.	Sampling.
Tecumseh Products Company/Sheboygan Falls, WI.	Site.
Tyler Pipe/Tyler, TX.	Sampling. <sup>1</sup>
Waupaca Foundry, Inc. (Plant 1)/Waupaca, WI.	Sampling.

<sup>1</sup> Visited and sampled by Rexnord Inc. as part of an EPA study funded by the Office of Research and Development, RTP, NC.

## APPENDIX C.—METAL MOLDING AND CASTING INDUSTRY; REVISED SUBCATEGORIZATION SCHEME BEING CONSIDERED

Proposed (November 1982)	Revised
A. Aluminum	
(1) Investment casting	(1) Investment casting.
(2) Melting furnace scrubber	(2) Melting furnace scrubber.
(3) Casting quench	(3) Casting quench.
(4) Die casting	(4) Die casting.
(5) Die lube	(5) Dust collection scrubber.
	(6) Mold cooling.
	(7) Grinding scrubber.
	(8) Casting cleaning.
B. Copper	
(1) Dust collection scrubber	(1) Dust collection scrubber.
(2) Mold cooling and casting quench	(2) Mold cooling.
(3) Casting quench	
	(4) Direct chill casting.
	(5) Investment casting.
	(6) Grinding scrubber.
	(7) Melting furnace scrubber.
C. Ferrous	
(1) Dust collection scrubber	(1) Dust collection scrubber.
(2) Melting furnace scrubber	(2) Melting furnace scrubber.
(3) Slag quench	(3) Slag quench.
(4) Mold cooling and casting quench	(4) Mold cooling.
(5) Sand washing	(5) Casting quench.
	(6) Wet sand reclamation.
	(7) Investment casting.
	(8) Cast cleaning.
	(9) Grinding scrubber.
D. Lead	
(1) Continuous strip casting	Transferred to battery manufacturing category.



APPENDIX C.—METAL MOLDING AND CASTING INDUSTRY; REVISED SUBCATEGORIZATION SCHEME BEING CONSIDERED—Continued

Proposed (November 1982)	Revised
(2) Melting furnace scrubber..... (3) Grid casting scrubber.....	
E. Magnesium	
(1) Grinding scrubber..... (2) Dust collection scrubber.....	(1) Grinding scrubber. (2) Dust collection scrubber. (3) Casting quench.
F. Zinc	
(1) Die casting and casting quench. (2) Melting furnace scrubber.....	(1) Die casting. (2) Casting quench. (3) Melting furnace scrubber. (4) Mold cooling.

Appendix D—Response to Comments Data Base Verification Complete Recycle/No Discharge of Process Wastewater

Previous responses to EPA data gathering efforts indicated that at least one operation at your metal molding and casting plant does not discharge any process wastewater. Explanations and definitions are provided below to assist you in verifying the data now contained in EPA files for your plant.

I. Process Wastewater System Types

A. Complete Recycle of Process Wastewater

A complete (100 percent) recycle system is one in which *all* process wastewater, remaining after water losses, is recycled back to a process. Sources of water loss include evaporation from the foundry process(es) and treatment system (including cooling tower if used) and moisture in treatment system sludges.

In this case, make-up water is equal to the sum of water losses. Losses due to evaporation and sludge are not considered discharges for the purpose of this regulation. These systems have no discharge, as defined below.

B. No Discharge of Process Wastewater

A system with *no discharge* is one in which there is *no continuous or intermittent discharge* (for example, once per day, once per week, once per month, once per year) of *any kind*. A system may have no discharge but not recycle any wastewater. In these systems, all water applied to the system is balanced by evaporation losses and moisture losses in sludge (if any) removed from the system. Examples of this type of "no discharge" system include: 1) wet scrubber or melting furnace gas quench systems that evaporate all applied water flow, and 2) casting quench tanks that evaporate enough water to balance incoming make-up (or recycled wastewater or cooling) water.

C. Systems That Do Discharge Process Wastewater

Systems or processes with either continuous or intermittent process wastewater discharges to streams, drainage ditches, stormwater drains, deep wells, publicly owned treatment works (POTWs), treatment systems at adjacent industrial facilities, or by tank truck to off-site disposal (to other than a landfill) are *not* considered systems with no discharge. Examples of intermittent discharges (e.g., once per day, once per month, once per year) are dragtank dumps or lagoon draw down for clean out or maintenance.

II. Process Wastewater

Will be subject to control under the Metal Molding and Casting (Foundry) effluent limitations and standards. Process wastewater is defined as that water which, during manufacturing or processing, comes into direct contact with intermediate or finished products, stack gases, raw materials, or by-products associated with metal molding and casting operations. The following is a list of process wastewaters:

A. Aluminum Casting Subcategory:

- Investment Casting Wastewaters
- Melting Furnace Scrubber Wastewaters
- Casting Quench Wastewaters
- Die Casting Wastewaters
- Die Lube Wastewaters
- Copper Casting Subcategory:
  - Dust Collection Wastewaters
  - Mold Cooling and Casting Quench Wastewaters
- Ferrous Casting Subcategory:
  - Dust Collection Wastewater
  - Melting Furnace Scrubber Wastewaters
  - Slag Quenching Wastewaters
  - Mold Cooling and Casting Quench Wastewaters
  - Sand Washing Wastewaters
- Lead Casting Subcategory:
  - Continuous Strip Casting Wastewaters
  - Melting Furnace Scrubber Wastewaters
  - Grind Casting Wastewaters
- Magnesium Casting Subcategory:
  - Grinding Scrubber Wastewaters
  - Dust Collection Wastewaters
- Zinc Casting Subcategory:
  - Die Casting and Casting Quench Wastewaters
  - Melting Furnace Scrubber Wastewaters

III. Non-Contact Waters

Will *not* be subject to control under the Metal Molding and Casting effluent limitations and standards. Non-contact water is defined as that water which does not come into direct contact with the processes, products, by-products, or raw materials. Non-contact water (used either "once-through" or recycled), which is discharged separately from process wastewaters, is not considered process wastewater. Examples of non-contact waters are heat exchanger and cooling waters for cupola external jackets and power transformer cooling. If non-contact water is comingled with process wastewaters prior to discharge, thereafter it must be handled as process wastewaters subject to this regulation.

APPENDIX E—COMPLETE RECYCLE/NO DISCHARGE PROCESSES IN METAL MOLDING AND CASTING DATA BASE AS OF FEB. 15, 1984

Metal	Process <sup>1</sup>	Plant code	Plant name/location	308 response confirmation	Shutdown status
Aluminum.....	CQ.....	02869	C. A. Norgren Co./Littleton, CO.....	x	
Do.....	DC.....	20147	Confidential.....	x	
Copper.....	GS.....	05934	Jenkins Bros./Bridgeport, CT.....		
Do.....	GS.....	09094	Confidential.....	x	
Do.....	MFS.....	05934	Jenkins Bros./Bridgeport, CT.....		
Do.....	UC.....	05934	do.....		
Do.....	UC.....	09094	Confidential.....	x	
Do.....	UC.....	19872	Rockwell International/Uniontown, PA.....	x	x
Do.....	UC.....	40011	Westinghouse Elec./East Pittsburgh, PA.....		x
Ferrous.....	CC.....	05658	Confidential.....		
Do.....	CQ.....	03901	J.P. Ward Foundry/Blossburg, PA.....	x	
Do.....	CQ.....	11643	Confidential.....		
Do.....	CQ.....	15654	Midland-Ross Corp./Tempe, AZ.....	x	
Do.....	CQ.....	17015	Confidential.....		x
Do.....	CQ.....	20408	Chrysler Corp./Detroit, MI.....		x



## APPENDIX E—COMPLETE RECYCLE/NO DISCHARGE PROCESSES IN METAL MOLDING AND CASTING DATA BASE AS OF FEB. 15, 1984—Continued

Metal	Process <sup>1</sup>	Plant code	Plant name/location	308 response confirmation	Shutdown status
Do	CQ	58589	Turner & Seymour Mfg. Co./Torrington, CT	x	
Do	SO	03901	J.P. Ward Foundry/Blossburg, PA	x	
Do	SO	04577	Dunkirk radiator/Dunkirk, NY	x	
Do	SO	05691	Confidential		x
Do	SO	06565	Urick Foundry Co./Erie, PA		
Do	SO	13416	Confidential		
Do	SO	18919	Deere & Co./Moline, IL		x
Do	SO	18947	Confidential	x	
Do	SO	19343	do		
Do	SO	19347	Allis-Chalmers Corp./Milwaukee, WI		x
Do	SO	28821	Neenah Foundry (#1)/Neenah, WI	x	
Do	SO	28822	Neenah Foundry (#2)/Neenah, WI	x	
Do	SO	58823	Neenah Foundry (#3)/Neenah, WI	x	
Do	MFS	00001	Emmaus Foundry/Emmaus, PA		
Do	MFS	00002	Kulp Foundry/East Stroudsburg, PA		
Do	MFS	03399	Chemung Foundry Corp./Elmira, NY	x	
Do	MFS	03901	J.P. Ward Foundry/Blossburg, PA	x	
Do	MFS	04632	Confidential	x	
Do	MFS	04955	Indian Head, Inc./Vernon, CA	x	
Do	MFS	05584	Central Foundry Co./Quakertown, PA		x
Do	MFS	05640	Pentex Foundry Corp./New Castle, PA		x
Do	MFS	05642	The Dotson Co., Inc./Mankato, MN		x
Do	MFS	05658	Confidential		
Do	MFS	05691	do		x
Do	MFS	06213	do	x	
Do	MFS	06265	ITT Grinnell Corp./Statesboro, GA	x	
Do	MFS	06343	CWC Castings (#6,7)/Muskegon, MI		x
Do	MFS	06426	Vilter Mfg. Corp./Milwaukee, WI		
Do	MFS	07170	Sandwich Iron Foundry, Inc./Plano, IL	x	
Do	MFS	07225	S&B Foundry Co./Bloomington, PA		
Do	MFS	07438	Allen Foundry & Machine Works, Inc./Lancaster, PA		x
Do	MFS	07524	Oak Hill Foundry & Machine/Oak Hill, OH	x	
Do	MFS	08092	Temple Foundry/Alexandria, VA		
Do	MFS	08301	Buckler Foundry Co./East Alton, IL	x	x
Do	MFS	08436	Confidential	x	
Do	MFS	09148	Gardner-Denver Co. (J.I. Case)/Pryor, OK	x	x
Do	MFS	09151	General Steel Ind., Inc./Avonmore, PA	x	
Do	MFS	09183	Jefferson Foundry Co./Birmingham, AL	x	
Do	MFS	12393	Rockwell International/Chattanooga, TN		x
Do	MFS	17230	Sealed Power Corp./Muskegon, MI		
Do	MFS	19347	Allis-Chalmers Corp./Milwaukee, WI		x
Do	MFS	28821	Neenah Foundry (#1)/Neenah, WI	x	
Do	MFS	28822	Neenah Foundry (#2)/Neenah, WI	x	
Do	MFS	56789	Riverside Foundry Co./Wrightsville, PA		
Do	MFS	58959	Turner & Seymour Mfg. Co./Torrington, CT	x	
Do	MFS	58823	Neenah Foundry (#3)/Neenah, WI	x	
Do	MFS	63773	CWC Castings (#3)/Muskegon, WI	x	
Do	MFS	77775	CWC Castings (#5)/Muskegon, WI	x	
Do	UC	00015	Birdsboro Cor./Birdsboro, PA	x	
Do	UC	00791	Confidential		x
Do	UC	00839	do	x	
Do	UC	01953	Canton Malleable Iron Co./Canton, OH		
Do	UC	02121	Connecticut Foundry Co./Rocky Hill, CT		x
Do	UC	02236	Confidential		
Do	UC	02365	ACF Industries, Inc./Richmond, TX	x	x
Do	UC	02511	Alhambra Foundry Corp./Alhambra, CA	x	
Do	UC	03901	J.P. Foundry/Blossburg, PA	x	
Do	UC	05417	AIResearch Casting Co./Torrence, CA	x	
Do	UC	05333	G&W Mfg. Co./Monroe, MI		x
Do	UC	05640	Pentex Foundry Corp./New Castle, PA		x
Do	UC	06265	ITT Grinnell/Statesboro, GA	x	
Do	UC	06565	Urick Foundry/Erie, PA		
Do	UC	06977	Confidential		x
Do	UC	07929	Muefler Co./Chattanooga, TN	x	
Do	UC	08301	Buckler Foundry Co./East Alton, IL	x	x
Do	UC	08436	Confidential		
Do	UC	09035	ITT Grinnell Corp./Columbia, PA	x	
Do	UC	09148	Gardner-Denver Co. (J.I. Case)/Pryor, OK	x	
Do	UC	09306	Confidential	x	
Do	UC	10435	Square D Co./Clanton, AL	x	
Do	UC	11197	International Harvester/Indianapolis, IN	x	
Do	UC	12393	Rockwell International/Chattanooga, TN		x
Do	UC	13416	Confidential		
Do	UC	13460	General Signal Co./Watertown, NY		x
Do	UC	14104	Confidential	x	
Do	UC	15372	do	x	
Do	UC	15573	Howmet Turbine Comp. Corp./Milwaukee, WI		
Do	UC	15654	Midland-Ross Corp./Tempe, AZ	x	
Do	UC	15873	FMC Corp./Anniston, AL	x	
Do	UC	18502	International Harvester/Memphis, TN		x
Do	UC	16882	Confidential		
Do	UC	17230	Sealed Power Corp./Muskegon, MI		
Do	UC	17746	Confidential	x	
Do	UC	19347	Allis-Chalmers Corp./Milwaukee, WI		x
Do	UC	19533	Confidential		
Do	UC	19933	do	x	
Do	UC	19999	do	x	
Do	UC	20208	Chrysler Corp./Fostoria, OH		x
Do	UC	20249	Chrysler Corp. (Huber)/Detroit, MI		x
Do	UC	20408	Chrysler Corp. (Winfield)/Detroit, MI		x
Do	UC	24595	Confidential		



## APPENDIX E—COMPLETE RECYCLE/NO DISCHARGE PROCESSES IN METAL MOLDING AND CASTING DATA BASE AS OF FEB. 15, 1984—Continued

Metal	Process <sup>1</sup>	Plant code	Plant name/location	308 response confirmation	Shutdown status
Do	UC	26777	do		
Do	UC	63773	CWC Castings (#3)/Muskegon, WI	x	
Do	UC	77775	CWC Castings (#5)/Muskegon, WI	x	
Do	UC	nodcp	White Consolidated-Roberts Foundry/Greenwood, SC	x	
Do	GS	00891	Mallin Bros. Iron & Metal Co./Phoenix, AZ		
Do	GS	06265	ITT Grinnell Corp./Statesboro, GA	x	
Do	GS	07438	Alten Foundry & Machine Works, Inc./Lancaster, OH		x
Do	GS	09148	Gardner-Denver Co. (J.I. Case)/Pryor, OK	x	
Do	GS	10435	Square D Co./Clanton, AL	x	
Do	GS	19347	Allis-Chalmers Corp./Milwaukee, WI		x
Do	GS	63773	CWC Castings/Muskegon, MI	x	
Do	GS	63771	CWC Castings/Ravena, MI		x
Do	MC	18947	Confidential	x	
Magnesium	GS	05244	Yankee Magoast, Inc./Enfield, CT	x	
Zinc	CO	01334	Rem Die Casting, Inc./Grand Rapids, MI		x
Do	MC	01334	do		x
Do	MC	01707	Attwood Corp./Lowell, MI		
Do	MC	09105	Gerity-Schultz Corp./Toledo, OH		
Do	MFS	10475	Confidential		

<sup>1</sup> Key to process codes:  
 CO—Casting Quench, CC—Casting Cleaning,  
 GS—Grinding Scrubber, SQ—Slag Quench,  
 MFS—Melting Furnace Scrubber, MC—Mold Cooling,  
 UC—Dust Collection, DC—Die Casting.

## APPENDIX F—METAL MOLDING AND CASTING INDUSTRY EFFLUENT LIMITATIONS AND STANDARDS BEING CONSIDERED

Flow (GPT)			Concentration (Mg/l)			Mass limitations (lbs) 1,000 lbs	
Applied	Percent recycle	Blowdown	Pollutant	Monthly max	Daily max	Monthly max	Daily max
<b>ALUMINUM SUBCATEGORY</b>							
Investment casting			pH	( <sup>1</sup> )			
4900	85	735	TSS	19.5	41	0.0598	0.1257
			Oil and grease	12	20	0.0368	0.0613
			ph	( <sup>1</sup> )			
Melting furnace scrubber			TSS	19.5	41	0.0114	0.0240
2800	95	140	Oil and grease	12	20	0.00701	0.0117
			Copper	0.91	1.9	0.000532	0.001110
			Lead	0.2	0.42	0.000117	0.000245
			Zinc	0.61	1.46	0.000356	0.000853
			Total phenols *	0.4	( <sup>2</sup> )		
			TTO *	0.5	( <sup>2</sup> )		
			ph	( <sup>1</sup> )			
Casting quench			TSS	19.5	41	0.000358	0.000753
221	98	4.4	Oil and grease	12	20	0.000220	0.000367
			Copper	0.91	1.9	0.0000167	0.0000349
			Zinc	0.61	1.46	0.0000112	0.0000268
			TTO *	0.5	( <sup>2</sup> )		
			pH	( <sup>1</sup> )			
Die casting			TSS	19.5	41	0.00675	0.0142
1655	95	83	Oil and grease	12	20	0.00416	0.00693
			Copper	0.91	1.9	0.000315	0.000658
			Lead	0.2	0.42	0.0000693	0.000145
			Zinc	0.61	1.46	0.000211	0.000506
			Total phenols *	5.0	( <sup>2</sup> )		
			TTO *	6.2	( <sup>2</sup> )		
Dust collection scrubber							
136	100	0					
Mold cooling			ph	( <sup>1</sup> )			
2860	95	143	TSS	19.5	41	0.0116	0.0245
			Oil and grease	12	20	0.00716	0.0119
			Zinc	0.61	1.46	0.000364	0.000871
Grinding scrubber							
53	100	0					
Casting cleaning			pH	( <sup>1</sup> )			
480	95	24	TSS	19.5	41	0.00195	0.00411
			Oil and grease	12	20	0.00120	0.00200
<b>COPPER SUBCATEGORY</b>							
Dust collection scrubber							
287	100	0					
Mold cooling			pH	( <sup>1</sup> )			
1458	95	73	TSS	19.5	41	0.00594	0.0125
			Oil and grease	12	20	0.00366	0.00609
			Copper	0.91	1.9	0.000277	0.000579
			Zinc	0.61	1.46	0.000186	0.000445
			ph	( <sup>1</sup> )			
Casting quench			TSS	19.5	41	0.000814	0.00171
496	98	10	Oil and grease	12	20	0.000501	0.000835
			Copper	0.91	1.9	0.0000380	0.0000793
			Zinc	0.61	1.46	0.0000255	0.0000609
			pH	( <sup>1</sup> )			
Direct chill casting			TSS	19.5	41	0.0164	0.0344
4018	95	201	Oil and grease	12	20	0.0101	0.0168
			Copper	0.91	1.9	0.000763	0.00159
			Lead	0.2	0.42	0.000168	0.000352
			Zinc	0.61	1.46	0.000512	0.00122
			ph	( <sup>1</sup> )			
Investment casting							



## APPENDIX F—METAL MOLDING AND CASTING INDUSTRY EFFLUENT LIMITATIONS AND STANDARDS BEING CONSIDERED—Continued

Flow (GPT)			Concentration (Mg/1)			Mass limitations (lbs) 1,000 lbs	
Applied	Percent recycle	Blowdown	Pollutant	Monthly max	Daily max	Monthly max	Daily max
765	85	115	TSS	19.5	41	0.00936	0.0197
			Oil and grease	12	20	0.00576	0.00960
Grinding scrubber							
480	100	0					
Melting furnace scrubber							
2156	100	0					
FERROUS SUBCATEGORY							
Dust collection scrubber			pH	(1)			
380	98	8	TSS	19.5	41	0.000651	0.00137
			Oil and grease	12	20	0.000401	0.000668
			Copper	0.91	1.9	0.0000304	0.0000634
			Lead	0.2	0.42	0.0000668	0.000140
			Zinc	0.61	1.46	0.0000204	0.0000487
			Total phenols <sup>3</sup>	1.0	(2)		
			TTO <sup>4</sup>	1.2	(2)		
Melting furnace scrubber			pH	(1)			
2217	98	44	TSS	19.5	41	0.00358	0.00753
			Oil and grease	12	20	0.00220	0.00367
			Copper	0.91	1.9	0.000167	0.000349
			Lead	0.2	0.42	0.000367	0.000771
			Zinc	0.61	1.46	0.000112	0.000266
			Total phenols <sup>3</sup>	1.0	(2)		
			TTO <sup>4</sup>	1.2	(2)		
Slag quench			pH	(1)			
614	98	12	TSS	19.5	41	0.000976	0.00205
			Oil and grease	12	20	0.000601	0.00100
			Copper	0.91	1.9	0.0000456	0.0000951
			Lead	0.2	0.42	0.0000100	0.0000210
			Zinc	0.61	1.46	0.0000305	0.0000731
			Total phenols <sup>3</sup>	0.5	(2)		
			TTO <sup>4</sup>	0.5	(2)		
Mold cooling			pH	(1)			
427	95	21	TSS	19.5	41	0.00171	0.00359
			Oil and grease	12	20	0.00105	0.00175
			Copper	0.91	1.9	0.0000797	0.000167
			Zinc	0.61	1.46	0.000535	0.000128
Casting quench			pH	(1)			
310	98	6	TSS	19.5	41	0.000488	0.00103
			Oil and grease	12	20	0.000300	0.000501
			Copper	0.91	1.9	0.000228	0.0000476
			Zinc	0.61	1.46	0.0000153	0.0000366
			TTO <sup>4</sup>	0.5	(2)		
Wet sand reclamation			pH	(1)			
1104	80	221	TSS	19.5	41	0.0180	0.0378
			Oil and grease	12	20	0.0111	0.0184
			Copper	0.91	1.9	0.000839	0.00175
			Lead	0.2	0.42	0.000184	0.000387
			Zinc	0.61	1.46	0.000563	0.00135
			Total phenols <sup>3</sup>	1.0	(2)		
			TTO <sup>4</sup>	0.5	(2)		
Investment casting			pH	(1)			
300	85	45	TSS	19.5	41	0.00366	0.00770
			Oil and grease	12	20	0.00225	0.00376
Casting cleaning			pH	(1)			
145	95	7	TSS	19.5	41	0.000570	0.00120
			Oil and grease	12	20	0.000351	0.000584
Grinding scrubber							
52	100	0					
MAGNESIUM SUBCATEGORY							
Grinding scrubber							
1600	100	0					
Dust collection scrubber							
22	100	0					
Casting quench			pH	(1)			
533	98	11	TSS	19.5	41	0.000895	0.00188
			Oil and grease	12	20	0.000551	0.000918
			Zinc	0.61	1.46	0.0000280	0.0000670
ZINC SUBCATEGORY							
Die casting			pH	(1)			
1143	95	57	TSS	19.5	41	0.00464	0.00975
			Oil and grease	12	20	0.00285	0.00476
			Copper	0.91	1.9	0.000216	0.000452
			Lead	0.2	0.42	0.0000476	0.000100
			Zinc	0.61	1.46	0.000145	0.000347
			Phenols <sup>3</sup>	5	(2)		
			TTO <sup>4</sup>	6.2	(2)		
Casting quench			pH	(1)			
533	98	11	TSS	19.5	41	0.000895	0.00188
			Oil and grease	12	20	0.000551	0.000918
			Copper	0.91	1.9	0.0000417	0.0000872
			Lead	0.2	0.42	0.0000918	0.0000193
			Zinc	0.61	1.46	0.0000280	0.0000670
			TTO <sup>4</sup>	0.5	(2)		
Melting furnace scrubber			pH	(1)			
5468	100	0	TSS	19.5	41	0.0120	0.0251
Mold cooling							
2945	95	147					



## APPENDIX F—METAL MOLDING AND CASTING INDUSTRY EFFLUENT LIMITATIONS AND STANDARDS BEING CONSIDERED—Continued

Applied	Flow (GPT)		Concentration (Mg/l)			Mass limitations (lbs.) 1,000 lbs	
	Percent recycle	Blowdown	Pollutant	Monthly max	Daily max	Monthly max	Daily max
			Oil and grease	12	20	0.00736	0.0123
			Copper	0.91	1.9	0.000558	0.00117
			Lead	0.2	0.42	0.000123	0.000258
			Zinc	0.61	1.45	0.000374	0.000896

\* Within the range of 7.5 to 10.0.

\* Variability factors not developed as yet; not to be considered as maximum monthly limitations.

\* 4-Aminocanthiprene method (4AAP).

\* Total Toxic Organic pollutants.

## APPENDIX G—TOXIC ORGANIC POLLUTANTS PRESENT IN TREATMENT CONCENTRATIONS

Pollutant	Process segments			
	Melting furnace scrubber	Dust collection scrubber	Die casting	Casting quench
ALUMINUM CASTING SUBCATEGORY				
01 Acenaphthene				
04 Benzene			x	
05 Benzidine			x	
06 Carbon tetrachloride			x	
07 Chlorobenzene			x	
10 1,2-Dichloroethane			x	
11 1,1,1-Trichloroethane			x	
13 1,1-Dichloroethane			x	
15 1,1,2,2-Tetrachloroethane			x	
21 2,4,6-Trichlorophenol				
22 Para-chloro-meta-cresol	x		x	x
23 Chloroform			x	x
24 2-Chlorophenol			x	
31 2,4-Dichlorophenol			x	
34 2,4-Dimethylphenol			x	
38 Ethylbenzene				x
39 Fluoranthene				
44 Methylene chloride	x		x	x
48 Dichlorobromomethane			x	
55 Naphthalene				
57 2-Nitrophenol			x	
58 4-Nitrophenol			x	
59 2,4-Dinitrophenol				
60 2,6-Dinitro-o-cresol				x
62 N-nitrosodiphenylamine				x
63 N-nitrosodi-n-propylamine			x	
64 Pentachlorophenol			x	
65 Phenol			x	
66 Bis-(2-ethylhexyl)phthalate			x	x
67 Butyl benzyl phthalate	x		x	x
68 Di-n-butyl phthalate			x	x
70 Diethyl phthalate			x	x
71 Dimethyl phthalate	x		x	x
72 Benzo(a)anthracene			x	x
73 Benzo(a)pyrene			x	
76 Chrysene	x		x	
77 Acenaphthylene			x	
78 Anthracene				x
80 Fluorene			x	
81 Phenanthrene			x	
84 Pyrene			x	
85 Tetrachloroethylene			x	x
86 Toluene			x	x
87 Trichloroethylene			x	
89 Aldrin			x	x
91 Chlordane			x	
92 4,4'-DDT			x	
93 4,4'-DDE				
102 a-BHC-Alpha				
103 b-BHC-Beta			x	
104 r-BHC-Gamma			x	
105 g-BHC-Delta				
106 PCB-1242			x	
107 PCB-1254	x		x	
108 PCB-1221	x		x	
109 PCB-1232	x		x	
110 PCB-1248	x		x	
111 PCB-1260	x		x	
112 PCB-1016	x		x	

## COPPER CASTING SUBCATEGORY

Pollutant	Process segments	
	Dust collection scrubber	Melting furnace scrubber
1 Acenaphthene		
21 2,4,6-Trichlorophenol	x	
34 2,4-Dimethylphenol	x	



## COPPER CASTING SUBCATEGORY—Continued

Pollutant	Process segments	
	Dust collection scrubber	Melting furnace scrubber
57 2-Nitrophenol	X	
64 Pentachlorophenol	X	
65 Phenol	X	
66 Bis(2-ethylhexyl) phthalate	X	
67 Butyl benzyl phthalate	X	
68 Di-N-butyl phthalate	X	
69 Di-N-octyl phthalate	X	
71 Dimethyl phthalate	X	
72 Benzo(a)anthracene	X	
73 Benzo(a)pyrene	X	X
74 3,4-Benzofluoranthene	X	
75 Benzo(k)fluoranthene	X	
76 Chrysene	X	
78 Anthracene	X	
81 Phenanthrene	X	
84 Pyrene	X	

## FERROUS CASTING SUBCATEGORY

Pollutant	Process segments				
	Casting quench	Dust collection scrubber	Slag quench	Wet sand reclamation	Melting furnace scrubber
01 Acenaphthene		X		X	
08 1,2,4-Trichlorobenzene					X
21 2,4,6-Trichlorophenol					X
24 2-Chlorophenol					X
31 2,4-Dichlorophenol					X
34 2,4-Dimethylphenol		X			X
39 Fluoranthene				X	X
44 Methylene chloride			X		
49 Trichlorofluoromethane					X
55 Naphthalene		X			
56 Nitrobenzene					X
58 4-Nitrophenol					X
59 2,4-Dinitrophenol					X
60 4,6-Dinitro-o-cresol					X
62 N-nitrosodiphenylamine		X	X		X
64 Pentachlorophenol		X			X
65 Phenol		X		X	X
66 Bis-(2-ethylhexyl)phthalate		X			X
67 Butyl benzyl phthalate		X			
68 Di-n-butyl phthalate					X
69 Di-n-octyl phthalate					X
71 Dimethyl phthalate		X	X	X	X
72 Benzo(a)anthracene		X		X	X
76 Chrysene		X	X		X
77 Acenaphthylene		X		X	X
80 Fluorene		X			X
84 Pyrene		X		X	X
85 Tetrachloroethylene		X	X		

## MAGNESIUM CASTING SUBCATEGORY

Pollutant	Process segment, dust collection scrubber
01 Acenaphthene	X
64 Pentachlorophenol	X
65 Phenol	X
66 Bis-(2-ethylhexyl)phthalate	X
70 Diethyl phthalate	X
71 Dimethyl phthalate	X
77 Acenaphthylene	X
78 Anthracene	X

## ZINC CASTING SUBCATEGORY

Pollutant	Process Segments		
	Casting quench	Die casting	Melting furnace scrubber
01 Acenaphthene	X	X	X
08 1,2,4-Trichlorobenzene			X
21 2,4,6-Trichlorophenol	X	X	X
22 Para-chloro-meta-cresol	X	X	X
24 2-Chlorophenol	X		
31 2,4-Dichlorophenol			X
34 2,4-Dimethylphenol	X		X



## ZINC CASTING SUBCATEGORY—Continued

Pollutant	Process Segments		
	Casting quench	Die casting	Molting furnace scrubber
39 Fluoranthene	x		
44 Methylene chloride	x		
55 Naphthalene	x		
56 Nitrobenzene			x
58 4-Nitrophenol			x
59 2,4-Dinitrophenol	x		
65 Phenol	x		
66 Bis(2-ethylhexyl)phthalate	x		x
67 Butyl benzyl phthalate	x	x	x
68 Di-n-butyl phthalate	x		x
69 Di-n-octyl phthalate	x	x	
70 Diethyl phthalate	x		
71 Dimethyl phthalate		x	
72 Benzo(a)anthracene		x	x
76 Chrysene		x	
77 Acenaphthylene		x	
78 Anthracene		x	x
80 Fluorene			x
81 Phenanthrene			x
85 Tetrachloroethylene	x	x	
87 Trichloroethylene	x		

[FR Doc. 84-7151 Filed 3-19-84; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Ch. I

[CC Docket No. 83-1376; RM-4436]

## Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the Contiguous States, etc.; Order Further Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; further extension of comment/reply comment period.

**SUMMARY:** The Federal Communications Commission, by its Common Carrier Bureau, has granted the motion for further extension of time filed by the State of Alaska and the Alaska Public Utilities Commission in which they requested additional time to file comments and reply comments in CC Docket No. 83-1376. That Docket is investigating the relationship between competition and rate integration for Alaska, Hawaii, Puerto Rico, and the Virgin Islands. The Bureau found that it was important to receive the jurisdictions. Since the time requested was brief, the request was granted. The Bureau previously granted a motion for an extension of time filed by the State of Alaska and the Alaska Public Utilities Commission in Order Extending Time, 49 Fed. Reg. 9587 (March 14, 1984). The Notice of Inquiry in CC Docket No. 83-

1376 was published at 49 FR 1538 (January 12, 1984).

**DATES:** Comments are due March 21, 1984. Reply comments are due April 20, 1984.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Douglas Slotten, Policy and Program Planning Division, (202) 632-9342.

## Order Further Extending Time

In the matter of integration of rates and services for the provision of communications by authorized Common Carriers between the contiguous states and Alaska, Hawaii, Puerto Rico, and the Virgin Islands, CC Docket No. 83-1376, RM 4436.

Adopted March 14, 1984.

Released March 14, 1984.

By the Chief, Common Carrier Bureau.

1. On March 13, 1984, the State of Alaska and the Alaska Public Utilities Commission (hereinafter jointly referred to as the State) filed a Motion for Further Extension of Time in which to file comments and reply comments in the above-captioned proceeding. Earlier, on March 1, 1984, the State filed a Motion for Extension of Time requesting that the March 7, 1984, and April 6, 1984, comment dates be extended to March 14, 1984, and April 13, 1984 for comments and reply comments respectively. The Chief, Common Carrier Bureau, acting on delegated authority, granted this request. See CC Docket No. 83-1376, Order Extending Time, Mimeo No. 2769 (released March 6, 1984). The State now indicates that it has taken more time than anticipated for the State to assimilate the input of the

large number of people involved into a final draft. The State regrets having to seek a further extension of time, but believes that the public interest will be best served if the State can submit comments that are fully thoroughly considered on a matter of extreme importance to the State. The State requests that the present March 14, 1984, and April 13, 1984 comment dates be extended to March 21, 1984 and April 20, 1984 respectively.

2. This inquiry raises significant questions concerning the provision of telecommunications service to the noncontiguous points (Alaska, Hawaii, Puerto Rico and the Virgin Islands). In considering these issues, we are particularly interested in the views of the governmental authorities in each of these jurisdictions. The requested further extension is brief. Accordingly, we conclude that granting the extension is in the public interest.

3. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j) and 201 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 4(i), 4(j), and 201, that the Motion for Further Extension of Time filed by the State of Alaska and the Alaska Public Utilities Commission is granted. The new comment dates are March 21, 1984, and April 20, 1984, for comments and reply comments, respectively.

4. This order is issued under Section 0.291 of the Commission's rules and is effective on its adoption date.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)



Federal Communications Commission.  
 Jack D. Smith,  
 Chief, Common Carrier Bureau.  
 [FR Doc. 84-7418 Filed 3-19-84; 8:45 am]  
 BILLING CODE 6714-01-M

#### 47 CFR Part 73

[MM Docket No. 84-266; RM-4619]

#### FM Broadcast Stations in Kahului and Wailuku, Hawaii; Proposed Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes to assign Class C FM Channel 294 to either Kahului or Wailuku, Hawaii, in response to a petition filed by Charles Joseph Thompson. The proposal could provide a first FM service to Kahului or a second FM service to Wailuku.

**DATES:** Comments must be filed on or before May 7, 1984, and reply comments on or before May 22, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Kahului and Wailuku, Hawaii) MM Docket No. 84-266, RM-4619.

Adopted: March 7, 1984.

Released: March 15, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Charles Joseph Thompson ("petitioner"), proposing the assignment of Class C Channel 294 on a hyphenated basis to the communities of Kahului/Wailuku, Hawaii.

2. Hyphenation is an assignment tool which we have used very sparingly. In the past, we have done so only where it appeared that the communities should be treated as one due to their nearness and mutual economic, trade, cultural and social interests, etc. Both Kahului and Wailuku appear to be separate communities, especially since Wailuku already has its own FM channel assignment. Petitioner has made valid argument to justify a hyphenated assignment.

3. The proposed assignment could provide a first FM broadcast service to Kahului or a second FM service to Wailuku. We will provide the petitioner,

or other interested parties, an opportunity to comment on which community should receive the channel.

4. In view of the above, the Commission believes it is appropriate to solicit comments on alternative proposals to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Option 1 Kahului, Hawaii		294
or		
Option 2 Wailuku, Hawaii	236	236, 294

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein. **NOTE:** A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 7, 1984, and reply comments on or before May 22, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows: Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (Consultant to Charles Joseph Thompson).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rule. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rule's*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen M. Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time of Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte*

presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in Section 4(i), 5(d), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a



different channel than was requested for any of the communities involved.

**4. Comments and Reply Comments; Service.** Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§ 1.420 (a), (b), and (c) of the Commission's Rules.)

**5. Number of Copies.** In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

**6. Public Inspection of Filings.** All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 84-7421 Filed 3-19-84; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 84-268; RM-4605]

#### FM Broadcast Station in Tama, Iowa; Proposed Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes to assign FM Channel 296A to Tama, Iowa, as that community's first local FM service, in response to a petition filed by Douglas Neatrou.

**DATES:** Comment must be filed by May 7, 1984, and reply comments on or before May 22, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### Notice of Proposed Rule Making

In the Matter of amendment of § 73.202(b), table of assignments, FM broadcast stations [Tama, Iowa] MM Docket No. 84-268, RM-4605.

Adopted: March 7, 1984.

Released: March 15, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Douglas Neatrou ("petitioner"), requesting the assignment of FM Channel 296A at Tama, Iowa, as that community's first local FM service. The petitioner has filed information in support of the proposal and indicated his interest in applying for the channel, if assigned.

2. Channel 296A can be assigned to Tama, Iowa, in conformity with § 73.207 of the Commission's Rules provided there is a site restriction of 7.8 miles northeast of the city to avoid short spacing to FM Station KCCQ on Channel 296A in Ames, Iowa. However, a site 7.8 miles removed from the center of the city means that it may be difficult to provide a city-grade (70 dBu) signal to the principal community. The petitioner, therefore, should provide information that a site is available that will meet the minimum spacing requirements and at the same time provide a city-grade signal to the community.

3. In view of the fact that Tama, Iowa, could receive its first local FM service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Tama, Iowa.....		296A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

**Note:** A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 7, 1984, and reply comments on or before May 22, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Douglas J. Neatrou, Rt. 5, Box 40, Osceola, Iowa 50213.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, 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 assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitute an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.  
(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former



pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, They will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's public Reference

Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 84-7420 Filed 3-19-84; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 84-267; RM-4625]

#### FM Broadcast Station in Watonga, Oklahoma; Proposed Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes to assign FM Channel 228A to Watonga, Oklahoma, as that community's first FM assignment, in response to a petition filed by Sherry Parham and Timothy Hawks.

**DATES:** Comments must be filed on or before May 7, 1984, and reply comments must be filed on or before May 22, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheurle, Mass Media Bureau, (202) 634-6530

#### List of Subjects in 47 CFR 73

Radio broadcasting.

#### Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Watonga, Oklahoma) MM Docket No. 84-267, RM-4625.

Adopted: March 7, 1984.

Released: March 15, 1984.

By the chief, Policy and Rules Division.

1. A Petition for rule making has been filed by Sherry Parham and Timothy Hawks ("petitioners"), requesting the assignment of FM Channel 228A to Watonga, Oklahoma, as that community's first local FM service. Petitioners submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. In view of the fact that the proposed assignment could provide a first FM service to Watonga, Oklahoma, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Watonga, Oklahoma		228A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

**Note.**—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before May 7, 1984, and reply comments on or before May 22, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioners as follows:

Sherry Parham, Route 2, Watonga, Oklahoma 73772

Timothy A. Hawks, 416 Sunburst, Norman, Oklahoma 73069

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Kathleen Scheurle, Mass Media Bureau, (202) 634-6530. However, 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 assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.



(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the Communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulation, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to

this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceedings will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 84-7419 Filed 3-19-84; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 97

[PR Docket No. 84-265; FCC 84-75]

#### Reimbursement of Out-of-Pocket Costs for Volunteer Administered Amateur Radio Examinations

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the rules to provide for reimbursement of out-of-pocket costs incurred by volunteer examiners and volunteer examiner coordinators in connection with amateur operator license examinations. Cost reimbursement is necessary for the volunteers in order for them to recover their prudently-incurred expenditures. The effect of this action is to propose rules allowing cost reimbursement.

**DATES:** Comments are due by April 16, 1984 and replies by May 1, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554.

#### List of Subjects in 47 CFR Part 97

Radio.

#### Notice of Proposed Rule Making

In the matter of reimbursement of out-of-pocket costs for volunteer administered

amateur radio examinations; PR Docket No. 84-265, FCC 84-75.

Adopted: March 6, 1984.

Released: March 9, 1984.

By the Commission.

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given.

2. The Federal Communications Commission Authorization Act of 1983 (Pub. L. 98-214; approved December 8, 1983) amended Section 4(f)(4) of the Communications Act,<sup>1</sup> to provide for the reimbursement of out-of-pocket costs incurred by volunteer examiners and volunteer examiner coordinators in connection with the preparation, processing or administration of examinations for amateur station operator license. The American Radio Relay League, Inc. (ARRL) filed a Request for Agency Action on December 7, 1983, requesting that the Commission implement the legislation by amending the rules by Order as soon as possible. However, since this matter affects a large number of people (amateur licensees and applicants), we are providing for notice and comment.

3. Our proposed rules would allow both the volunteer examiner (VE) and the volunteer examiner coordinator (VEC) to be reimbursed. Each amateur radio examination, except the Novice Class,<sup>2</sup> is to be administered by three VE's. They may be reimbursed for the expenses they incur in administering the examination. Likewise, the VEC may be reimbursed for its preparation and processing of the examination. The total reimbursement from each examinee, however, may not exceed \$4 for an examination. It could be less than that amount, depending upon the circumstances.

<sup>1</sup> Section 4(f)(4) was amended by adding subparagraph (J) as follows:

"(J) With respect to the acceptance of voluntary uncompensated services for the preparation, processing or administration of examinations for amateur station operator licenses pursuant to subparagraph (A) or (B) of this paragraph, individuals, or organizations which provide or coordinate such authorized volunteer services may recover from examinees reimbursement for out-of-pocket costs. The total amount of allowable cost reimbursement per examinee shall not exceed \$4, adjusted annually every January 1 for changes in the Department of Labor Consumer Price Index. Such individuals and organizations shall maintain records of out-of-pocket expenditures and shall certify annually to the Commission that all costs for which reimbursement was obtained were necessarily and prudently incurred."

<sup>2</sup> None of the proposed rules applies to the examination for the Novice Class license. Senator Goldwater, the sponsor of the legislation, stated, "[t]he legislation I am introducing today is not intended to have any effect upon the present novice program \* \* \*. *Congressional Record-Senate*, S. 15376; November 3, 1983.



4. We do not propose to specify how the reimbursement fee is to be divided among the VEC's and the VE's. Both the VE's and VEC's may incur expenses. VEC's may be reimbursed for expenses that they incur in preparing and processing examinations. This could include the costs of printing, assembling and distributing the exams. In addition, a VEC may have other administrative costs since the VEC is responsible for keeping records on each examination that is given. Postage is another anticipated expense since the VEC must forward the applications of successful applicants to the Commission. There may also be costs for renting the premises where an exam is given. A VE, on the other hand, may have costs for transportation to the site of an exam and perhaps lodging expenses. Also, VE's will have postage expenses since they must forward the applications of successful applicants to the VEC. VE's may also have expenses for paper, pencils and supplies that are furnished to the applicants. We cannot anticipate every expense that a VEC or VE may incur. The statute provides that expenses may be reimbursed only if they are necessarily and prudently incurred by uncompensated volunteers. Proposed rule § 97.36 is intended to be flexible. It states that the VEC and the VE both may be reimbursed. However, they may determine how much of the reimbursement amount each will receive.

5. Present §§ 97.31 and 97.507 which relate to the VE and the VEC, respectively, provide that no compensation from any source may be accepted. We propose to amend those sections to allow for reimbursement of necessary and prudent expenses.

6. It would seem that in most cases the VE could most conveniently collect the reimbursement fee since the VE and the examinee directly interact. Candidates initially submit their applications directly to the VE's. However, in certain cases, a VEC may devise a program where the reimbursement is collected by it and then shared with the VE's to defray their out-of-pocket expenses. Varying conditions and practical necessities may affect who collects the money initially. Accordingly, we do propose to allow either the VE or the VEC to collect the fee. In the interest of flexibility, we will leave that to the VEC's and the VE's to determine.

7. The amount of reimbursement from each examinee, which may be less than the statutory \$4 but may not exceed that amount, will be a reimbursement amount that is associated with one application. One application may result

in a telegraphy exam and one or more written exam elements. All those tests will be covered under one reimbursement amount. However, once the application is acted upon by grant or by dismissal, the reimbursement amount is final. If an examinee fails an examination and later submits a new application, a new reimbursement amount may be collected.

8. As authorized by the legislation, we propose to allow the amount of reimbursement to be adjusted for inflation every January 1 as reflected in the Department of Labor Consumer Price Index. The new maximum would be stated annually in a public notice.

9. If fees are charged, both the VE and the VEC would be required to maintain records of out-of-pocket expenditures and certify annually to the Commission that all costs for which they obtained reimbursement were necessarily and prudently incurred. We would cancel the agreement that we have with a VEC if the VEC recovered more than out-of-pocket costs. Such cancellation is provided for in § 97.511 of our present rules. Section 97.33 provides that a VE will be subject to appropriate sanctions for recovery of any amount in excess of that permitted.

10. We believe that reimbursement for expenditures will make the program more attractive to volunteers and more effective. We will continue to administer some examinations in our field offices and at a few remote points in 1984 until such time as the volunteer program is in place. However, our resources for this work are very limited. We wish to implement the volunteer examination program as soon as possible for the good of the amateur community. Therefore, the comment period will be 30 days, with reply comments due 15 days thereafter. Requests to extend the time for filing comments or reply comments are discouraged and will not be routinely granted.

11. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised the *ex parte* contact are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a Final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a

Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of the presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of the Commission's procedures governing, *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, DC 20554, (202) 632-7000.

12. Authority for issuance of the Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in § 1.415, 47 CFR 1.415, of the Commission's Rules, interested persons may file comments on or before April 16, 1984 and reply comments on or before May 1, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

13. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be



submitted to: The Secretary, Federal Communications Commission, Washington, D.C. 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

14. In accordance with Section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities, because these entities may not use the Amateur Radio Service for commercial radio communication (see 47 CFR 97.3 (b)) and because these rules would have no foreseeable impact on manufacturers of Amateur Radio Service equipment.

15. The request for agency action filed by the ARRL is granted to the extent that it requests rules to implement the legislation which permit reimbursements of volunteers who administer or coordinate Amateur Radio examinations and is denied insofar as it requests that such rules be adopted without notice and opportunity for public comment.

16. It is ordered, That the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the *Federal Register*.

17. For information concerning this proceeding, contact Maurice J. DePont, Federal Communication Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

Federal Communication Commission.

William J. Tricarico,

Secretary.

## Appendix

### PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. Section 97.31(c) is revised to read, as follows:

#### § 97.31 Volunteer examiner requirements.

(c) Volunteer examiners may not be compensated for services. They may be reimbursed for out-of-pocket expenses, except for Novice class examinations (see § 97.36)

2. Section 97.33 is revised to read, as follows:

#### § 97.33 Volunteer examiner conduct.

No volunteer examiner shall give or certify any examination by fraudulent

means or for monetary or other consideration. Violation of this provision may result in the revocation of the amateur radio station license and the suspension of the amateur radio operator license of the volunteer examiner. This does not preclude a volunteer examiner from accepting reimbursement for out-of-pocket expenses under § 97.36. Recovery of any amount in excess of that permitted may result in the sanctions specified herein.

3. New section 97.36 is added, as follows:

#### § 97.36 Reimbursement for expenses.

(a) Each volunteer-examiner coordinator and each volunteer examiner may be reimbursed by examinees for out-of-pocket expenses incurred in preparing, processing or administering examinations for amateur station operator licenses above the Novice Class. The volunteer-examiner coordinator or the volunteer examiner must collect the reimbursement, if any, from the examinees. No reimbursement may be accepted for preparing, processing or administering Novice class examinations.

(b) The maximum amount of reimbursement is \$4.00 and will be adjusted annually each January 1 for changes in the Department of Labor Consumer Price Index and announced by the Commission in a Public Notice. The amount of such reimbursement from any examinee for any examination or series of examinations related to a single application must not exceed the published maximum.

(c) A volunteer-examiner coordinator or volunteer examiner who accepts reimbursement must maintain records of the out-of-pocket expenses and reimbursements and must certify annually to the Commission's office in Gettysburg, PA 17325 that all expenses for which reimbursement was obtained were necessarily and prudently incurred.

4. Section 97.507(e) is revised to read, as follows:

#### § 97.507 VEC qualifications.

(e) Agree not to accept any compensation from any source for its services as a VEC, except reimbursement for out-of-pocket expenses permitted by § 97.36; and

[FR Doc. 84-7200 Filed 3-19-84; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 611 and 663

#### Pacific Coast Groundfish Fishery

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of an amendment to a fishery management plan and request for comments.

**SUMMARY:** NOAA issues this notice that the Pacific Fishery Management Council has submitted for Secretarial review an amendment to the fishery management plan for the Pacific Coast groundfish fishery and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

**DATE:** Comments on the plan should be submitted on or before May 25, 1984.

**ADDRESSES:** All comments should be sent to: Dr. T. E. (Gene) Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115; or Mr. F. C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731

Copies of the amendment are available upon request from the Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201.

**FOR FURTHER INFORMATION CONTACT:** Dr. T. E. (Gene) Kruse at 206-527-6140, Mr. E. C. Fullerton at 213-548-2575, or the Pacific Fishery Management Council at 503-221-6352.

**SUPPLEMENTARY INFORMATION:** The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan for plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or plan amendment.

The first amendment to the Pacific Coast Groundfish Fishery Management Plan proposes measures for managing the foreign and domestic fisheries for groundfish in ocean waters off Washington, Oregon, and California. An



environmental assessment (required under the National Environmental Policy Act) and a regulatory impact review/regulatory flexibility analysis (required under Executive Order 12291 and the Regulatory Flexibility Act) are incorporated in the amendment.

Regulations proposed by the Council and based on this amendment are scheduled to be published within 30 days.

(16 U.S.C. 1801 *et seq.*)

Date: March 15, 1984.

Roland Finch,

Director, Office of Fisheries Management  
National Marine Fisheries Service.

[FR Doc. 84-7480 Filed 3-16-84; 9:46 am]

BILLING CODE 3510-22-M

## 50 CFR Part 63

### Gulf of Mexico Fishery Management Council; Swordfish Public Hearings

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA) Commerce.

**SUMMARY:** The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will convene public hearings to gather public comment on a draft fishery management plan for swordfish.

**DATES:** The hearings will begin at 7:00 p.m., and will end at 10:00 p.m., on March 27, 28, and 29, 1984.

**ADDRESSES:** The hearings will take place at the following locations:

March 27th—Civic Center, 710 Avenue A, Port Arkansas, Texas

March 28th—Bay Room/Best Western Bayside Inn, 711 West Beach Drive, Panama City, Florida

March 29th—Gulfview Room/Holiday Inn, 15208 Gulf Boulevard, Madeira Beach, Florida

**FOR FURTHER INFORMATION CONTACT:** Wayne Swingle, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 Kennedy Boulevard, Tampa, Florida 33609, phone: 813-228-2815.

Dated: March 12, 1984.

Roland Finch,

Director, Office of Fisheries Management,  
National Marine Fisheries Service.

[FR Doc. 84-7132 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-22-M



# Notices

Federal Register

Vol. 49, No. 55

Tuesday, March 20, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### Tobacco Inspection—Growers' Referendum

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of Referendum.

**SUMMARY:** This notice announces that a referendum will be conducted by mail during the period of March 26–30, 1984, of producers of flue-cured tobacco who sell their tobacco at auction in Waycross and Blackshear, Georgia, to determine producer approval of the designation of the Waycross and Blackshear tobacco markets as one consolidated auction market.

**DATES:** The referendum will be held March 26–30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250, Telephone Number—(202) 447-2567.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of a mail referendum on the designation of a consolidated Waycross-Blackshear, Georgia, auction market. Waycross and Blackshear, Georgia, were separately designated on June 26, 1942 (7 FR 4811) as flue-cured tobacco auction markets under the Tobacco Inspection Act of 1935 (7 U.S.C. 511 *et seq.*). Under this Act the two markets have been receiving mandatory grading services from USDA.

On September 14, 1983, an application was made to the Secretary of Agriculture to consolidate the designated markets of Waycross and Blackshear. This application, filed by the warehousemen in those markets, was made pursuant to the regulations promulgated under the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*). On

November 1, 1983, an oral hearing was held in Waycross, Georgia, pursuant to applicable provisions of the regulations under the Tobacco Inspection Act.

A Review Committee, established pursuant to § 29.3(h) of the regulations (7 CFR 29.3(h)), has reviewed and considered the application, the testimony presented at the hearing, the exhibits received in evidence, together with other available information which was officially noticed at the hearing relating to the application and the brief filed by the applicants. The Committee recommended to the Secretary that the application for consolidation by granted and the Secretary approved the application on March 13, 1984.

Before a new market can be officially designated, a referendum must be held to determine that a two-thirds majority of producers favor said designation. It is hereby determined that the referendum will be held by mail during the period of March 26–30, 1984. The purpose of the referendum is to determine whether farmers who sold their tobacco on the designated markets at Waycross and Blackshear, Georgia, are in favor of or opposed to the designation of the consolidated market for the 1984 and succeeding crop years. Accordingly, if two-thirds of those tobacco producers voting in the referendum favor this consolidation, a new market will be designated as and be called Waycross-Blackshear.

To be eligible to vote in the referendum the tobacco producer must have sold flue-cured tobacco on either the Waycross or Blackshear auction market during 1983. Any farmer who believes he or she is eligible to vote in the referendum but has not received a mail ballot by March 26, 1984, should immediately contact Lioniel S. Edwards at (202) 447-2567.

The referendum will be held in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1312(c)) and the regulations set forth in 7 CFR Parts 29 and 717.

Dated: March 16, 1984.

John Ford,  
Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-7565 Filed 3-19-84; 8:45 am]

BILLING CODE 3410-02-M

### Agricultural Stabilization and Conservation Service

#### Feed Grain Donations for the Assiniboine and Sioux Indian Tribes (Fort Peck Indian Reservation) in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Assiniboine and Sioux Indian Tribes in Montana has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. The Fort Peck Indian Reservation is designated for Indian use and is utilized by members of the Assiniboine and Sioux Tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1984, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on March 15, 1984.

Everett Rank,  
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-7494 Filed 3-19-84; 8:45 am]

BILLING CODE 3410-05-M



## Packers and Stockyards Administration

### Deposting of Stockyard; New York

It has been ascertained, and notice is hereby given, that the livestock market named herein, originally posted on the respective date specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under said Act and is, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
NY-161 Bullville Auction, Bullville, N.Y. ....	June 8, 1981.

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the *Federal Register*. This notice shall become effective upon publication in the *Federal Register*.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 14th day of March, 1984.

Jack W. Brinckmeyer,  
Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-7399 Filed 3-19-84; 8:45 am]

BILLING CODE 3410-02-M

### Soil Conservation Service

#### Bear Creek Road Critical Area Treatment RC&D Measure, Colorado; Environmental Impact

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bear Creek Road Critical Area Treatment RC&D Measure, Huerfano County, Colorado.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 W. 26th Avenue, Denver, Colorado 80211, telephone (303) 837-4275.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this measure.

This critical area treatment measure concerns a plan to prevent land voiding and county road damage from excessive erosion. The planned works of improvement include installing pipe drops under the roadway, constructing a waterway, shaping 7 acres to a uniform non-erosive slope, and establishing native vegetative cover.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register*.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95, regarding State and local clearinghouse review of Federal and federally assisted programs and projects, is applicable)

Dated: March 12, 1984.

Sheldon G. Boone,  
State Conservationist.

[FR Doc. 84-7399 Filed 3-19-84; 8:45 am]

BILLING CODE 3410-16-M

#### Hillside Cemetery Critical Area Treatment RC&D Measure, Colorado; Environmental Impact

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40

CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hillside Cemetery Critical Area Treatment RC&D Measure, San Juan County, Colorado.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 3490 W. 26th Avenue, Denver, Colorado 80211, telephone (303) 837-4275.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this measure.

This critical area treatment measure concerns a plan to prevent erosion on a steep and unstable slope adjacent to the Town of Silverton's historic cemetery. The erosion of the slope is threatening to expose grave sites. The planned works of improvement include installing a metal retaining wall that will prevent erosion, sedimentation to streams below, and prevent damage to the cemetery.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register*.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: March 12, 1984.

Sheldon G. Boone,  
State Conservationist.

[FR Doc. 84-7370 Filed 3-19-84; 8:45 am]

BILLING CODE 3410-16-M



# **Wheeler County Critical Area Treatment RC&D Measure, Texas**

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture gives notice that an environmental impact statement is not being prepared for the Wheeler County Critical Area Treatment RC&D Measure, Wheeler County, Texas.

**FOR FURTHER INFORMATION CONTACT:** Billy C. Griffin, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Texas 76701-7682; telephone 817-774-1214.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on 23 eroded areas in Wheeler County. Planned works of improvement include installing grade stabilization structures, constructing diversion terraces above eroded areas, shaping eroded areas, vegetating treated areas, and fencing areas where needed to protect vegetation. This will involve 48 acres of rangeland, 9 acres of cropland, and 46 acres of gullied land. Diversion terraces will be installed on 2 acres of the 9 acres of cropland and will not require a change of land use.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy C. Griffin.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated March 8, 1984.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resources Conservation and Development Program. Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

**Billy C. Griffin,**

*State Conservationist.*

[FR Doc. 84-7453 Filed 3-19-84; 8:45 am]

**BILLING CODE 3410-15-M**

## **DEPARTMENT OF COMMERCE**

### **Foreign-Trade Zones Board**

[Order No. 244]

**Resolution and Order Approving the Joint Application of the BC/CAL/KAL Inland Port Authority of South Central Michigan Development Corporation and the Louisville and Jefferson County Port Authority for Subzone Status for Clark Equipment Company Plants in Springfield and Oshtemo, Michigan, and in Georgetown, Kentucky**

Proceeding of the Foreign-Trade Zones Board, Washington, D.C.

#### **Resolution and Order**

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the BC/CAL/KAL Inland Port Authority of South Central Michigan Development Corporation, grantee of Foreign-Trade Zone 43, Battle Creek, Michigan, and the Louisville and Jefferson County Port Authority, grantee of Foreign-Trade Zone 29, Louisville, Kentucky, filed with the Foreign-Trade Zones Board (the Board) on May 12, 1983, requesting special-purpose subzone status for Clark Equipment Company plants located in Springfield and Oshtemo, Michigan, adjacent to the Battle Creek Customs port of entry, and Georgetown, Kentucky, some 65 miles from the Louisville Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

*Grant of Authority To Establish a Foreign-Trade Subzone in Springfield and Oshtemo, Michigan, Adjacent to the Battle Creek Customs Port of Entry; and, To Establish a Foreign-Trade Subzone in Georgetown, Kentucky, Adjacent to the Louisville Customs Port of Entry*

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the BC/CAL/KAL Inland Port Authority of South Central Michigan Development Corporation, on behalf of the City of Battle Creek, grantee of Foreign-Trade Zone 43, and the Louisville and Jefferson County Port Authority, grantee of Foreign-Trade Zone 29, have made a joint application (filed May 12, 1983, Docket No. 15-83, 48 FR 22604) in due and proper form to the Board requesting special-purpose subzone status for the forklift truck manufacturing and distribution facilities of Clark Equipment Company in Springfield and Oshtemo, Michigan, adjacent to the Battle Creek Customs port of entry, and in Georgetown, Kentucky, some 65 miles from the Louisville Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed May 12, 1983, the Board hereby authorizes the establishment of a subzone at Clark Equipment Company's Springfield and Oshtemo, Michigan plants, designated on the records of the Board as Foreign-Trade Subzone No. 43A, and a subzone at Clark Equipment Company's Georgetown, Kentucky plant, designated on the records of the Board as Foreign-Trade Subzone No. 29A, at the locations



mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Approval of the Georgetown, Kentucky, subzone site is conditional upon the subzone operator's signing an agreement with Customs to satisfy the adjacency requirement. The Board shall take action to revoke the grant of authority for this site, if such an agreement is not concluded within a reasonable time from the date of issuance of this grant.

Activation of the subzones shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzones in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzones, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 12th day of March 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

*Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternatives.*

Attest:

John J. DaPonte, Jr.,  
*Executive Secretary.*

[FR Doc. 84-7462 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-DS-M

## International Trade Administration

### President's Export Council; Open Meeting

A meeting of the President's Export Council's Agriculture Subcommittee will be held April 3, 1984, 9:30 a.m., 1310 Longworth House Office Building, Independence Avenue, Washington, D.C. The Council's purpose is to advise the President on matters relating to United States Export trade.

**Agenda:** Agriculture trade policy, including a review of issues before the GATT, the European Community's Common Agriculture Policy, and an update on the U.S. negotiations with Japan; a panel debate on the direction of U.S. farm policy; trade reorganization update; pending legislation.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Angi Knapp, (202) 377-1125, H3213, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: March 14, 1984.

Henry Misisco,

*Acting Director, Office of Planning and Coordination.*

[FR Doc. 84-7257 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-DR-M

### Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

**Docket No. 84-99.** Applicant: University of Southwestern Louisiana, East University Avenue, USL Box 44690, Lafayette, LA 70504. Instrument: Electrophoresis Apparatus, Rotating Prism & 3mW Laser, Model Mk II. Manufacturer: Rank Brothers, United Kingdom. Intended Use: Investigation of clay and polymer utilization in oil and

gas drilling. Application received by Commissioner of Customs: February 10, 1984.

**Docket No. 84-100.** Applicant: Brookhaven National Laboratory, Medical Department, Building 490, Upton, NY 11973. Instrument: Cryomicrotome, Type 450 MP, Model LKB 2250-041. Manufacturer: PMV Palmisternas Mekaniska, Sweden. Intended use: Investigations that will include autoradiographic drug and chemical distribution studies of whole animals, metabolism studies of various radiopharmaceuticals in normal animals and animal models of human disease, evaluation of new radiopharmaceuticals, double or multiple tracer autoradiography to study the effect of therapy/interventions, regional as well as global distribution of new radiopharmaceuticals, effect of toxic or carcinogenic agents on metabolic function of organ systems, gross morphology and light microscopy examination of whole animals or human organs. Application received by Commissioner of Customs: February 10, 1984.

**Docket No. 84-101.** Applicant: University of Texas at Austin, Department of Chemistry, Austin, TX 78712. Instrument: Time-Correlated Single-Photon Counting Spectrometer. Manufacturer: Photochemical Research Associates, Canada. Intended Use: Studies of luminescent dyes and aromatic chromophores dispersed in polymer matrices. The objectives of the experiments conducted are to evaluate energy migration rates in a network of dispersed chromophores and to relate these rates to the molecular properties needed to achieve long ranges of exciton diffusion. The results are related to technologies of energy conversion and information transfer. Application received by Commissioner of Customs: February 10, 1984.

**Docket No. 84-103.** Applicant: Shriners Burns Institute, 51 Blossom Street, Boston, MA 02114. Instrument: Electron Microscope, Model EM 410G with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: Studies of tissue samples from experimental animals and animals to document ultrastructural changes that occur in relation to disease processes. Experiments to be conducted will involve studies of wound healing and the process of myocardial ischemia and infarction. Application received by Commissioner of Customs: February 16, 1984.

**Docket No. 84-104.** Applicant: Oregon State University, P.O. Box 1086, Corvallis, OR 97330. Instrument: Liquid



Nitrogen Shielded Magnetometer, Model GM 400A with Accessories.

Manufacturer: Cryogenic Consultants Ltd., United Kingdom. Intended use: Paleomagnetic studies to determine the remanent magnetism at the time the rock formed by obtaining geographically oriented samples, whose remanence vectors are measured in the laboratory with sensitive magnetometers. Some of the topics investigated will include:

- (1) Determining movements of continents in the geological past.
- (2) Dating geological formations by identifying well determined geomagnetic polarity reversals.
- (3) Assisting earthquake hazards evaluation by determining rates faulting and tectonic movements in the past.
- (4) Determining geomagnetic behavior during reversals.

Educational purposes—Training graduate students to become professionals specializing in paleomagnetism and rock magnetism and training of students enrolled in the graduate course "Paleomagnetism and Rock Magnetism," teaching the principles of paleomagnetism and their application to geological and geophysical problems. Application received by Commissioner of Customs: February 22, 1984.

Docket No. 84-106. Applicant: Stanford University, Stanford, CA 94305. Instrument: Electron Microscope, Model EM 410LS with Accessories.

Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use: Multi-user needs varying from low magnification work, to high magnification and high resolution work for cell and molecular biology applications. Research objectives will include but are not limited to studies of the following:

- (1) Embryonic development of the nervous system.
- (2) Cytotoxic interactions between effector cells of the immune system with reconstituted target membranes.
- (3) Plant cells grown in tissue culture.
- (4) Synthetic membrane (polymeric) morphology.
- (5) Thin polymer film morphology.
- (6) Regulation of gene expression.
- (7) Secretion by, and hormone action on, the endomembrane systems of plant cells, especially the ER and Golgi systems.

Application received by Commissioner of Customs: February 17, 1984.

Docket No. 81-00157. Applicant: Princeton University, Plasma Physics Laboratory, P.O. Box CN-17, Princeton, NJ 08544. Instrument: Millimeter Carcinotron Tube. Manufacturer: Thomson-CSF, France. Intended use: As

a swept local oscillator for a 290 GHz to 300 GHz interferometer used in the electron density diagnostics of high temperature hydrogen plasmas. The instrument will also be used as the millimeter microwave source for a microwave scattering system used to measure other plasma conditions. Application received by Commissioner of Customs: This application was originally received by Customs on February 26, 1981, and referred to the Department of Commerce on March 6, 1981. Subsequent information from the port of entry that the entry had been liquidated on November 7, 1980, prompted Commerce to return the application to Customs for reexamination because the liquidation preceded receipt of the application by more than 90 days. This occurred on April 18, 1981. By memorandum dated March 9, 1984, Customs advised that a mistake of fact within the meaning of section 520(c)(1) of the Tariff Act of 1930 had occurred and that the application should be processed.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,  
Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-7484 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-DS-M

### National Oceanic and Atmospheric Administration

#### Southwest Fisheries Center; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
  - a. Name: Southwest Fisheries Center (P77#10).
  - b. Address: P.O. Box 271, LaJolla, California 92038.
2. Type of Permit: Scientific Research.
3. Name and Number of Animals: Harbor Seals (*Phoca vitulina*), 150.
4. Type of Take: Capture, tag, mark, and release up to 50 seals per year for population studies.
5. Location of Activity: Santa Rosa Island, California.
6. Period of Activity: 3 Years.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of this application to the Marine

Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries,  
National Marine Fisheries Service,  
3300 Whitehaven Street, NW.,  
Washington, D.C.; and  
Regional Director, Southwest Region,  
National Marine Fisheries Service, 300  
South Ferry Street, Terminal Island,  
California 90731.

Dated: March 13, 1984.

Richard B. Roe,  
Director, Office of Protected Species and  
Habitat Conservation, National Marine  
Fisheries Service.

[FR Doc. 84-7478 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-22-M

#### Receipt of Modification Request to Permit No. 335 (P274)

Notice is hereby given that Dr. James R. Gilbert, Associate Professor of Wildlife, University of Maine at Orono, 240 Nutting Hall, Orono, Maine 04469, has requested a modification of Permit No. 335 issued on May 13, 1981 (46 FR 27514) as modified on February 5, 1982 (47 FR 6317), and April 27, 1983 (48 FR 19923) under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Permit No. 335 authorizes 100 harbor seals (*Phoca vitulina concolor*) to be restrained, drugged, sampled, and tagged with flipper tags. Of these, thirty (30) harbor seals of any age may be instrumented with epoxy-attached radio tags, provided that those animals are post-weaning. The Permit Holder is requesting to increase the allowed take to 200, of these thirty (30) may be instrumented with radios.



The Holder also requested a modification in the tagging techniques to epoxy a vinyl tag to the dorsal neck fur of weaned seals in the manner currently used to mount radio packages.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries,  
National Marine Fisheries Service,  
3300 Whitehaven Street, N.W.,  
Washington, D.C.; and

Regional Director, National Marine  
Fisheries Service, Northeast Region,  
14 Elm Street, Federal Building,  
Gloucester, Massachusetts 01930

Dated: March 12, 1984.

Richard B. Roe,

Director, Office of Protected Species and  
Habitat Conservation, National Marine  
Fisheries Service.

[FR Doc. 84-7479 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-22-M

## National Technical Information Service

### Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Tom's Foods, Inc., having a place of business in Columbus, Georgia, an exclusive right to manufacture, use, and sell products embodied on the invention entitled "Reducing Oil Content of Fried Potatoes by Immersing in Oil-Free Difluorodichloromethane", U.S. Patent No. 3,846,572. The patent rights in this invention have been assigned to the

United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government  
Inventions and Patents, Department of  
Commerce, National Technical Information  
Service.

[FR Doc. 84-7448 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-04-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcing New Tariff Schedule Numbers To Provide for the Proper Category Placement of Parts of Certain Garments

March 15, 1984

The Chairman of the Committee for the Implementation of Textile Agreements (CITA) has announced the creation of new Tariff Schedule of the United States, Annotated, (T.S.U.S.A.) numbers to provide for the proper category placement of parts of certain garments. These T.S.U.S.A. numbers will appear in the April 1, 1984 supplement to the T.S.U.S.A.; however, they will become effective for imports entered into consumption, withdrawn from warehouse for consumption, or entered into warehouse on or after July 1, 1984. For further information contact Claire McDermott, Acting Deputy Director, International Agreements and Monitoring Division, (202) 377-4212.

### Background

It has been a long standing practice of the U.S. Customs Service that parts of garments which are entered together in the same shipment are to be classified as "dedicated" parts of garments and entered as if they were that finished garment for both tariff and statistical and quota purposes. It has come to the attention of CITA that some garment parts are being shipped separately to avoid the bilateral textile and apparel

quotas established for these garments. The purpose of this notice is to advise the public that effective April 1, 1984 new Tariff Schedule of the United States, Annotated numbers have been created which will provide for parts of certain garments which are shipped and entered separately and which will place these parts of garments into the quota category that would apply had these garments been shipped together as "dedicated" parts. To give the trade adequate time to adjust to these T.S.U.S.A. numbers, the Chairman of CITA will direct the Commissioner of Customs to begin implementation of these new T.S.U.S.A. numbers for both quota and visa purposes for goods entered into consumption, withdrawn from warehouse for consumption, or entered into warehouse on or after July 1, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584). A description of the coverage of these new T.S.U.S.A. numbers and the categories to which they are assigned follows this notice. The actual changes to the CORRELATION, Textile and Apparel Categories with Tariff Schedules of the United States, Annotated, including the new T.S.U.S.A. numbers resulting from the creation of the new annotations for parts of garments, will be published in the *Federal Register* as soon as these are available from the International Trade Commission.

Ronald I. Levin,

Acting Chairman, Committee for the  
Implementation of Textile Agreements.

### Description of New Annotations to the T.S.U.S.A. for Parts of Garments

Separate annotations under:

TSUS 379.04 to provide coverage for:

Parts of sweaters in category 345

Parts of knit shirts in category 338

TSUS 379.08 to provide coverage for:

Parts of shirts in category 340

Parts of trousers, slacks or shorts in  
category 347

TSUS 379.15 to provide coverage for:

Parts of sweaters in category 445

TSUS 379.20 to provide coverage for:

Parts of trousers, slacks and shorts in  
category 447

TSUS 379.28 to provide coverage for:

Parts of sweaters in category 645

Parts of knit shirts in category 638

TSUS 379.33 to provide coverage for:

Parts of shirts in category 640

Parts of trousers, slacks and shorts in



category 647  
 TSUS 379.35 to provide coverage for sweaters:  
 Subject to cotton restraints in category 345  
 Subject to wool restraints in category 445  
 Subject to man-made fiber in category 645  
 And for the following unrestrained articles: Shirts, Sweaters, Other  
 TSUS 379.41 to provide coverage for:  
 Parts of sweaters in category 345  
 Parts of knit shirts in category 338  
 TSUS 379.64 to provide coverage for:  
 Parts of shirts in category 340  
 Parts of trousers, slacks and shorts in category 347  
 TSUS 379.66 to provide coverage for sweaters:  
 Subject to cotton restraints in category 345  
 Subject to wool restraints in category 445  
 Subject to man-made fiber restraints in category 645  
 Not subject to restraint  
 TSUS 379.6992 to provide coverage for:  
 Suit-type coats and jackets  
 Trousers, slacks and shorts  
 TSUS 379.76 to provide coverage for:  
 Parts of sweaters in category 445  
 TSUS 379.84 to provide coverage for:  
 Parts of trousers, slacks and shorts in category 447  
 TSUS 379.86 to provide coverage for sweaters:  
 Subject to cotton restraints in category 345  
 Subject to wool restraints in category 445  
 Subject to man-made fiber restraints in category 645  
 Not subject to restraint: Shirts, Sweaters, Other  
 TSUS 379.87 to provide for coverage for non-restrained:  
 Shirts  
 Other  
 TSUS 379.92 to provide coverage for:  
 Parts of knit shirts in category 638  
 Parts of sweaters in category 645  
 TSUS 379.96 to provide coverage for:  
 Parts of shirts in category 640  
 Parts of trousers, slacks and shorts in category 647  
 TSUS 383.03 to provide coverage for:  
 Parts of sweaters in category 345  
 Parts of knit shirts in category 339  
 TSUS 383.08 to provide coverage for:  
 Parts of trousers, slacks and shorts in category 348  
 Parts of woven blouses in category 341  
 TSUS 383.13 to provide coverage for:  
 Parts of sweaters in category 446  
 TSUS 383.20 to provide coverage for:  
 Parts of sweaters in category 646  
 Parts of knit shirts in category 639

TSUS 383.23 to provide coverage for:  
 Parts of trousers, slacks and shorts in category 648  
 Parts of blouses in category 641  
 TSUS 383.25 to provide coverage for the following not subject to restraint:  
 Knit shirts and blouses  
 Knit sweaters  
 Knit other  
 Not knit shirt and blouses  
 Not knit other  
 TSUS 383.30 to provide coverage for:  
 Parts of sweaters in category 345  
 Parts of knit shirts in category 339  
 TSUS 383.50 to provide coverage for:  
 Parts of trousers, slacks and shorts in category 348  
 Parts of woven blouses in category 341  
 TSUS 383.52 to provide coverage for unrestrained:  
 Knit shirts and blouses  
 Knit sweaters  
 Knit other  
 TSUS 383.53 to provide coverage for unrestrained:  
 Knit shirts and blouses  
 Knit sweaters  
 Knit other  
 TSUS 383.53 to provide coverage for unrestrained:  
 Not knit shirts and blouses  
 Not knit other  
 TSUS 383.58 to provide coverage for:  
 Parts of sweaters in category 446  
 TSUS 383.63 to provide coverage for:  
 Parts of sweaters in category 446  
 TSUS 383.86 to provide coverage for:  
 Parts of sweaters in category 646  
 Parts of knit shirts in category 639  
 TSUS 383.92 to provide coverage for:  
 Parts of trousers, slacks and shorts in category 648  
 Parts of woven blouses in category 641

In addition to the above specific annotations new annotations for parts of other cotton garments will be provided for in Category 359, parts of other wool garments will be provided for in Category 459, and parts of other man-made fiber garment will be provided for in Category 659.

[FR Doc. 84-7424 Filed 3-19-84; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA

Advisory Committee has been scheduled as follows: Friday, April 27, 1984, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Arms Control Verification.

Dated: March 15, 1984.

M. S. Healy,  
 OSD Federal Register Liaison Officer,  
 Department of Defense.

[FR Doc. 84-7417 Filed 3-19-84; 8:45 am]

BILLING CODE 3810-01-M

## Department of the Air Force

### USAF Scientific Advisory Board; Meeting

Change of date in meeting of the USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group published in Federal Register on March 13, 1984, 49 FR 9443. It will be held on 5-8 April 1984 (previously scheduled 3-4 April 1984). Everything else remains the same.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

Dated: March 13, 1984.

Winnibel F. Holmes,  
 Air Force Federal Register Liaison Officer.

[FR Doc. 84-7518 Filed 3-19-84; 8:45 am]

BILLING CODE 3910-01-M

## Department of the Army

### Army Medical Research and Development Advisory Committee; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, Sections 1-15), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Low Molecular Weight Toxins.

Date of Meeting: April 12 & 13, 1984.

Time and Place: 0830 hrs. Conference Room, US Army Medical Research Institute of Infectious Diseases, Bldg 1425, Fort Detrick, Frederick, MD

Proposed Agenda: This meeting will be open to the public from 0830-0945 hrs on April 12, for the administrative review and discussion of the scientific research program of the Low Molecular Weight Toxins Group. Attendance by the public at open sessions will be limited to space available.



In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Sections 1-15 of Appendix, the meeting will be closed to the public from 1000-1200 hrs and 1300-1630 hrs on April 12, and from 0900-1200 hrs on April 13 for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576-2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,  
Colonel MC Deputy Commander.

[FR Doc. 84-7372 Filed 3-19-84; 8:45 am]  
BILLING CODE 3710-08-M

## DELAWARE RIVER BASIN COMMISSION

### Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, March 28, 1984, beginning at 1:30 p.m. in the Newport Room of the Radisson Wilmington Hotel, at 700 King Street, Wilmington, Delaware. The hearing will be a part of the Commission's regular business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

#### *Amendment to the Comprehensive Plan Relating to Reservoir Management During Basinwide Drought*

In February, 1983 the Commission received *Interstate Water Management Recommendations of the Parties to the U.S. Supreme Court Decree of 1954 to the Delaware River Basin Commission Pursuant to Commission Resolution 78-20*. These recommendations were unanimously agreed to by the Governors of the Commonwealth of Pennsylvania, the States of New York, New Jersey and Delaware, and the Mayor of New York City. Recommendation 4 of these *Interstate Water Management Recommendations* called for the development of a plan for coordinated

operation of existing Basin impoundments during drought periods to complement the operating formula for the New York City Delaware Basin reservoirs in order to maintain reliable supplies for essential uses, to conserve water, and to control salinity. Recommendation 4 further specified that the plan should include operating criteria for the Beltville, Blue Marsh, Walter, Prompton and Nockamixon projects and the hydroelectric power reservoirs in the Basin of the Pennsylvania Power and Light Company and Orange and Rockland Utilities, Inc.

The Commission's Flow Management Technical Advisory Committee has since conducted a study and recommended a coordinated plan for basinwide drought situations.

Article 2 of the *Water Code of the Delaware River Basin* includes

Commission policy relating to the conservation, development, and utilization of Basin water resources. Specifically, it is proposed to:

1. Amend the Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* by the addition of a new section 2.5.5 to read as follows:

#### *2.5.5 Coordinated Operation of Lower Basin and Hydroelectric Reservoirs During a Basinwide Drought.*

During "drought" conditions as defined by Figure 1 in Section 2.5.3A, the Francis E. Walter, Prompton, Beltville, Blue Marsh, Nockamixon, Lake Wallenpaupack and Mongaup hydroelectric reservoirs, will be utilized to complement the drought management operations of the New York City reservoirs. The priority of their use is set forth in Table 1.

TABLE 1.—PRIORITY OF USE FOR NON-NEW YORK CITY BASIN RESERVOIRS

Priority	Operation to meet Montague objective	Operation to meet Trenton objective	Remaining storage (percent) bg	cfs-days used
1.....	Wallenpaupack/ Mongaup.	Prompton <sup>1</sup> &		
2.....		F. E. Walter <sup>2</sup>		
3.....		Beltville to Elev. 615.....	73.6/9.89	5,475
3.....		Blue Marsh to Elev. 283 <sup>3</sup> .....	68.9/5.13	3,595
4.....		Nockamixon to Elev. 385.....	68.7/9.00	6,364
5.....		Beltville to Elev. 590.....	38.0/5.10	7,411
6.....		Blue Marsh to Elev. 273.....	36.8/2.74	3,700
7.....		Beltville to Elev. 537.....	3.4/0.45	7,198
7.....		Blue Marsh to Elev. 261 <sup>4</sup> .....	13.0/0.97	2,735
8.....		Nockamixon to Elev. 325.5.....	1.0/0.13	13,745

<sup>1</sup> Subject to reconstruction of temporary control gate.

<sup>2</sup> Would first require filling of temporary storage, so would not likely be available during the first year of a drought.

<sup>3</sup> Blue Marsh Reservoir augments flow of the Schuylkill River and the Delaware River downstream of the Trenton gate at Philadelphia; however, for estuarine salinity control, flow augmentation in the Schuylkill River has roughly the same effect as an equal augmentation in the Delaware River at Trenton.

<sup>4</sup> Sufficient storage would be retained to supply the needs of the Western Berks Water Authority.

Lake Wallenpaupack and the Mongaup reservoirs would be called upon to provide releases to assist in meeting the Montague flow objective in the summer and fall periods. After issuance of a Conservation Order by the Commission, the power companies, as agreed upon, shall make power generation releases from storage only in accordance with Commission direction. For Lake Wallenpaupack, the schedule is set forth in Table 2.

TABLE 2.—LAKE WALLENPAUPACK ELEVATION SCHEDULES DURING DROUGHT CONDITIONS

Month (1st day)	Elevation (ft)	Daily average <sup>1</sup> Discharge (cfs/24 hr) <sup>2</sup>
June.....	1187.0	308
July.....	1185.0	297
August.....	1182.0	232
September.....	1179.0	247
October.....	1176.0	254
November.....	1173.0	282
December.....	1170.0	25
January.....	1171.1	25

TABLE 2.—LAKE WALLENPAUPACK ELEVATION SCHEDULES DURING DROUGHT CONDITIONS—Continued

Month (1st day)	Elevation (ft)	Daily average <sup>1</sup> Discharge (cfs/24 hr) <sup>2</sup>
February.....	1172.2	25
March.....	1176.6	25
April.....	1180.0	25
May.....	1184.9	25
June.....	1187.0	308

<sup>1</sup> Based on 1960's drought of record inflows.

<sup>2</sup> Daily release volume may be provided during "on peak" power periods.

For the Mongaup reservoirs, a drought operation rule curve will be followed. The rule curve will be based on maximum available storage of 15.38 billion gallons for the total system and will provide for refilling the system during the worst hydrologic year of record and for maintaining a minimum release. Daily average discharge for the period June–November inclusive



generally will be on the order of 100-150 cfs/24-hours and for the period December-May inclusive generally will be on the order of 20-30 cfs/24-hours.

Temporary storage in Prompton reservoir would be used to help meet the Trenton objective; however, depending on the conditions, it could also be used for a Montague objective.

Francis E. Walter reservoir will be called upon to meet the Trenton flow objective only after any storage in Prompton is depleted. It is understood, however, that until this dam is modified to retain water supply storage, its function is flood control. It will not likely be available for flow maintenance during the first year of a drought if such drought is declared subsequent to June 1, or the end of the heavy spring runoff

period. Water could be stored temporarily in flood control storage upon issuance of requests for storage and releases after issuance of a Conservation Order by the Commission. In the event of a threatening major storm, temporarily stored water may have to be released in order to restore the necessary flood protection capacity of the dam. Water may also have to be released in order to draw down to the winter drought pool level at elevation 1,370. (See Table 3.) If releases to meet winter drought pool requirements or to prepare for a storm occur when releases are not required for the Trenton flow objective, then the Montague requirement would be adjusted in order to save equivalent water in the New York City reservoirs.

TABLE 3.—TEMPORARY EMERGENCY WATER SUPPLY STORAGE AT F. E. WALTER RESERVOIR (PURSUANT TO DROUGHT DECLARATION)

F. E. Walter Reservoir (DA 288 sq mi)	Usable storage 11.45 bg between elevations 1,300 to 1,392. Inactive storage below elevation 1,300—0.65 bg (2,000 ac-ft)				
	Elevation (ft/sld)	Surface area (acres)	Storage		
			(acre-ft)	(bg)	(inches runoff)
Drought Summer Pool <sup>1</sup>	1,392	824	37,180	12.10	2.42
Drought Winter Pool <sup>2</sup>	1,370	587	21,410	6.98	1.39
Normal Pool	1,300	80	2,000	0.65	0.13
	1,250	0	0	0	0

<sup>1</sup> Drought summer pool—11.45 billion gallons of temporary water supply storage (32% of flood control storage).

<sup>2</sup> Drought winter pool—6.33 billion gallons of temporary water supply storage (18% of flood control storage).

While it is clearly understood that the water supply storage at Beltzville and Blue Marsh reservoirs is to be used for water supply and to control salinity intrusion into the Delaware estuary during low flow periods, it is also recognized that extensive recreational development is established on these lakes, which should be protected to the extent possible. Accordingly, the operation plans for both of these reservoirs, as well as Nockamixon, in drought emergencies has recognized these multiple uses, with water supply having precedence.

After Francis E. Walter, then Beltzville, Blue Marsh, and Nockamixon reservoirs are used in that order down to the elevations indicated in Table 1 for priorities 3 and 4, at which elevations recreation will become affected. Recreation will then be eliminated at Beltzville and Blue Marsh while retaining fish life, as those two reservoirs are drawn down to the elevations indicated as priorities 5 and 6. Finally, all remaining usable storage would be utilized as indicated by priorities 7 and 8.

When only conservation releases are being made from the lower Basin reservoirs, they will be modified according to Table 4, beginning with "drought warning" conditions, as defined by Figure 1 in Section 2.5.3A. Drought conservation releases will terminate and return to normal at the same time as augmented conservation releases are restored at the New York City Delaware reservoirs.

TABLE 4.—CONSERVATION RELEASES

Reservoir	Normal conservation release (cfs)	Drought warning and drought conservation release (cfs)
F. E. Walter	50	43
Prompton	Inflow-outflow	6
Beltzville	35	15
Blue Marsh	41 (50 <sup>1</sup> )	21 (30)
Nockamixon	11	7

<sup>1</sup> With Western Berks Water Authority release included.

Operation of the lower Basin reservoirs for drought management will continue until termination of the drought emergency declaration by the Commission.

### Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact

1. *Holdover Project—North Wales Water Authority (D-77-90 CP)*. An application for renewal of a ground water withdrawal from Well No. 23 of the North Wales Water Authority. The well is located near the intersection of Morris Road and Broad Street in Upper Gwynedd Township, Montgomery County, Pennsylvania. Commission approval was limited to five years and will expire unless renewed. The applicant has requested approval to continue operation of Well No. 23 in accordance with existing approval limitations. This hearing continues that of February 22, 1984.

2. *Holdover Project—Borough of Hatfield (D-78-84 CP)*. An application for renewal of a ground water withdrawal from Well No. 8 of the Borough of Hatfield. The well is located near Fairgrounds Road and Cowpath Road in Hatfield Township, Montgomery County, Pennsylvania. Commission approval was limited to five years and will expire unless renewed. The applicant has requested approval to continue operation of Well No. 8 in accordance with existing approval limitations. This hearing continues that of February 22, 1984.

3. *Holdover Project—North Wales Water Authority (D-78-94 cp)*. An application for renewal of a ground water withdrawal from Well No. 25 of the North Wales Water Authority. The well is located near the intersection of Route 309 and McKean Road in Lower Gwynedd Township, Montgomery County, Pennsylvania. Commission approval to withdraw 7.5 million gallons during any 30-day period was limited to five years and will expire unless renewed. As part of the renewal application, the applicant has requested approval to increase withdrawal from Well No. 25 to 10.8 million gallons during any 30-day period. This hearing continues that of February 22, 1984.

4. *Holdover Project—Pennsylvania Fish Commission (D-80-32 CP)*. A well water supply project at the Fish Commission's Pleasant Mount Fish Cultural Station in Mount Pleasant Township, Wayne County, Pennsylvania. Well Nos. 2 and 3 will provide a combined yield of about 403,000 gallons per day (gpd) for augmented supply during spring months, and as backup for an existing well. This hearing continues that of April 20, 1983.

5. *Camden County Municipal Utilities Authority (D-71-9 CP Phase III (3.8))*.



An application for approval of construction of the first half of the District No. 1 Sewage Treatment Plant previously included in the Comprehensive Plan. The facility will serve portions of the City of Camden and numerous boroughs and townships in Delaware Basin District No. 1, in Camden County, New Jersey. The treatment plant is designed to remove a minimum of 86 percent BOD and 85 percent suspended solids from an average sewage flow of 38 million gallons per day (mgd).

6. *Van Wingerden of Delaware, Inc. (D-83-40)*. A ground water withdrawal project to supply water for irrigation at the applicant's farm near Middletown in New Castle County, Delaware. New Well Nos. 4 and 5 will supply approximately 0.022 and 0.043 mgd, respectively, to the applicant's greenhouse. Existing Well Nos. 1, 2 and 3 will continue to supply water for field crop irrigation between March and October. Total withdrawals from all wells during the growing season is expected to average 0.849 mgd.

7. *ALPO Petfoods, Inc. (D-84-2)*. A revised application for a ground water withdrawal project to serve as a standby source of supply for the applicant's manufacturing plant near Allentown, Pennsylvania. Standby Well No. 6 will supply up to 0.864 mgd in the event of a failure of existing Well No. 4, which supplies process and cooling water to the ALPO plant. The well is located east of Route 309 and the Pennsylvania Turnpike in South Whitehall Township, in Lehigh County, Pennsylvania.

8. *Summit Hill Water Authority (D-84-3 CP)*. A ground water withdrawal project to supply water to the applicant's distribution system. New Well No. 4, in combination with three existing wells and a spring, will continue to supply an average of 0.37 mgd to the service area. Although population is not expected to significantly increase within the next ten years, Well No. 4 is needed to assure adequate water supply during drought conditions. The project is located in Summit Hill Borough, Carbon County, Pennsylvania.

Documents relating to each of these projects may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at the

hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,  
Secretary.

March 13, 1984.

[FR Doc. 84-7367 Filed 3-19-84 8:45 am]

BILLING CODE 6360-01-M

## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education

#### Chapter 1, Education Consolidation and Improvement Act of 1981; Intent To Repay to the Massachusetts State Department of Education Funds Recovered as a Result of a Final Audit Determination

**AGENCY:** Education Department.

**ACTION:** Notice of intent to award grantback funds.

**SUMMARY:** Notice is given that, under Section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education intends to repay under a grantback arrangement to the Massachusetts State Department of Education (SEA) an amount equal to 75 percent of the funds recovered by the Department of Education (Department) after an October 30, 1981 final decision by the Assistant Secretary for Elementary and Secondary Education. This notice describes the SEA's plan, submitted on behalf of the Lawrence Public Schools (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

**DATE:** All written comments must be received on or before April 19, 1984.

**ADDRESS:** All written comments should be submitted to Dr. A. Bruce Gaarder, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3616, ROB-3), Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:** Dr. A. Bruce Gaarder. Telephone: (202)245-9846.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

During the period of March through June 1979, the SEA, in response to allegations concerning the possible misuse and improper administration of Title I funds by the LEA, conducted a fiscal and programmatic audit of the LEA's Title I expenditures for the period of fiscal years 1976-78. In its audit report dated December 21, 1979, the SEA found that the LEA had expended Title I

funds in violation of the Title I statute (20 U.S.C. 2734(a)); applicable Title I regulations: 45 CFR 116a.22 (1976), 116.35, 116.48; and applicable Education Department General Administrative Regulations: 45 CFR 100b.301(g), Part 100b, App. B, Part 11B, 10 (a) and (b), and 100b.477(a).

The audit exceptions cited included: (1) Lack of proper documentation to substantiate services of personnel paid with Title I funds; (2) assignment to staff paid with Title I funds of duties unrelated to the Title I program and not included in employee job descriptions and (3) use of Title I funds for consultant services without prior approval from the SEA.

In its audit report of December 21, 1979, the SEA ordered the LEA to refund \$94,296.80. The LEA subsequently challenged the SEA's audit findings in a hearing before an SEA Title I hearing officer. A decision dated September 15, 1980, of the SEA Title I hearing officer reduced the total audit exceptions by \$9,477.84, but upheld the SEA's order that the LEA refund \$84,818.96.

The LEA appealed the audit findings to the Secretary of Education under Section 425 of GEPA, 20 U.S.C. 1231b-2. That section permits on LEA, which has been aggrieved by an SEA's final action in ordering, in accordance with a State audit resolution determination, the repayment of misspent Federal funds, to appeal that action to the Secretary. In a final decision issued on October 30, 1981, the Assistant Secretary for Elementary and Secondary Education reduced audit exceptions against the LEA in the amount of \$4,796.94. Thus, the LEA was required to refund \$80,022.02 to the SEA.

On January 6, 1982, the SEA notified the LEA to remit a total of \$80,022.02 to the SEA in order to settle the entire outstanding audit claim. That amount was subsequently received by the SEA in June 1982 and forwarded to the Department.

##### B. Authority for Awarding a Grantback

Section 456(a) of GEPA (20 U.S.C. 1234e(a)) provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the LEA that resulted in the audit



determination have been corrected, and that the LEA is in all other respects in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program, and, to the extent possible, benefits the population that was affected by the misexpenditures that resulted in the audit exception; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the program under which the funds were originally granted.

#### C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

On June 23, 1983, the SEA formally requested in writing repayment of \$60,000 (approximately 75 percent of the \$80,022.02 returned to the Department) under a grantback arrangement. With its request, the SEA provided assurances that the practices and procedures of the LEA that resulted in the final audit determination have been corrected and that the LEA is in all other respects in compliance with the requirements of the program. Also included with the SEA's request was a detailed budget prepared by the LEA for the expenditure of the funds to be awarded under the grantback arrangement.

#### D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with Section 456(a)(2) of GEPA, the SEA in its June 23, 1983 request, submitted a plan on behalf of the LEA outlining the LEA's intent to use the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1). The final audit determination against the LEA resulted from improper expenditures of Title I funds. However, since Chapter 1 supersedes Title I, the SEA's proposal reflects the requirements in Chapter 1—a program, similar to Title I, designed to serve educationally deprived children in low-income areas.

The plan demonstrates that the LEA conducted a needs assessment of its Chapter 1 students in grades 6 through 8, which are the grades enrolling the greatest number of students most likely to have been affected by the misexpenditures of Title I funds during 1976-78, the period covered by the audit. The LEA found that the greatest need at

these grade levels was to improve performance in the language arts program. Currently, the LEA is providing computer assisted instruction in four of the seven eligible Chapter 1 schools. The LEA proposes to implement instruction in reading and language arts to improve the skills of the educationally deprived children attending two additional schools. This program, to be implemented during school year 1984-85, will benefit approximately 332 students. In addition, 64 educationally deprived children in grades 6 through 8 attending private schools will participate in the program.

#### E. The Secretary's Determinations

Based upon a thorough review of the SEA's request for the repayment of funds under Section 456 of GEPA, including the SEA's discharge of its payment obligations to the Department, the SEA's assurances described in Part C of this notice, and the SEA's plan and budget, the Secretary makes the following determinations:

(1) The LEA has corrected the practices and procedures that resulted in the final audit determination, and the LEA is in all other respects in compliance with the requirements of the Chapter 1 program;

(2) The SEA has submitted a plan on behalf of the LEA for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the Chapter 1 program and, to the extent possible, benefits the children who were affected by the misexpenditures that resulted in the audit exceptions; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the Chapter 1 program.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

#### F. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires, at least thirty days prior to entering into an arrangement to award funds under a grantback, that the Secretary publish in the *Federal Register* a notice of his intent to do so, and the terms and conditions under which the payment will be made.

In accordance with this requirement, notice is given that the Secretary intends to make available under a grantback arrangement to the SEA an

amount of \$60,000, which is approximately 75 percent of the funds the Department recovered after the Assistant Secretary's final decision on this audit. The Secretary basis his intention to enter into a grantback arrangement under Section 456 of GEPA on his determinations outlined in Part E of this notice, and payment by the SEA of all funds owed to the Department as a result of the final audit determination.

#### G. Terms and Conditions Under Which Payment Under the Grantback Arrangement Will Be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to the terms and conditions that the Secretary deems necessary to accomplish the purposes of the affected program. The SEA agrees to comply with the following terms and conditions under which payment under the grantback arrangement will be made:

(1) The SEA will spend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements, including the requirements concerning the participation of eligible children attending private schools;

(b) The plan that the SEA submitted and any amendments to that plan that are approved by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved by the Secretary.

(2) In accordance with Section 456(c) of GEPA and the SEA's plan, all funds received under the grantback arrangement will be obligated by August 31, 1985.

(3) The SEA, on behalf of the LEA, must, not later than January 1, 1986, submit a report to the Secretary which indicates that the funds awarded under the grantback have been spent in accordance with the SEA's proposed plan and approved budget.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

#### Invitation To Comment

The Secretary invites public comments on this notice of intent to award funds under a grantback arrangement to the Massachusetts SEA on behalf of Lawrence Public Schools. Interested persons may send written comments to Dr. A. Bruce Gaarder at the address at the beginning of this notice. All comments must be received on or before April 19, 1984.



(Catalog of Federal Domestic Assistance No: 84.010—Educationally Deprived Children—Local Educational Agencies)

Dated: March 14, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-7470 Filed 3-19-84; 8:45 am]

BILLING CODE 4000-01-M

## Office of Special Education and Rehabilitative Services

### Special Projects and Demonstrations For Providing Vocational Rehabilitation Services to Severely Disabled Persons

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed funding priorities for Fiscal Year 1984.

**SUMMARY:** The Secretary proposes annual funding priorities for grants for Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Persons. The Secretary proposes three priorities to direct funds to the areas of greatest need during Fiscal Year 1984. These priorities will ensure wide and effective use of program funds.

**DATE:** Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before April 19, 1984.

**ADDRESSES:** Comments should be addressed to Wesley Geigel, Chief, Special Projects Branch, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue S.W., Room 3518 Switzer Building, Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:** Wesley Geigel, (202) 245-0327.

**SUPPLEMENTARY INFORMATION:** Grants for Special Projects and Demonstrations for Severely Disabled Individuals are authorized by Section 311(a)(1) of the Rehabilitation Act of 1973, as amended. Program regulations are established at 34 CFR Part 373. The purpose of the Special Projects and Demonstrations for the Severely Disabled Program is to establish programs which hold promise of expanding or improving vocational rehabilitation and other rehabilitation services to disabled persons (especially those with the most severe disabilities), irrespective of age or vocational potential.

### Eligible Applicants

States and public or nonprofit agencies and organizations are eligible to apply for grants under this program.

Applicants may apply for project support for up to three years.

### Funds Available

A total \$5,735,000 is estimated to be awarded under this program in Fiscal Year 1984 (excluding spinal cord injury projects). Of this amount, it is estimated that \$2,935,000 will be available for new severely disabled projects in Fiscal Year 1984, to be divided equally between three priority categories and a fourth category for applications on other severely disabled projects which do not fall under any of the three priorities. An estimated 25 new projects will be awarded at an average project cost of \$117,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

### Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c) the Secretary proposes to give absolute preference as described in the subsequent subsection entitled, "Projects to be Funded," to applications submitted in Fiscal Year 1984 in response to one of several priorities to be established.

All applications will be evaluated according to criteria which appear in program regulations at 34 CFR 373.30. The proposed priorities are:

#### Priority 1: Advanced-Technology

Developments in technology offer several avenues for improving vocational rehabilitation services to severely disabled persons. Technological developments have created the potential for both new job areas, e.g., areas requiring computer or computer-related skills; and new methods of job preparation, e.g. training severely disabled persons in the use of computer-related sensory aids. This priority is designed to stimulate and support innovative applications of technological developments in vocational rehabilitation methods or objectives. Applicants must propose a job preparation and training program that takes advantage of technological developments and will result in specific benefits for severely disabled individuals.

#### Priority 2: Special Projects for Community-based Programs

This priority is designed to foster development of innovative community-based vocational programs for severely disabled persons that are severely and

profoundly mentally retarded, autistic, deaf-blind, severely learning disabled, and multiple handicapped.

These programs must include coordination between the State vocational rehabilitation agency and mental retardation or developmental disabilities agencies that typically support community-based services for these individuals. Priority will be given to programs that provide services in integrated settings, and that can be expected to result in significant incomes for disabled individuals. Projects must include appropriate linkages with school districts, local case management services, and other agencies.

#### Priority 3: Transition From School or Institution to Work

Programs supported under this priority must include effective strategies to support transition from school or institutional services to work. Priority will be given to proposals that involve use of integrated, generic community programs such as community colleges, non-profit vocational and technical schools, non-profit private schools, and other similar agencies or institutions. Programs must provide transitional vocational services leading to full employment for individuals leaving a school or an institution.

### Projects To Be Funded

Applicants for new projects under this program will be awarded funds in Fiscal Year 1984 to the extent available in the order of highest rank for each of the categories listed below, as follows:

Awards up to 25% of the money available for new projects under priority 1 (Advanced-Technology);

Awards up to 25% of the money available for new projects under priority 2 (Special Projects for Community-based Programs); Awards up to 25% of the money available for new projects under priority 3 (Transition from School or Institution to Work); and Awards up to 25% of the money available for new projects for applications on other severely disabled projects which do not fall under any of the three priorities.

Each applicant will be responsible for designating the priority category that applies to the project, if one exists. If more than one priority applies, the applicant is to choose the priority considered most suitable. Should the priority category designated by the applicant be determined to be inappropriate, the project application will be placed in the non-priority category. If there are an insufficient number of approvable project applications to use fully the available



funds reserved for any of the four categories, the unused balance will be applied to one or more of the remaining categories.

#### Invitation To Comment

Interested persons are invited to submit comments and recommendation regarding the proposed priorities. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before April 19, 1984 will be considered before the Secretary issues final priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3326 Switzer Building, 330 C Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays. (29 U.S.C. 777a(a)(1)) (Catalog of Federal Domestic Assistance No. 84.128 Special Projects and Demonstrations Providing Rehabilitation Services to the Severely Disabled)

Dated: March 15, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-7471 Filed 3-19-84; 8:45 am]

BILLING CODE 4000-01-M

#### Rehabilitation Services Administration

##### Program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals; Closing Date for Transmittal of New Fiscal Year 1984 Applications

**AGENCY:** Department of Education.

**ACTION:** Application notice establishing closing date for transmittal of new Fiscal Year 1984 applications for Program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals.

**SUMMARY:** Applications for new projects for Fiscal Year 1984 are invited under the Program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals.

Authority for this program is contained in Section 311(a)(1) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777a(a)(1)).

**Closing date for transmittal of applications:** Applications for grant awards must be mailed or hand delivered by May 5, 1984.

**Applications delivered by mail:** An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.128A, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new award will be notified that its application will not be considered.

#### Applications Delivered by Hand

Hand delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

#### Program Information

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects designed to expand or otherwise improve vocational rehabilitation services and other services for severely disabled individuals.

The Secretary encourages applicants for new awards to submit applications which demonstrate effective ways of rehabilitating persons severely disabled by one or more of the following disabilities.

(a) Arthritis

- (b) Blindness
- (c) Cerebral Palsy
- (d) Deafness
- (e) Epilepsy
- (f) Head Trauma
- (g) Heart Disease
- (h) Mental Illness
- (i) Mental Retardation
- (j) Multiple Sclerosis
- (k) Learning Disability

The Secretary does not consider the above disability listing to be all-inclusive and will, therefore, accept applications which demonstrate effective ways of rehabilitating individuals severely disabled by other disabilities.

#### Available Funds

The total amount of funds awarded under this program in Fiscal Year 1983 (excluding spinal cord injury projects) was about \$4,660,000; of this amount, \$1,305,000 was for noncompeting continuation projects and \$3,355,000 was for new projects. Approximately \$2,935,000 will be available for new projects in Fiscal Year 1984. An estimated 25 new projects will be funded at an average cost of about \$117,000. Approximately 75 percent of the total available funds for new projects will be divided equally among the three proposed priority areas published elsewhere in this issue of the *Federal Register*. The remaining 25 percent of available funds will be used to support non-priority projects. If there are an insufficient number of approvable project applications to use fully the available funds reserved for any of the four priority and non-priority categories, the unused balance will be applied to one or more of the remaining categories.

#### Application Forms

Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3329, Mary E. Switzer Building, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically



imposed under the statute and regulations governing this competition.

Each applicant will be responsible for designating which of the three priority areas applies to the project. If the application does not address one of the three proposed priority areas, the application should be marked as "non-priority". If more than one priority applies, the applicant must choose the priority considered most suitable. Should the priority category designated by the applicant be determined to be inappropriate, the project application will be placed in the non-priority category.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants submit only the information that is requested.

#### Applicable Regulations

The following regulations are applicable to this program:

- (a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78); and
  - (b) Regulations governing Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (34 CFR Parts 369 and 373).
- A notice of proposed annual priorities is published in this issue of the Federal Register. Applicants should prepare their applications based on the proposed priorities. If there are any substantive changes made in these proposed priorities when published in final form, applicants will be given the opportunity to amend or resubmit their applications.

#### FOR FURTHER INFORMATION CONTACT:

Mary V. Vest, Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, Room 3332, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 732-1343.

(29 U.S.C. 777a(a)(1))

(Catalog of Federal Domestic Assistance No. 84.128, Rehabilitation Services—Special Projects)

Dated: March 15, 1984.

Madeleine Will,

Assistant Secretary Office of Special Education and Rehabilitative Services.

[FR Doc. 84-7472 Filed 3-19-84; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Office of the Secretary

#### Agency Information Collections Under Review by the Office of Management and Budget (OMB)

**SUMMARY:** The Department of Energy (DOE) plans to request the Office of Management and Budget (OMB) to review and approve the information collection packages listed below. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), DOE will consider comments on information collections that affect the public.

**DATES:** Comments on these information collections must be submitted on or before March 30, 1984.

**ADDRESSES:** Comments should be submitted to the person listed with each collection package and to: Mr. Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget (OIRA), Room 3001, NEOB, Washington, D.C. 20503, (202) 395-7313.

**FOR FURTHER INFORMATION CONTACT:** Howard H. Raiken, Director, Management Systems Analysis Division (MA-213), U.S. Department of Energy, Washington, D.C. 20585, (202) 252-9383.

**SUPPLEMENTARY INFORMATION:** The following information is furnished for each information collection package: (1) Title; (2) Purpose; (3) Type of respondents; (4) Estimated number of responses; (5) Estimated total hours to provide the information (burden hours); and (6) Name, address and telephone number of the DOE package manager.

A. (1) Industrial Relations, (2) This information is required by Departmental management to assure that the Department's industrial relations resources and requirements are managed efficiently and effectively. (3) DOE operating and management (GOCO) contractors, (4) 1,443 responses, (5) 34,991 hours, (6) Eric Tolmach, Chief of Systems & Analysis, Office of Industrial Relations (MA-261.2), Department of Energy, Washington, D.C. 20585, (202) 252-9032.

B. (1) In-house Energy Management, (2) This information is required by Departmental management to assure that the Department's in-house energy management resources and requirements are managed efficiently and effectively. (3) DOE operating and management (GOCO) contractors, (4) 302 responses, (5) 38,995 hours, (6) Edward H. Tuttle, III, Chief, In-House Energy Management (MA-224.3), Department of Energy, Washington, D.C. 20585, (202) 252-4535.

C. (1) Legal, (2) This information is required by Departmental management

to assure that the Department's legal requirements imposed upon respondents are managed efficiently and effectively, (3) DOE operating and management (GOCO) contractors, (4) 32,046 responses, (5) 162,307 hours, (6) Laurie G. Ford, Office of General Counsel (GC-41), Washington, D.C. 20585, (202) 252-8618.

Obtaining copies of information collection proposals: A copy of these collection proposals may be obtained from William Hambley, Office of Management and Information Systems (MA-213.2), Department of Energy, Washington, D.C. 20585, (202) 252-6812.

Issued in Washington, D.C., March 13, 1984.

William S. Heffelfinger,

Director of Administration.

[FR Doc. 84-7329 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

#### International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-EU-798, for the supply of one milligram of uranium-236, one milligram of uranium-233, and one milligram of thorium-230, for use as tracers in mass spectrometric isotope dilution analysis of uranium and thorium concentrations in geological materials by the University of Leeds, the United Kingdom.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen (15) days after the date of publication of this notice.

For the Department of Energy.



Dated: March 12, 1984.

H. A. Merkley,  
Assistant Secretary for International Affairs  
and Energy Emergencies.

[FR Doc. 84-7324 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

**International Atomic Energy  
Agreements; Proposed Subsequent  
Arrangement; International Atomic  
Energy Agency**

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of the following material: Contract Number WC-IA-134, to the International Atomic Energy Agency Safeguards Analytical Laboratory, Seibersdorf, Austria, five grams of plutonium in the form of plutonium oxide, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 12, 1984.

H. A. Merkley,  
Assistant Secretary for International Affairs  
and Energy Emergencies.

[FR Doc. 84-7327 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

**International Atomic Energy  
Agreements; Proposed Subsequent  
Arrangement; International Atomic  
Energy Agency**

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-IA-131, to the IAEA, Vienna, Austria, five grams of uranium-233, for use as analytical standards for safeguards related measurements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 12, 1984.

H. A. Merkley,  
Assistant Secretary for International Affairs  
and Energy Emergencies.

[FR Doc. 84-7325 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

**International Atomic Energy  
Agreements; Proposed Subsequent  
Arrangement; Japan**

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-JA-344, 742 grams of natural uranium, for use as standard reference material at Nuclear Fuel Industries, Ltd., Tokyo, Japan.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 12, 1984.

H. A. Merkley,  
Assistant Secretary for International Affairs  
and Energy Emergencies.

[FR Doc. 84-7326 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

**International Atomic Energy  
Agreements; Proposed Subsequent  
Arrangement; Sweden**

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of the following material:

Contract Number WC-SW-9, for the supply of approximately 5.002 kilograms of uranium, enriched to approximately 19.95% in uranium-235, in the form of fuel elements, for irradiation at the R-2 research reactor at Studsvik, Sweden, in connection with the Reduced Enrichment Research and Test Reactor program. At the conclusion of the irradiation and post-irradiation examination, the material is to be returned to the U.S.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 12, 1984.

H. A. Merkley,  
Assistant Secretary for International Affairs  
and Energy Emergencies.

[FR Doc. 84-7328 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

**International Atomic Energy  
Agreements; Proposed Subsequent  
Arrangement; European Atomic  
Energy Community**

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:



Contract Number S-EU-797, to C.E.A., France, 21.25 grams of thorium for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen (15) days after the date of publication of this notice.

For the Department of Energy.

Dated: March 12, 1984.

H. A. Merklein,

*Assistant Secretary for International Affairs and Energy Emergencies.*

[FR Doc. 84-7322 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

#### International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale:

Contract Number S-JA-343, to Japan Nuclear Fuel Co., Ltd., 593.6 grams of natural uranium for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen (15) days after the date of publication of this notice.

For the Department of Energy.

Dated: March 12, 1984.

Dr. H. A. Merklein,

*Assistant Secretary for International Affairs and Energy Emergencies.*

[FR Doc. 84-7322 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

#### National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in March 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its eighteenth meeting on Friday through Sunday, March 30 through April 1, 1984, starting at 9:30 a.m. each day, in the Canyon A and B Rooms of the Stouffer's Cottonwoods Resort, 6160 North Scottsdale Road, Scottsdale, Arizona.

The tentative agenda for the Coordinating Subcommittee Meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on March 12, 1984.

William A. Vaughan,  
*Assistant Secretary, Fossil Energy.*

[FR Doc. 84-7321 Filed 3-15-84; 10:21 am]

BILLING CODE 6450-01-M

#### Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities.

Date and time: April 7, 1984, 8:30 a.m.—12:00 p.m.

Place: Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington 99352.

Contact: Howard Perry, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252-5316.

Purpose of the Panel: To study and report to the Department of Energy on alternative approaches to managing the construction and operation of civilian radioactive waste facilities, pursuant to section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). The panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach.

Tentative Agenda: Old Business, Subcommittee Reports, International Contacts, Scoping Paper/Workplan, Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Howard Perry at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.



Issued at Washington, D.C. on March 14, 1984.

Howard H. Raiken,  
Deputy Advisory Committee Management  
Officer.

[FR Doc. 84-7414 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

## Energy Information Administration

[Proposed Form EIA-714S]

### Annual Electric Utility Report; Inquiry

**AGENCY:** Energy Information  
Administration, DOE.

**ACTION:** Request for comments on  
proposed Form EIA-714S, "Annual  
Electric Utility Report".

**SUMMARY:** The Energy Information Administration (EIA) is proposing a form to collect information that will maintain and update the Electric Utility Frame database. The Electric Utility Frame system identifies all electric utility companies and holding companies in the United States and Puerto Rico, together with specific corporate and operational attributes of each. The data in this system support queries from the Executive Branch, Congress, other Federal and state agencies, the electric utility industry, and the general public. It also allows EIA to identify the attributes of the entire universe of the electric utility industry. These attributes define the selection characteristics (e.g., sales, revenue, generation, ownership class, type of business) which are used to determine appropriate sample sizes for information gathering. It is impossible to determine a valid sample without a well-defined universe. This proposed new form, Form EIA-714S, "Annual Electric Utility Report," will be completed by every electric utility in the United States and Puerto Rico. For purposes of this form, an electric utility is a corporation, person, agency, authority, or other legal entity or instrumentality which owns and/or operates facilities within the United States and/or Puerto Rico for the generation, transmission, distribution, or sale of electric energy primarily for use by the public.

**DATES:** Written comments must be

received by EIA within 45 days of the publication of this notice.

**ADDRESSES:** Comments should be sent to Mr. Albert A. Breuel at the address listed below.

**FOR FURTHER INFORMATION CONTACT:** To obtain additional information or copies of the proposed form, contact: Al Breuel, Office of Coal, Nuclear, Electric and Alternate Fuels, Energy Information Administration, Department of Energy, MS-2F021, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252-6541.

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Current Action
- III. Request for Comments

#### I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275), and the Department of Energy Organization Act Pub. L. 95-91, the Department of Energy (DOE) finds it necessary to collect basic data from the entire electric utility industry. These data are required to enable DOE/EIA to establish and maintain a complete picture of the electric utility universe with which DOE/EIA must interact. Currently, there is no systematic method which accomplishes this requirement.

#### II. Current Action

The new Form EIA-714S, "Annual Electric Utility Report," is designed to collect information for use by the EIA and other interested parties on the status of electric utilities and their generation, transmission, distribution, and sales of electric energy in the United States and Puerto Rico. It is intended to have identification data preprinted after the initial year of filing. The form contains the following parts.

- Part I . . . Identification
- Part II . . . General Information
- Part III . . . Annual Energy Sources, Disposition, and Peak Load
- Part IV . . . Annual Sales by State and Other Revenue

The form is reproduced following this Notice.

#### III. Request for Comments

EIA invites the public to comment on the new form within 45 days of the

publication of this Notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential respondent)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted within the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your utility require to complete and submit a form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative cost, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, state, or local agencies that collect similar data? If you do, specify the agency and the means of collection.

H. Would your company collect and organize the data requested in the proposed form if the form were not required?

(As a potential user)

A. Can you use data at the levels of detail indicated on the form?

B. For what purposes would you use these data? (Be specific.)

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you use them? What are their deficiencies?

EIA is also interested in receiving comments from other persons regarding their views on the need for the collection of this information.

Comment or summaries of comments submitted in response to this Notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., March 13, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy  
Information Administration.

BILLING CODE 6450-01-M



This report is mandatory under Public Law 93-275, the Federal Energy Administration Act of 1974. Information reported on the Form EIA-714S is not considered to be confidential. Questions concerning this report will be answered by \_\_\_\_\_ at: ( ) \_\_\_\_\_.

**Part I - IDENTIFICATION**

1. Utility Name and Address: \_\_\_\_\_
2. Contact Person: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone No.: ( ) \_\_\_\_\_
3. Utility Code (EIA-assigned): \_\_\_\_\_
4. Certifying Official: I certify that the information provided herein is true and accurate to the best of my knowledge. \_\_\_\_\_

Name \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**Part II - GENERAL INFORMATION**

1. Utility owns or operates electrical equipment or facilities in the following state(s): \_\_\_\_\_  
a. Private \_\_\_\_\_ b. Cooperative \_\_\_\_\_  
c. Municipal \_\_\_\_\_ d. Federal \_\_\_\_\_  
e. State \_\_\_\_\_ f. Public Power District \_\_\_\_\_  
g. Other (specify): \_\_\_\_\_
2. Utility ownership: \_\_\_\_\_  
a. Private \_\_\_\_\_ b. Cooperative \_\_\_\_\_  
c. Municipal \_\_\_\_\_ d. Federal \_\_\_\_\_  
e. State \_\_\_\_\_ f. Public Power District \_\_\_\_\_  
g. Other (specify): \_\_\_\_\_
3. Utility is a holding company for the following electric utilities:  
a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_  
e. \_\_\_\_\_  
f. \_\_\_\_\_  
g. \_\_\_\_\_  
h. \_\_\_\_\_  
i. \_\_\_\_\_
4. The utility is a subsidiary of: \_\_\_\_\_
5. In the reporting year, the utility was engaged in one or more of the following activities:  
☐ a. Generation ☐ b. Transmission  
☐ c. Distribution and/or Sales ☐ d. Non-Electric Activities  
to Ultimate Consumers
6. Is the utility a member (regular, associate, affiliate, etc.) of a regional council of the North American Electric Reliability Council (NERC)? ☐ a. Yes ☐ b. No
7. NERC regional area in which the utility operates, regardless of NERC membership:  
☐ a. Alaska Systems Coordinating Council (Affiliate)  
☐ b. East Central Area Reliability Coordination Agreement  
☐ c. Electric Reliability Council of Texas  
☐ d. Mid-Atlantic Area Council  
☐ e. Mid-America Interpool Network  
☐ f. Mid-continent Area Power Pool  
☐ g. Northeast Power Coordinating Council  
☐ h. Southeastern Electric Reliability Council  
☐ i. Southwest Power Pool  
☐ j. Western Systems Coordinating Council  
☐ k. None of the Above (Hawaii and Puerto Rico)
8. The utility is dispatched by (check one or more boxes):  
☐ a. Itself ☐ b. Another Utility ☐ c. Power Pool
9. DOE electric region in which utility operates (see back of form for codes): \_\_\_\_\_



**ANNUAL ELECTRIC UTILITY REPORT  
FOR THE YEAR ENDING DECEMBER 31, 19**

U.S. Department of Energy  
Energy Information Administration

Utility Name \_\_\_\_\_  
Utility Code \_\_\_\_\_

**PART III - ANNUAL ENERGY SOURCES, DISPOSITION, AND PEAK LOAD**

Item (a)	Kilowatthours (b)	9. Peak 1-Hour Load During Year (kilowatts):
1. Net Generation from Utility Plants.....		
2. Net Generation from Other Plants (see instructions).....		
3. Energy Purchases.....		
4. Energy Interchanges Received from Others.....		
5. Energy Sales for Resale.....		
6. Energy Interchanges Delivered to Others.....		
7. Net Energy for Utility (lines 1 + 2 + 3 + 4 - 5 - 6).....		
8. Energy Delivered to Ultimate Consumers.....		
		10. Peak Load Month

**PART IV - ANNUAL SALES BY STATE AND OTHER REVENUE**

State (a)	Item (b)	Residential Sales (c)	Commercial Sales (d)	Industrial Sales (e)	Other Consumer Sales (f)	Total (cols. c+d+e+f) (g)
1.	2. Revenue (to nearest \$1,000)...					
	3. Kilowatthours.....					
	4. Average Number of Customers..					
5.	6. Revenue (to nearest \$1,000)...					
	7. Kilowatthours.....					
	8. Average Number of Customers..					
9.	10. Revenue (to nearest \$1,000)...					
	11. Kilowatthours.....					
	12. Average Number of Customers..					
13.	14. Revenue (to nearest \$1,000)...					
	15. Kilowatthours.....					
	16. Average Number of Customers..					
17.	18. Revenue (to nearest \$1,000)...					
	19. Kilowatthours.....					
	20. Average Number of Customers..					
21.	22. Revenue (to nearest \$1,000)...					
	23. Kilowatthours.....					
	24. Average Number of Customers..					
25.	26. Revenue (to nearest \$1,000)...					
	27. Kilowatthours.....					
	28. Average Number of Customers..					

Total Sales Revenue (to nearest \$1,000) (a)	Sales for Resale (to nearest \$1,000) (b)	Other Electric Revenue (to nearest \$1,000) (c)	Non-Electric Revenue (to nearest \$1,000) (d)	Total Revenue (columns a+b+c+d) (to nearest \$1,000) (e)
29.				

NOTES:

Form EIA-714S (12-21-83)

EIA (original and white copy) -- Respondent (yellow copy)

Page 2-



**I. PURPOSE**  
Form EIA-714S is designed to collect information on the status of electric utilities and their generation, transmission, and distribution of electric energy in the United States and Puerto Rico. This form is required by the Energy Information Administration (EIA) to carry out its responsibilities in accordance with Section 13 of the Federal Energy Administration Act of 1974 (Public Law 93-275).

## II. WHO MUST SUBMIT

This report is to be completed by every electric utility in the United States and Puerto Rico. For the purposes of this report, an electric utility is a corporation, person, agency, authority, or other legal entity or instrumentality which owns and/or operates facilities within the United States and/or Puerto Rico for the generation, transmission, distribution, or sale of electric energy primarily for use by the public.

## III. WHAT AND WHERE TO SUBMIT

Mail the original and the white copy of Form EIA-714S in the enclosed envelope to:

U.S. Department of Energy  
Energy Information Administration (EI-541)  
Forrestal Building, Mail Stop BG-094 (EIA-714S)  
Washington, D.C. 20585

Retain the completed yellow copy of this form for your files. For additional information, write to the above address or call the telephone number on page 1.

## IV. WHEN TO SUBMIT

Submit this form on or before March 31 of the year following the reporting year.

## V. SANCTIONS AND CONFIDENTIALITY STATEMENTS

This report is mandatory under Public Law 93-275, the Federal Energy Administration Act of 1974. Late filing, failure to file, failure to keep records, or failure to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by section 13(i) of the Federal Energy Administration Act. Information reported on Form EIA-714S is not considered to be confidential.

## GENERAL INSTRUCTIONS

- I. Verify the preprinted information; if incorrect, line through the incorrect entry and provide the correct information. Legible handwritten entries are acceptable.
- II. Check all data for consistency if the same or related data appear in other forms submitted to EIA. Explain any inconsistencies under NOTES.
- III. Report in whole numbers (no decimal points). Enter "0" where the appropriate answer is none.
- IV. Where exact data are not available, report estimated data followed by an "E".
- V. Place a minus sign before negative numbers.
- VI. Furnish information for the utility as it existed at the end of the calendar year. If part of the utility was acquired during the year, report on that part for the entire year, obtaining information from the previous owner. If part of the utility was disposed of during the year, and the respondent was not operating that part at the end of the year, do not report on that part.

## PART II INSTRUCTIONS -- DOE ELECTRIC REGION CODES

- |  |  |
|--|--|
| 01. Allegheny Power System                           | 02. West Virginia, Ohio, Indiana, Michigan   |
| 03. New England Power Pool                           | 04. New York Power Pool                      |
| 05. Pennsylvania-New Jersey-Maryland Interconnection | 06. Commonwealth Edison Co.                  |
| 07. Florida Coordinating Subregion                   | 08. Middle South/Gulf States Group           |
| 09. Southern Company Subregion                       | 11. Tennessee Valley Authority Subregion     |
| 12. Virginia-Carolinas Subregion                     | 13. Eastern Pennsylvania, North Central Ohio |
| 14. Cincinnati, Dayton, Hamilton Group               | 15. Kentucky Group                           |
| 16. Indiana Group                                    | 17. Illinois-Missouri Group                  |
| 18. Lower Michigan Systems                           | 19. Wisconsin-Upper Michigan                 |



20. Mid-Continent Area Power Pool
22. Oklahoma Group
24. Rocky Mountain Power Area
26. Arizona-New Mexico Group
29. Alaska Group
32. Puerto Rico Group

21. Missouri-Kansas Group
23. Electric Reliability Council of Texas
25. Northwest Power Pool
27. California-Southern Nevada
31. Hawaii Group

### PART III INSTRUCTIONS

1. On line 1, report the total net generation from all utility plants.
2. If plants are owned or jointly owned, but operated electrically by another utility, enter respondent's share of the generation on line 2.
3. On lines 3 and 4, respectively, report energy purchases and interchanges received from all others, including: private and public utilities, cooperatives, industrial and small power producers, and cogenerators. Include energy received by utility's borderline customers from another utility. Exclude wheeling energy received and delivered for another utility.

### PART IV INSTRUCTIONS

1. Report the revenue, kilowatthours, and average number of customers by customer class for each state in which the utility operates.
2. If the utility has no system of categorizing customers into commercial and industrial classes, then, for this report, commercial customers are those with service of 1,000 kilowatts or less and industrial customers are those with service in excess of 1,000 kilowatts.
3. Determine the average number of customers by the number of meters plus flat-rate accounts, except when separate meter readings are added for billing purposes. In this case, count one customer for each meter group. "Average" means the average of the 12 close-of-month customer counts. If the residential class includes multiple customer counts because of the provision of special services (water heating, etc.), report under NOTES the number of duplicate counts.
4. The entries for kilowatthours in column g should, when totalled, equal the entry for line 8 in Part III.
5. Line 29, column a should equal the sum of the column g entries for lines 2, 6, 10, 14, 18, 22, and 26.
6. Line 29, column b is the revenue received from the sale of electricity reported in Part III, line 5.

### DEFINITIONS

**Borderline Customer** - A customer of one utility and billed by that utility that receives electric energy from another utility by arrangement between the utilities.

**Integrated Demand** - The demand for electric power averaged over a specified time period; the demand is usually determined by an integrating demand meter or by the integration of a load curve.

**Net Energy for Utility** - The sum of utility net generation plus total electric energy received from others less total electric energy delivered to other utilities.

**Net Generation** - The total amount of electric energy generated, measured at the generator terminals, less the total electric energy consumed at the generating station.

**Peak Load** - The greatest 60-minute integrated demand over a specific period of time.

**Sales for Resale** - Sales of electric power to a wholesale customer for resale to an ultimate consumer.

Form EIA-714S (12-21-83)



**Federal Energy Regulatory Commission**

[Docket No. ER84-311-000]

**American Electric Power Service Corp.; Notice of Filing**

March 14, 1984.

The filing Company submits the following:

Take notice that on March 7, 1984, American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliates Appalachian Power Company (Appalachian), Ohio Power Company (Ohio Power), the Wheeling Electric Company (Wheeling), (sometimes collectively referred to as the AEP Parties) Modification No. 15, dated September 1, 1983 to the Operating Agreement, dated June 1, 1971, among Ohio Power, Wheeling, Appalachian, Monongahela Power Company (Monongahela), and West Penn Power Company (West Penn). Monongahela and West Penn are members of the Allegheny Power System (APS). The Commission has previously designated the 1971 Agreement as Appalachian's Rate Schedule FERC No. 55, Ohio Power's Rate Schedule FERC No. 31, and West Penn's Rate Schedule FERC No. 28.

AEP states that Section 1 and 2 of this Agreement revises the Interchange Power Service Schedule to comply with the Commission's Order No. 84 (Docket No. ER80-592, et al). These rates contained in this Modification are substantially the same as the rates that the AEP Parties presently have on file and accepted for filing by the Commission.

AEP requests an effective date of March 1, 1984, and therefore requests waiver of the Commission's notice requirements.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before March 28, 1984. 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.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7334 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-261-000]

**Cimarron Transmission Co.; Notice of Application**

March 14, 1984.

Take notice that on February 27, 1984, Cimarron Transmission Company (Applicant), 58 Broadlawn Village, Ardmore, Oklahoma 73401, filed in Docket No. CP84-261-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 application 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 and permission and approval for the proposed abandonment are 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7335 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-312-000]

**Cleveland Electric Illumination Co.; Notice of Filing**

March 14, 1984.

The filing Company submits the following:

Take notice that on March 7, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 40 MW of power from the 345 kV interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests and effective date of February 22, 1984, and therefore requests waiver of the Commission's notice requirements.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 29, 1984. Protests will be considered by the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7336 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-241-000]

**Columbia Gas Transmission Corp.; Notice of Request Under Blanket Authorization**

March 14, 1984.

Take notice that on February 13, 1984, Columbia Gas Transmission



Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-241-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to add new delivery points to existing wholesale customers under the authorization issued in Docket No. CP83-76-000 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, Columbia requests authorization to construct and operate 12 interconnecting tap facilities necessary to provide 8 additional points of delivery to Columbia Gas of Ohio, Inc., and 4 additional points of delivery to Columbia Gas of West Virginia, Inc. Columbia proposes the following new points of delivery for the following wholesale customers:

*Columbia Gas of Ohio, Inc.*

6 taps for residential service	Estimated annual usage of 64,400 Mcf
2 taps for industrial service	

*Columbia Gas of West Virginia, Inc.*

4 taps for commercial service	Estimated annual usage 78,557 Mcf
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Columbia Gas of Ohio, Inc., and Columbia Gas of West Virginia, Inc., are served under Columbia's CDS (Contract Demand Service) Rate Schedule. Columbia asserts the additional volumes to be provided through the proposed new points of delivery are within Columbia's currently authorized level of sales and that such volumes would not affect Columbia's peak day and annual deliveries to which Columbia's existing wholesale customer is entitled.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 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 therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7337 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-260-000]

**Columbia Gas Transmission Corp.; Request Under Blanket Authorization**

March 14, 1984.

Take notice that on February 27, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-260-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of OSCO Industries, Inc. (OSCO), under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 80 million Btu of natural gas per day for OSCO for a term of one year. It is stated that the gas to be transported would be purchased from Energy Management, Inc. (EMI), and would be used as process gas in OSCO's Jackson, Ohio, plant.

It is indicated that Columbia has released certain gas supplies of EMI and that these supplies are subject to the ceiling provisions of Sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978. It is further indicated that OSCO has made arrangements to purchase this released gas from EMI. Columbia states that it would receive the gas from EMI and redeliver the gas to Columbia Gas of Ohio, Inc. (COH), the distributor serving OSCO near Jackson, Ohio. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 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 therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7338 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-32-002 and RP83-94-002]

**Eastern Shore Natural Gas Co.; Notice of Revised Tariff Filing**

March 14, 1984.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on March 8, 1984 tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

**To Be Effective June 16, 1983**

Second Revised Twenty-Third Revised Sheet No. 5  
Second Revised Twenty-Third Revised Sheet No. 6  
Second Revised Twenty-Third Revised Sheet No. 10  
Second Revised Twenty-Third Revised Sheet No. 11  
Second Revised Twenty-Third Revised Sheet No. 12  
Second Revised Twenty-Third Revised Sheet No. 13  
Second Revised Sheet No. 246  
Second Revised Sheet No. 247

**To Be Effective November 1, 1983**

Revised Substitute Twenty-Fourth Revised Sheet No. 5  
Revised Substitute Twenty-Fourth Revised Sheet No. 6  
Revised Substitute Twenty-Fourth Revised Sheet No. 10  
Revised Substitute Twenty-Fourth Revised Sheet No. 11  
Revised Substitute Twenty-Fourth Revised Sheet No. 12  
Revised Substitute Twenty-Fourth Revised Sheet No. 13



Third Revised Sheet No. 248  
Original Sheet No. 248a  
Second Revised Sheet No. 249

Eastern Shore states that the purpose of this filing is to reflect the settlement rates in Docket Nos. RP83-32-000 and RP83-94-000 to be effective June 16 and November 1, 1983, as approved by the Commission's February 16, 1984 letter order and adjusted to reflect rate changes made by Eastern Shore subsequent to June 16, 1983 in accordance with Commission orders relating to such rate changes.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). All such petitions or protests should be filed on or before March 23, 1984. 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 available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-7339 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST80-221-002, et al.]

### Lone Star Gas Co., et al.; Notice of Extension Reports

March 14, 1984.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A

letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before April 2, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). 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 party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-221-002	Lone Star Gas Co., 301 S. Harwood St., Dallas, TX 75201	Natural Gas Pipeline Co. of America	02-22-84	C	05-27-84
ST80-245-002	Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, UT 84110	RMNG Gathering Co.	02-29-84	B	06-01-84
ST82-325-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77002	Mid Louisiana Gas Co.	02-29-84	G	05-28-84
ST82-327-001	Lone Star Gas Co., 301 S. Harwood St., Dallas, TX 75201	Natural Gas Pipeline Co. of America	02-22-84	C	06-03-84
ST82-352-001	J-W Gathering Co., 2715 Mackey Lane, Shreveport, LA 71118	United Gas Pipe Line Co.	02-28-84	C	06-03-84
ST82-368-001	Western Slope Gas Co., P.O. Box 840, Denver, CO 80201	Panhandle Eastern Pipe Line Co.	02-27-84	G(HT)	06-06-84
ST82-373-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	High Plains Natural Gas Co.	02-21-84	B	06-25-84

\* These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.  
NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 84-7340 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-254-000]

### Mid Louisiana Gas Co.; Application

March 14, 1984.

Take notice that on February 23, 1984, Mid Louisiana Gas Company (Applicant), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP84-254-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing

the operation of certain facilities necessary to perform the transportation service proposed by Applicant in Docket No. CP84-106-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on October 18, 1983, Applicant and Georgia-Pacific Corporation (Georgia-Pacific) entered into a transportation arrangement pursuant to which Applicant would deliver gas purchased by Georgia-

Pacific from its wholly-owned subsidiary, Exchange Oil & Gas Corporation, to Georgia-Pacific for use at its Port Hudson, Louisiana, industrial plant. Applicant further states that it initiated transportation service for a period of 120 days in accordance with Section 157.209(e)(1) of the Commission's Regulations.

Applicant states that in order to effectuate the transportation service, it constructed approximately one mile of small diameter pipeline and a meter



setting which enabled Applicant to connect its existing pipeline system to the Port Hudson plant. It is stated that the actual cost of the subject facilities is \$202,100 which cost was financed from internally generated funds.

Applicant states that on November 30, 1983, it filed in docket No. CP84-106-000 a request pursuant to Section 157.205 of the Commission's Regulations (18 CFR 157.205) to continue beyond 120 days the transportation service for Georgia-Pacific. Applicant requests authorization herein to continue operation of the facilities incidental to the performance of the transportation service proposed in Docket No. CP84-106-000.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 application 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 represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7341 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-54-000]

**Midwestern Gas Transmission Co.;  
Notice of Tariff Filing**

March 14, 1984.

Take notice that on March 6, 1984, Midwestern Gas Transmission Company (Midwestern) tendered for filing First Revised Sheet No. 167 to Original Volume No. 1 of its FERC Gas Tariff to be effective November 19, 1983.

Midwestern states that the filing revises Midwestern's Northern System PGA clause to reflect the imported supplies previously applicable to Rate Schedule X-3 in its system supply. Consistent with the Commission's March 1, 1984, order in Docket No. CP77-459-004, Midwestern states that inclusion of the X-3 supplies in its Northern System supply will have no effect on Midwestern's Jurisdictional rates. Midwestern states that copies of this filing have been mailed to its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before March 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding.

Any person wishing to become a party must file a petition to intervene, except that those parties who have previously intervened in Docket No. CP77-459 need not intervene again in this subdocket. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7342 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-25-003]

**Mississippi River Transmission Corp.;  
Notice of Rate Change Filing**

March 14, 1984

Take notice that on March 6, 1984, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Second Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. Said tariff sheet is proposed to be effective as of March 1, 1984.

Mississippi states that the filing is being submitted pursuant to a Commission letter order dated February 28, 1984 at Docket No. TA84-1-25-002 which accepted for filing Mississippi's Second Revised Sheet No. 4 to be effective March 1, 1984, subject to any downward adjustment necessary to reflect the proper rates for Mississippi's pipeline suppliers as of such date. Mississippi states that the instant filing reflects rate changes from United Gas Pipe Line Company. The annual cost reduction of this PGA revision to Mississippi's jurisdictional customers is approximately \$3.2 million.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 and 385.214 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 March 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this 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.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7343 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP68-75-010]

**Northern Natural Gas Co., Division of  
InterNorth, Inc.; Petition To Amend  
Order**

March 14, 1984.

Take notice that on February 23, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP68-75-010 a petition to amend further the order issued May 20, 1968, in Docket No. CP68-75<sup>1</sup>, as amended, pursuant to Section 7 of the Natural Gas Act so as to authorize the establishment of sixteen additional delivery points and the deletion of one existing delivery point

<sup>1</sup> This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.



for the exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued May 20, 1968, it was authorized, *inter alia*, to construct and operate certain measuring stations and to exchange with and transport natural gas for Phillips Petroleum Company (Phillips).

Petitioner seeks to add the following wells as additional points of delivery of exchange gas by Northern to Phillips:

Name of well	Location
Tamco, Casinghead—Kim #1.	Section 1127, Block 43, H&TC Survey, Lipscomb County, Tex.
Petroleum, Inc., Burke #3.	Section 31 T4N, R23ECM, Beaver County, Okla.
Transwestern Exploration—Dorman #1-31.	Section 31 T5N, R22ECM, Beaver County, Okla.
Natural Gas Anadarko—Naylor "A" No. 1-32.	Section 32 T1N, R22ECM, Beaver County, Okla.
Seachr Drilling—Cornelson #24.	Section 24, T2N, R21ECM, Beaver County, Okla.
Transwestern Exploration—Roch #1-29.	Section 29, T1N, R28ECM, Beaver County, Okla.
Eastman Dillon Oil and Gas Associates—Duke G #1.	Section 769, Block 43, H&TC Survey, Lipscomb County, Tex.
Texas Oil and Gas—Phillips G #1.	Section 1163, Block 43, H&TC Survey, Lipscomb County, Tex.
InterNorth, Inc.—Lockhart A No. 38-2.	Section 38, Block 42, H&TC Survey, Hemphill County, Tex.
InterNorth, Inc.—Lockhart B No. 38-1.	Section 38, Block 42, H&TC Survey, Hemphill County, Tex.
InterNorth, Inc.—Lockhart C No. 38-1.	Section 38, Block 42, H&TC Survey, Hemphill County, Tex.
InterNorth, Inc.—Caghd—Lockhart A No. 1-36.	Section 36, Block 42, H&TC Survey, Hemphill County, Tex.
InterNorth, Inc.—Caghd—Kenyon No. 1.	Section 36, Block 42, H&TC Survey, Hemphill County, Tex.

Petitioner further seeks authority to add the following existing interconnections as delivery points of exchange gas from Phillips to Petitioner:

(1) the existing interconnection between Petitioner and El Paso Natural Gas Company (El Paso) at the El Paso Dumas Plant located in Section 181, Block 44, H&TC Survey, Moore County, Texas;

(2) the existing interconnection between Petitioner and Panhandle Eastern Pipe Line Company located in Section 18-28S-19W, Kiowa County, Kansas; and

(3) the existing interconnection between Petitioner and Michigan Pipe Line Company, located in Section 16-28S-19W, Kiowa County, Kansas; and

Petitioner further seeks authority to delete the delivery point wherein deliveries of gas from Petitioner to Phillips are made at Petitioner's meter station serving the Deep Reef—Hodges #1-39 well located in Section 39, Block 43, H&TC Survey, Roberts County,

Texas. Petitioner states that such deletion is necessary due to operational constraints.

Any person desiring to be heard or to make any protest with reference to said petition to amend on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7344 Filed 3-19-84; 8:45 am]  
BILLING CODE 6717-01-M

#### [Docket No. CP84-250-000]

#### Northern Natural Gas Co., Division of InterNorth, Inc.; Notice of Application

March 14, 1984.

Take notice that on February 22, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-250-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas in interstate commerce for North Central Public Service Company (North Central), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was redelivering, under its Rate Schedule T-19, up to 10,000 Mcf of gas per day to North Central in Anoka County, Minnesota, pursuant to a Gas Transportation Agreement dated August 5, 1976, with North Central and Northern States Power Company (NSP). It is stated that North Central purchased the volumes from NSP pursuant to a May 17, 1976, Propane Air Gas Agreement, and Applicant receives said volumes for North Central's account at St. Paul, Minnesota. It is also stated that both agreements have been terminated by Agreement dated January 14, 1983, by Applicant, North Central and NSP.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 application if no motion to intervene is filed within the requested time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7345 Filed 3-19-84; 8:45 am]  
BILLING CODE 6717-01-M

#### [Docket No. CP84-294-000]

#### Northwest Pipeline Corp.; Notice of Application

March 14, 1984.

Take notice that on March 12, 1984, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110-1526, filed in Docket No. CP84-294-000 an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the sale and delivery of incentive-priced Canadian natural gas to certain of its



existing distribution company customers for resale to designated end-users, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell and deliver certain volumes of natural gas to Northwest Natural Gas Company, CP National Corporation and Southwest Gas Corporation (Buyers) for resale to designated large commercial and industrial customers, pursuant to agreements between Applicant and Buyers dated March 6, 1984 (Sales Agreements).

It is stated that the purpose of the proposal is to make available to the designated end-users volumes of natural gas which would be competitively priced with alternative fuels. Applicant asserts this would result in the retention of price sensitive loads which would be lost due to relatively high gas prices and would allow Applicant to regain certain customers which previously have switched to alternate fuels.

Applicant states that it presently purchases natural gas at two locations on the Canadian border from Westcoast Transmission Company, Ltd. (Westcoast), pursuant to two separate contracts. These contracts are said to be dated September 23, 1960, (Kingsgate contract) and October 10, 1969, (Fourth Service Agreement). It is indicated that the present border price for Canadian exports is \$4.40 per million Btu with a volume related incentive price (VRIP) of \$3.40 per million Btu for all gas sold above certain base levels. It is stated that pursuant to an agreement dated February 28, 1984, (Westcoast Agreement) Applicant and Westcoast have revised the method for determining the volumes of Canadian gas available to be purchased under the VRIP so that Applicant would be able to purchase certain volumes at a special incentive price, currently \$3.40 per million Btu. Applicant claims that certain of those specially priced volumes would be available for sale by Applicant to its distributor customers for resale to designated large volume commercial and industrial end-users to serve requirements which are in excess of the applicable monthly base period quantity for each such end-user.

It is said that the Westcoast Agreement establishes a minimum take-and-pay level of 110,000,000 Mcf plus a take-or-pay volume of 31,000,000 Mcf for the 1983-84 contract year for the Fourth Service Agreement and the Kingsgate contract combined. Applicant states that while there is no take-and-pay obligation under the present Fourth Service Agreement, that agreement does contain a minimum annual bill

provision, under which Applicant is required to make annual payments either for gas actually taken or as a minimum annual bill equal to a calculated dollar amount determined by reference to the effective border price and the sales price of gas from Westcoast to British Columbia Hydro and Power Authority. It is alleged that during the 1982-83 contract year, Applicant incurred a deficiency of approximately \$90 million (U.S.) which represented a volumetric deficiency of approximately 21,000,000 Mcf at the effective border price. Under the terms of the Fourth Service Agreement, it is stated, any volume of gas paid for but not taken in any contract year shall be made up free of charge with the first deliveries in the next contract year and that this results in displacing current contract-year purchases by recovering deficiency volumes for the past contract-year which, absent increased purchases, serves to compound the minimum bill deficiency for future years.

Applicant estimates that under the existing Fourth Service Agreement and Kingsgate contract, the volumetric equivalent of its 1983-84 minimum annual bill would be 177,000,000 Mcf, and that based on the level of Canadian volumes projected to be purchased, its minimum annual bill deficiency under the existing agreements would be approximately \$330 million for this contract year. Applicant states the Westcoast Agreement would amend the Fourth Service Agreement for this contract year by replacing the minimum annual bill provisions with the take-and-pay and take-or-pay provisions previously set forth.

Applicant states that an interest-in-lieu-of-principal payment under the existing minimum bill provisions would be approximately \$10 million, but that the Westcoast Agreement would eliminate the adverse impact of the existing minimum annual bill provisions. Applicant asserts that the 110,000,000 Mcf take-and-pay obligation contained in the Westcoast Agreement is less onerous than the existing terms of the Fourth Service Agreement and that, moreover, Westcoast would allow Applicant to carry the take-or-pay volume (31,000,000 Mcf) into succeeding contract years on an interest-in-lieu-of-principal basis.

Applicant states that it proposes to sell to Buyers, pursuant to the Sales Agreements, volume of natural gas which it purchases under the Westcoast Agreement at the incentive price of \$3.40 per million Btu and that Buyers would resell such volumes to large commercial and industrial end-users. It is indicated that the volume of natural gas which

Applicant proposes to sell to Buyers would be limited to those volumes which are in excess of each designated end-user's base monthly quantity and which are available for purchase by Applicant under the Westcoast Agreement. It is stated that the base monthly quantity is that volume of natural gas the end-user would use, or would be estimated to use, even without the availability of the incentive-priced gas to be provided under the Sales Agreements. It is indicated that the proposed sales to Buyers would take place at existing delivery points to Buyers without any addition or modification of facilities.

It is further stated that the sale and delivery of gas pursuant to the Sales Agreements would be subject to interruption or curtailment, at Applicant's discretion, whenever necessary to protect any other service rendered by Applicant or when Applicant deems that such sales can no longer be justified economically.

It is estimated that, initially, approximately 40,000 Mcf per day would be sold to Buyers pursuant to the Sales Agreements and approximately 8,400,000 Mcf would be sold under such agreements during the April through October 1984 period. The Sales Agreements would be effective for a primary term ending on October 31, 1984, and, subject to the continued availability of the incentive-priced Canadian gas supply, would continue in effect from month to month thereafter until terminated upon thirty days written notice, it is stated.

Applicant states that for volumes of natural gas sold to Buyers under the Sales Agreements, Buyers would pay a two-part rate consisting of an amount equal to the price paid by Applicant for the subject gas under the Westcoast Agreement, currently \$3.40 per million Btu plus a handling charge of \$0.19 per million Btu for all volumes of natural gas sold under the Sales Agreements. The handling charge is said to be inclusive of fuel gas requirements and any applicable G.R.I. charge.

It is said that the purchased gas costs associated with the proposed service would be removed from Applicant's total purchased gas costs for the purpose of calculating the monthly purchased gas cost deferrals to FERC Account No. 191 under Applicant's purchased gas cost adjustment mechanism. It is therefore alleged that the purchase of the additional Canadian supplies would have no impact on the cost of gas to Applicant's other customers. It is also stated that that portion of the \$0.19 per million Btu



handling charge which represents the transmission fuel reimbursement, \$.0282 per million Btu, would be credited to FERC Account No. 191.

The \$3.59 per million Btu rate applicable to sales under the Sales Agreements is said to be in excess of Applicant's average purchased gas cost component of its currently effective commodity rate, which is proposed to be \$3.39 per million Btu as of April 1, 1984.

Applicant proposes to retain that portion of revenues attributable to the handling charge, exclusive of the G.R.I. charge and fuel gas components, on the basis that the proposed sale would replace equivalent sales which were included in the establishment of rates in Docket No. RP82-56 and which have since been lost due to natural gas price increases. The amount proposed to be retained is 15.00 cents per million Btu (19.00 cents less 2.82 cents for fuel and 1.18 cents for the G.R.I. charge).

It is claimed that by utilizing the terms and provisions of the Westcoast Agreement from April 1 to October 31, 1984, selling 8,300,000 Mcf of gas under the Sales Agreements during that same period, and continuing to operate its pipeline system so as to maximize the use of domestic gas to serve its customers' requirements, Applicant would achieve a reduction in the cost of purchased gas sold to its customers of approximately \$13.7 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 of this application 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7346 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-65-044]

**Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Notice of Petition To Amend**

March 14, 1984.

Take notice that on February 17, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-65-044 a petition to amend the orders issued October 31, 1980, and May 20, 1981, in Docket No. CP80-65 pursuant to Section 7(c) of the Natural Gas Act so as to extend the term and increase the volume of a base storage gas transportation service authorized to be rendered to Boston Gas Company (BGC) and Gas Service, Inc. (GSI), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. CP80-65 it is authorized to transport base storage gas volumes on behalf of BGC and GSI to Honeoye Storage Corporation (Honeoye). The volumes authorized to be transported are said to be as follows:

	Maximum daily volume (Mcf)	Base storage gas obligation to Honeoye (Mcf)
BGC.....	2,476	520,000
GSI.....	619	130,000

It is indicated that this service is rendered pursuant to Petitioner's currently effective Rate Schedule IBGT-NE. The transportation contracts are said to be for a term ending October 31, 1983.

Petitioner states the BGC and GSI inform it that their respective base gas obligations to Honeoye would not be satisfied until the summer of 1985. In

addition it is claimed that the base gas obligations of BGC and GSI are greater than Petitioner was authorized to transport. The actual base gas obligations for BGC and GSI are said to be 754,400 Mcf and 188,600 Mcf, respectively. Petitioner seeks authorization to continue the transportation service for a term ending October 31, 1985, and to increase the total base gas transportation authorization from 520,000 Mcf to 754,400 Mcf for BGC and from 130,000 Mcf to 188,600 Mcf for GSI. It is submitted that this request would fulfill BGC's and GSI's storage requirements and ensure adequate natural gas supplies to their customers in the winter seasons.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7347 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[ST84-297-000, et al.]

**Texas Eastern Transmission Corporation, et al.; Notice of Self-Implementing Transactions**

March 14, 1984.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline



pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 248.142

of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 248.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" Indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket

certificate issued under Section 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

A "G(GT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

Kenneth F. Plumb,  
Secretary.

Docket No. <sup>1</sup>	Transporter/seller	Recipient	Date filed	Subpart	Expiration date <sup>2</sup>	Transportation Rate (cents per mmbtu)
ST84-297	Texas Eastern Transmission Corp.	Michigan-Wisconsin Pipe Line Co.	01-03-84	G		
ST84-298	do	Tennessee Gas Pipeline Co.	01-03-84	G		
ST84-299	Tennessee Gas Pipeline Co.	Elizabethtown Gas Co.	01-03-84	B		
ST84-300	Northern Natural Gas Co.	Armstrong World Industries, Inc.	01-03-84	F(157)		
ST84-301	do	Michigan Wisconsin Pipe Line Co.	01-03-84	G		
ST84-302	TennGasco Inc.	Entex, Inc.	01-03-84	C		
ST84-303	Michigan Consolidated Gas Co.	Texas Gas Transmission Corp.	01-04-84	G(HS)		
ST84-304	do	Consumers Power Co.	01-04-84	B		
ST84-305	Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	01-04-84	B		
ST84-306	do	do	01-04-84	B		
ST84-307	do	Cajun Natural Gas Co.	01-04-84	B		
ST84-308	do	do	01-04-84	B		
ST84-309	Channel Industries Gas Co.	Entex, Inc.	01-04-84	C		
ST84-310	Florida Gas Transmission Co.	Transcontinental Gas Pipe Line Corp.	01-04-84	G		
ST84-311	Tennessee Gas Pipeline Co.	Texas Gas Transmission Corp.	01-05-84	G		
ST84-312	Florida Gas Transmission Co.	United Gas Pipe Line Co.	01-05-84	G		
ST84-315	Natural Gas Pipeline Co. of America	Delhi Gas Pipeline Co.	01-06-84	B		
ST84-316	Transcontinental Gas Pipe Line Corp.	City of Lawrenceville, GA	01-09-84	B		
ST84-317	do	Elizabethtown Gas Co.	01-03-84	B		
ST84-318	do	Atlanta Gas Light Co.	01-05-84	B		
ST84-319	do	North Carolina Natural Gas Corp.	01-09-84	B		
ST84-320	do	Northern Natural Gas Co.	01-09-84	G		
ST84-321	do	Elizabethtown Gas Co.	01-05-84	B		
ST84-322	do	Atlanta Gas Light Co.	01-05-84	B		
ST84-323	Tennessee Gas Pipeline Co.	UGI Corp.	01-10-84	B		
ST84-324	do	Manchester Gas Co.	01-10-84	B		
ST84-325	Texas Eastern Transmission Corp.	Public Service Electric and Gas Co.	01-10-84	B		
ST84-326	do	do	01-20-84	B		
ST84-327	Texas Eastern Transmission Corp.	Elizabethtown Gas Co.	01-10-84	B		
ST84-328	Inland Gas Co., Inc.	Salysville Gas Co., Inc.	12-30-83	B		
ST84-330	Northern Natural Gas Co.	Endevco Pipeline Co.	01-11-84	B		
ST84-331	Texas Eastern Transmission Corp.	Texas Southeastern Gas Co.	01-09-84	B		
ST84-332	Southern Natural Gas Co.	Atlanta Gas Light Co.	12-30-83	B		
ST84-333	Columbia Gas Transmission Corp.	Bethlehem Steel Corp.	01-12-84	F		
ST84-334	do	Columbus Bituminous Concrete Co.	01-12-84	F		
ST84-335	do	Eastern Stainless Steel Co.	01-12-84	F		
ST84-336	do	General Electric Co.	01-12-84	F		
ST84-337	do	Genstar Stone Products	01-12-84	F		
ST84-338	do	Goodyear Tire and Rubber Co.	01-12-84	F		
ST84-339	do	GTE Products Corp.	01-12-84	F		
ST84-340	do	Maryland Cup Corp.	01-12-84	F		
ST84-341	do	Mar-Zone, Inc.	01-12-84	F		
ST84-342	do	Ohio Dehy, Inc.	01-12-84	F		
ST84-343	do	Toledo Alfalfa Mills, Inc.	01-12-84	F		
ST84-344	do	U.S. Gypsum Co.	01-12-84	F		
ST84-345	do	Westvaco, Inc.	01-12-84	F		
ST84-346	do	Yarnell Brothers, Inc.	01-12-84	F		
ST84-347	do	Bethlehem Steel Corp.	01-12-84	F(157)		
ST84-348	do	Columbus Bituminous Concrete Corp.	01-12-84	F(157)		
ST84-349	do	General Electric Co.	01-12-84	F(157)		
ST84-350	do	Eastern Stainless Steel Co.	01-12-84	F(157)		
ST84-351	do	Genstar Stone Products	01-12-84	F(157)		
ST84-352	do	Goodyear Tire & Rubber Co.	01-12-84	F(157)		
ST84-353	do	G & M Finishing, Inc.	01-12-84	F(157)		
ST84-354	do	Koppers Co., Inc.	01-12-84	F(157)		
ST84-355	do	Manchester Board & Paper Co.	01-12-84	F(157)		
ST84-356	do	Mar-Zone, Inc.	01-12-84	F(157)		
ST84-357	do	New Jersey Zinc Co., Inc.	01-12-84	F(157)		
ST84-358	do	Ohio State University	01-12-84	F(157)		
ST84-359	do	U.S. Gypsum Co.	01-12-84	F(157)		
ST84-360	do	Welland Chemical, Inc.	01-12-84	F(157)		
ST84-361	do	Westvaco, Inc.	01-12-84	F(157)		
ST84-362	do	Weyerhaeuser Co.	01-12-84	F(157)		
ST84-363	ANR Pipeline Co.	Indiana Gas Co.	01-13-84	F		
ST84-364	do	Transcontinental Gas Pipe Line Corp.	01-11-84	G		



Docket No. <sup>1</sup>	Transporter/seller	Recipient	Date filed	Subpart	Expiration date <sup>2</sup>	Transportation Rate (cents per mmbtu)
ST84-365	Tennessee Gas Pipeline Co.	Louisiana Industrial Gas Supply	01-12-84	B		
ST84-366	do	Piedmont Natural Gas Co., et al.	01-12-84	B		
ST84-367	Florida Gas Transmission Co.	United Gas Pipe Line Co.	01-13-84	G		
ST84-368	Texas Sea Rim Pipeline, Inc.	Natural Gas Pipeline Co. of America	01-13-84	C		
ST84-369	ANR Pipeline Co.	Texas Eastern Transmission Corp.	01-13-84	G		
ST84-370	Tennessee Gas Pipeline Co.	Florida Gas Transmission Co.	01-13-84	G		
ST84-371	do	Creole Gas Pipeline Corp.	01-13-84	B		
ST84-372	Columbia Gulf Transmission Co.	IMC Pipeline Co.	01-13-84	B		
ST84-373	Houston Pipe Line Co.	Northern Natural Gas Co.	01-16-84	C		
ST84-374	Northern Natural Gas Co.	Transcontinental Gas Pipe Line Corp.	01-16-84	G		
ST84-375	ANR Pipeline Co.	Bridgeline Gas Distribution Co.	01-16-84	B		
ST84-376	do	United Gas Pipe Line Co.	01-16-84	G		
ST84-377	do	Natural Gas Pipeline Co. of America	01-16-84	G		
ST84-378	Texas Gas Transmission Corp.	Middletown Paperboard Co.	01-16-84	F(157)		
ST84-379	Tennessee Gas Pipeline Co.	Gulf South Pipeline Co.	01-16-84	B		
ST84-380	Northwest Central Pipeline Corp.	Faustina Pipe Line Co.	01-16-84	B		
ST84-381	do	Farmiland Industries, Inc.	01-16-84	F(157)		
ST84-382	Colorado Interstate Gas Co.	Pioneer Transmission Corp.	01-16-84	B		
ST84-383	Valero Transmission Co.	Northern Natural Gas Co.	01-16-84	C		
ST84-384	Transcontinental Gas Pipe Line Corp.	Columbia Gas Transmission Corp.	01-16-84	G		
ST84-385	Llano, Inc.	Industrial Natural Gas Co.	01-17-84	C	06-15-84	28.80
ST84-386	ANR Pipeline Co.	Armco, Inc.	01-17-84	F(157)		
ST84-387	do	The General Tire & Rubber Co.	01-17-84	F(157)		
ST84-388	Granite State Gas Transmission, Inc.	Northern Utilities, Inc.	01-17-84	B		
ST84-389	Transcontinental Gas Pipe Line Corp.	Piedmont Natural Gas Co.	01-18-84	B		
ST84-390	do	Carolina Pipeline Co.	01-18-84	B		
ST84-391	do	North Carolina Natural Gas Corp.	01-18-84	B		
ST84-392	do	Lynchburg Gas Co.	01-18-84	B		
ST84-393	do	Public Service Co. of N. Carolina	01-18-84	B		
ST84-394	do	Public Service Electric and Gas Co.	01-18-84	B		
ST84-395	Tennessee Gas Pipeline Co.	Louisiana Gas System, Inc.	01-19-84	B		
ST84-396	Northern Natural Gas Co.	Industrial Natural Gas Co.	01-20-84	B		
ST84-397	Columbia Gas Transmission Corp.	Armstar Corp.	01-20-84	F		
ST84-398	do	Appleton Papers, Inc.	01-20-84	F		
ST84-399	do	Armco, Inc.	01-20-84	F		
ST84-400	do	do	01-20-84	F		
ST84-401	do	Bothlehem Steel Corp.	01-20-84	F		
ST84-402	do	do	01-20-84	F		
ST84-403	do	Jeannette Sheet Glass Corp.	01-20-84	F		
ST84-404	do	Lukens Steel Co.	01-20-84	F		
ST84-405	do	Proctor & Gamble Manufacturing Co.	01-20-84	F		
ST84-406	do	U.S. Steel Corp.	01-20-84	F		
ST84-407	do	Armstar Corp.	01-20-84	F(157)		
ST84-408	do	Appleton Papers, Inc.	01-20-84	F(157)		
ST84-409	do	Armco, Inc.	01-20-84	F(157)		
ST84-410	do	do	01-20-84	F(157)		
ST84-411	do	The Babcock & Wilcox Co.	01-20-84	F(157)		
ST84-412	do	Bethlehem Steel Corp.	01-20-84	F(157)		
ST84-413	do	do	01-20-84	F(157)		
ST84-414	do	Jeannette Sheet Glass Corp.	01-20-84	F(157)		
ST84-415	do	Lukens Steel Co.	01-20-84	F(157)		
ST84-416	do	Mt. Savage Refractories	01-20-84	F(157)		
ST84-417	do	Nevamar Corp.	01-20-84	F(157)		
ST84-418	do	Proctor & Gamble Manufacturing Co.	01-20-84	F(157)		
ST84-419	do	St. Regis Corp.	01-20-84	F(157)		
ST84-420	do	U.S. Steel Corp.	01-20-84	F(157)		
ST84-421	do	Virginia Linen Service, Inc.	01-20-84	F(157)		
ST84-422	do	Johnson County Gas Co.	01-20-84	B		
ST84-423	do	UGI Corp.	01-20-84	B		
ST84-424	do	Dayton Power and Light Co.	01-20-84	B		
ST84-425	Gas Gathering Corp.	Wilson Transmission, Inc.	01-17-84	B		
ST84-426	Michigan Consolidated Gas Co.	Florida Gas Transmission Co.	01-20-84	G(HS)		
ST84-427	Northern Natural Gas Co.	3M Corp.	01-23-84	F(157)		
ST84-428	Tennessee Gas Pipeline Co.	National Fuel Gas Supply Corp.	01-23-84	G		
ST84-429	do	Louisiana Gas System, Inc.	01-23-84	B		
ST84-430	Trunkline Gas Co.	Panhandle Eastern Pipe Line Co.	01-23-84	G		
ST84-431	Liberty Natural Gas Co.	Industrial Natural Gas Co.	01-19-84	C		
ST84-432	Northwest Pipeline Corp.	Mountain Fuel Supply Co.	01-23-84	G		
ST84-433	El Paso Natural Gas Co.	El Paso Hydrocarbons Co.	01-25-84	B		
ST84-434	ANR Pipeline Co.	Armstrong World Industries, Inc.	01-25-84	F(157)		
ST84-435	Transcontinental Gas Pipe Line Corp.	United Cities Gas Co.	01-25-84	B		
ST84-436	United Gas Pipe Line Co.	Florida Gas Transmission Co.	01-26-84	G		
ST84-437	National Fuel Gas Supply Corp.	Koppers Co., Inc.	01-23-84	F(157)		
ST84-438	Consolidated Gas Supply Corp.	Harvey Glass Co.	01-23-84	F(157)		
ST84-439	Panhandle Eastern Pipe Line Co.	Citizens Gas & Coke Utility (Agent)	12-21-83	F(157)		
ST84-440	Trunkline Gas Co.	Houston Pipe Line Co.	01-26-84	B		
ST84-441	Louisiana Intrastate Gas Corp.	Florida Gas Transmission Co.	01-26-84	C	06-24-84	20.00
ST84-442	do	Texas Gas Transmission Corp.	01-26-84	C	06-24-84	0.00
ST84-443	Consumers Power Co.	Michigan Gas Utilities Co.	01-26-84	G(HT)	06-24-84	9.16
ST84-444	South Texas Gathering Co.	Texas Eastern Transmission Corp.	01-23-84	C		
ST84-445	Texas Southeastern Gas Co.	do	01-23-84	C		
ST84-446	Panhandle Eastern Pipe Line Co.	Lukens Steel Co.	01-27-84	F(157)		
ST84-447	Trunkline Gas Co.	Town of Colfax, LA	01-27-84	B		
ST84-448	do	Louisiana Gas System, Inc.	01-27-84	B		
ST84-449	do	Houston Pipe Line Co.	01-27-84	B		
ST84-450	ANR Pipeline Co.	Michigan Consolidated Gas Co.	01-27-84	B		
ST84-451	Texas Gas Transmission Corp.	United Cities Gas Co.	01-27-84	B		
ST84-452	Texas Eastern Transmission Corp.	Philadelphia Gas Works	01-30-84	B		
ST84-453	do	United Cities Gas Co.	01-30-84	B		
ST84-454	do	Consolidated Edison Co. of New York, Inc.	01-30-84	B		
ST84-455	Tennessee Gas Pipeline Co.	Mid Louisiana Gas Co.	01-30-84	G		



Docket No. <sup>1</sup>	Transporter/seller	Recipient	Date filed	Subpart	Expiration date <sup>2</sup>	Transportation Rate (cents per mmbtu)
ST84-456	do	Texas Eastern Transmission Corp.	01-30-84	G		
ST84-457	Transcontinental Gas Pipe Line Corp.	Alexander City, AL	01-30-84	B		
ST84-458	Lone Star Gas Co.	Northern Natural Gas Co.	01-30-84	C		
ST84-459	Tennessee Gas Pipeline Co.	Mid Louisiana Gas Co.	01-30-84	G		
ST84-460	Panhandle Eastern Pipe Line Co.	do	01-30-84	G		
ST84-461	Oklahoma Natural Gas Co.	Transwestern Pipeline Co.	01-31-84	C		
ST84-462DANR Pipeline Co.	Bethlehem Steel Corp.	01-30-84	F(157)			
ST84-463DUnited Gas Pipe Line Co.	Industrial Natural Gas Co.	01-30-84	B			
ST84-464	Colorado Interstate Gas Co.	Bridgeline Gas Distribution Co.	01-31-84	B		
ST84-465	ANR Pipeline Co.	Gulf States Utilities	01-31-84	F(157)		

<sup>1</sup> The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

<sup>2</sup> The intrastate pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 84-7348 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

#### [Docket No. TA84-1-17-003]

#### Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 14, 1984.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 1, 1984 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

- Substitute Sixty-eighth Revised Sheet No. 14
- Substitute Sixty-seventh Revised Sheet No. 14A
- Substitute Sixty-seventh Revised Sheet No. 14B
- Substitute Sixty-seventh Revised Sheet No. 14C
- Substitute Sixty-seventh Revised Sheet No. 14D

The above tariff sheets are being issued in substitution for their corresponding sheets filed December 30, 1983 consisting of Texas Eastern's semiannual PGA tracking adjustment to be effective February 1, 1984. The above sheets are being filed in compliance with Ordering Paragraph (B)(2) of the Commission's order issued January 31, 1984 in Docket No. TA84-1-17-001 (PGA84-1, IPR84-1, and DCA84-1) and RP79-28-002 which requires Texas Eastern to revise its February 1, 1984 PGA filing to reflect the proper rates from its pipeline suppliers, Texas Gas Transmission Corporation and United Gas Pipe Line Company and to eliminate the estimated gas cost balances for the month of November 1983 and reflected in lieu thereof actual gas costs paid to date for the month of November, all in accordance with Ordering Paragraph (B)(4) of the Commission's January 31, 1984 order. In this regard, there were no carrying charges included in the PGA on the November estimated gas cost

balance. Texas Eastern has not revised rates to reflect only producer costs determined on a saturated measurement basis because doing so would increase rather than reduce rates as contemplated by Ordering Paragraph (B)(3). The Commission Staff has informed Texas Eastern that such an increase was not intended by Ordering Paragraph (B)(3).

The proposed effective date of the above substitute tariff sheets is February 1, 1984.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 23, 1984. 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.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7349 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

#### [Docket No. CP84-262-000]

#### Texas Eastern Transmission Corp.; Notice of Application

March 14, 1984.

Take notice that on February 27, 1984, Texas Eastern Transmission Corporation (TETCO), Post Office Box

2521, Houston, Texas 77252, filed in Docket No. CP84-262-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation service for up to 20,000 dt equivalent of natural gas per day, authorized by Commission order issued January 30, 1979, in Docket No. CP79-85, presently being rendered Consolidated Gas Supply Corporation (Consolidated), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

TETCO proposes to abandon the transportation service presently being rendered Consolidated pursuant to the terms of an agreement, between the two parties, dated November 21, 1978, whereby TETCO receives the gas from Consolidated, by displacement, at TETCO's meter station No. 037 in Greene County, Pennsylvania, or at meter station No. 062 in Westmoreland County, Pennsylvania, and transports and redelivers such gas to Equitable Gas Company (Equitable) for the account of Consolidated at TETCO's meter station No. 009 in Greene County, Pennsylvania, or at meter station No. 355 in Westmoreland County, Pennsylvania. It is explained that the agreement provided for a primary term of three years commencing March 15, 1979, and from year to year thereafter. TETCO states that on January 13, 1984, Consolidated advised TETCO that it was terminating the transportation agreement effective March 15, 1984. TETCO therefore requests the Commission permit the abandonment of the transportation service it renders Consolidated effective March 15, 1984.

TETCO states that concurrently with the filing of the instant request it would enter into a service agreement providing for the continuation of the subject transportation service pursuant to Part



284 of the Commission's Regulations at a reduced transportation quantity of up to 17,500 dt per day for a term commencing March 15, 1984, and terminating February 15, 1985. For such service, TETCO states that it would charge Consolidated its current TS-1 rate and that no pipeline facilities would be abandoned as the result of the instant proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are 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 TETCO to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-7350 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-252-000]

**Trans-Appalachian Pipeline, Inc.;  
Notice of Application**

March 14, 1984.

Take notice that on February 22, 1984, Trans-Appalachian Pipeline, Inc. (Applicant), P.O. Box 850, Bridgeport, West Virginia 26330, filed in Docket No. CP84-252-000 application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related facilities necessary for the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of approximately 21.5 miles of 8-inch pipeline, 2,464 horsepower of compression, and a 10,000 Mcf per day natural gas conditioning plant. It is indicated that the proposed facilities will connect an existing low pressure transmission pipeline in Ritchie County, West Virginia owned and operated by Columbia with a Columbia high-pressure transmission system in Gilmer County, West Virginia. Applicant further proposes to transport up to 10,000 Mcf per day for Columbia.

Applicant states that the proposed construction and operation of facilities would free up capacity in existing natural gas facilities and provide market access for shut in gas wells in Ritchie, Calhoun, Wirt, Roane, and Doddridge Counties, West Virginia. It is further stated that such market access would allow the development of known gas reserves and stimulate exploration in the area.

Applicant indicates that the estimated cost of the pipeline facilities is \$7,680,000. Applicant states that to finance the project it would establish a construction trust which would be the owner of all related facilities during construction and would be the issuer of commercial paper notes supported by a bank letter of credit and/or notes payable to a bank. It is further indicated that Applicant would have an unconditional obligation to purchase the facilities from the construction trust at a price equal to the total investment from proceeds of sales by Applicant of long-term debt and equity securities.

Applicant proposes to charge for the transportation service a monthly charge of \$175,000.

Any person desiring to be heard or to make any protest with reference to said

application should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 application 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-7351 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-146-001]

**Transcontinental Gas Pipe Line Corp.;  
Notice of Amendment**

March 14, 1984.

Take notice that on February 17, 1984 Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP84-146-001 an amendment to its application filed in Docket No. CP84-146-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect a reduction in transportation quantities of gas and revisions in the *pro forma* firm gas transportation agreement, all as more fully set forth in the amendment on



file with the Commission and open to public inspection.

In its pending application Applicant purposes the construction and operation of certain pipeline loop facilities on its Leidy Line in Pennsylvania and two meter stations in New Jersey and the rendition of firm transportation service of up to 65,000 dt equivalent of natural gas per day for certain shippers.

Applicant states that the purpose of the amendment to the application is (1) to reflect a reduction in transportation quantities for Algonquin Gas Transmission Company (Algonquin) during the first two years of service; (2) to revise the provisions of the *pro forma* firm gas transportation agreement relating to recovery of investment in a manner consistent with the Commission's February 2, 1984, order in *Boundary Gas Inc.*, Docket No. CP81-107, *et al.*, by adding a new paragraph 8.07 to the transportation agreement; (3) to revise certain exhibits to take into account the application now pending in Docket No. CP84-223-000 proposing a further expansion of Applicant's Leidy Line and market area facilities; and (4) to submit in Exhibit I executed precedent agreements for transportation service.

Applicant states that it intends to construct the facilities proposed in Docket No. CP84-146-000 and in Docket No. CP84-223-000 in a coordinated fashion during the summer of 1984 with an anticipated in-service date of November 1, 1984.

With regard to the reduction of transportation quantities for Algonquin, Applicant now seeks authority to transport for Algonquin on a firm basis the following daily quantities:

(Maximum daily quantity (dt))

Nov. 1, 1984 through Oct. 31, 1985	Nov. 1, 1985 through Oct. 31, 1986	Nov. 1, 1986 through remaining term
14,782	14,795	18,760

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party

to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7352 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

#### [Docket No. CP84-231-000]

#### Transwestern Pipeline Co.; Notice of Petition for Declaratory Order or in the Alternative, Application for a Certificate of Public Convenience and Necessity

March 15, 1984.

Take notice that on February 8, 1984, Transwestern Pipeline Company (Transwestern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP84-231-000 a petition pursuant to Section 385.207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order, or in the alternative, applications pursuant to Section 7(c) of the Natural Gas Act for a blanket certificate of public convenience and necessity authorizing the exchange of natural gas with its producers and gatherers or, in the further alternative, a certificate of public convenience and necessity authorizing a specific transaction and facility, all as more fully set forth in the petition and applications which are on file with the Commission and open to public inspection.

Transwestern states it has entered an agreement dated April 9, 1982, to purchase natural gas from Conoco, Inc. (Conoco), in Eddy County, New Mexico. Transwestern further states that Conoco has reserved in the contract the right to use gas produced from its leaseholds for developing and operating such leaseholds and for the operation of the facilities which it has installed in order to deliver gas to Transwestern under the terms of the contract. Transwestern indicates that the gas which Conoco would deliver to it under the contract is unsuitable for fuel for Conoco's compression and related equipment. Transwestern further indicates that Conoco's gas is casinghead gas, and if not delivered, would have to be vented or flared or the wells from which it is produced would have to be shut in.

In light of these circumstances, Transwestern states, it has agreed to an exchange of gas with Conoco whereby Transwestern would deliver to Conoco, solely for use as fuel in Conoco's compression and related equipment, a quantity of gas; and Conoco would immediately redeliver to Transwestern,

at the point of delivery under the gas purchase contract, an equivalent quantity of gas. Transwestern indicates that no balancing should be necessary because the exchange is simultaneous. Transwestern further indicates that if balancing should ever be necessary, it would take place at the same points as soon as is practicable. No rates or charges would be assessed between Transwestern and Conoco for the exchange service, it is explained.

Transwestern asserts that it believes that the proposed gas exchange service is non-jurisdictional under Section 1(b) of the Natural Gas Act, which provides, in part, that its provisions shall not apply "to the production or gathering of natural gas" 15 U.S.C. § 717, *et seq.* Transwestern further asserts that it should not be required to obtain a certificate for the tap on Transwestern's pipeline that allows gas to flow to Conoco's compression equipment, nor should it be required to obtain such a certificate for any such facilities required under a similar fuel exchange agreement. Transwestern states that, generally, the Commission has taken the position that facilities which cannot reasonably be expected to threaten the public interest and which are inconsequential to the administration of the Natural Gas Act may be declared to be non-jurisdictional. Transwestern states the facilities in question fall into this category.

Transwestern has petitioned the Commission for a declaratory order stating that the described transaction and facilities are non-jurisdictional and thus exempt from the provisions of the Natural Gas Act. In the alternative, Transwestern requests the issuance of a blanket certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act authorizing Transwestern to exchange natural gas with its producers and gatherers and to install and operate the related facilities necessary to implement such exchanges. In the further alternative, if the Commission should determine not to grant to Transwestern blanket certificate authorization, Transwestern seeks a certificate of public convenience and necessity authorizing the specific authorization and facility.

Transwestern indicates that the transaction at issue may be described as follows:

a. In its gas purchase agreement with Transwestern, the producer/gatherer, as seller, has reserved the right to use a portion of its gas for the operation of such equipment as it may install in order to deliver the gas in accordance with the terms of the contract.



b. The exchange is for the specific and sole purpose that the producer/gatherer may operate its compression equipment in order to produce and/or gather more gas to be delivered to Transwestern and into interstate commerce. No gas is received by the producer/gatherer other than that necessary to operate such equipment. In operating such equipment with gas from Transwestern, the producer/gatherer immediately redelivers a thermally equivalent quantity of gas to Transwestern. All gas in excess of the exchange volumes is delivered pursuant to the gas purchase agreement between Transwestern and the producer/gatherer.

c. The gas received by exchange by the producer/gatherer from Transwestern is used by the producer/gatherer in the performance of production and/or gathering activities which are exempt pursuant to Section 1(b) of the Act.

d. No balancing is necessary because the exchange is simultaneous. The gas to be delivered by Transwestern is used by the producer/gatherer to run its compression equipment to redeliver more gas to Transwestern, of which that first redelivered is deemed to be exchange gas. If balancing should ever be necessary, it will take place at the same points as soon as is practicable.

e. The exchange involves a gas-for-gas exchange, which is thermally balanced.

f. No sales of gas between or among the companies are involved.

g. No rates or charges are assessed between the companies for exchange service.

h. The only facility installed and operated by Transwestern to accomplish the exchange service is a tap on Transwestern's pipeline, to which the

producer/gatherer has connected its pipeline to supply gas to the compression and related equipment. The tap was installed at the sole expense of the producer/gatherer, but is owned by Transwestern.

Any person desiring to be heard or to make any protest with reference to said petition and/or application should on or before April 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 application 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 Transwestern to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 84-7353 Filed 3-19-84; 8:45 am]

BILLING CODE 6717-01-M

## Office of Hearings and Appeals

### Cases Filed; Week of February 17 through February 24, 1984

During the Week of February 17 through February 24, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: March 8, 1984.

George B. Breznay,  
Director, Office of Hearings and Appeals.

### LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 17 through Feb. 24, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 22, 1984	Getty Oil Company, Washington, D.C.	HRR-0084	Request for Modification/Rescission if granted: The February 8, 1984 Decision and Order (Case No. HRR-0175) issued to Getty Oil Company would be modified regarding the Motion for Discovery submitted by Getty.
Feb. 22, 1984	Clyde E. Smith and Son, Inc., Washington, D.C.	HEE-0087	Exception to the Reporting Requirements if granted: Clyde E. Smith and Son, Inc. would not be required to file Form EIA-782B "Monthly Petroleum Product Sales Report."
Feb. 23, 1984	Petrolane, Inc., Washington, D.C.	HEG-0032	Petition for Special Redress if granted: The February 10, 1983 Proposed Decision and Order issued to Petrolane, Inc. (Case No. RF21-1) granting the firm's application in the Coline Gasoline Corporation refund proceeding would be issued as a final Decision and Order.
Feb. 23, 1984	Vickers/Zephyr, Inc., Washington, D.C.	RR1-4	Request for Modification/Rescission if granted: The April 18, 1983 Decision and Order (Case No. RF1-21) issued to Zephyr, Inc., would be modified regarding the firm's Application for Refund submitted in the Vickers refund proceeding.
Feb. 24, 1984	Bi-Petro Refining, Inc., Washington, D.C.	HRH-0025	Motion For Evidentiary Hearing if granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by Bi-Petro Refining Company, Inc. in response to the April 13, 1983 Proposed Remedial Order issued to the firm.



## REFUND APPLICATIONS RECEIVED

[Week of Feb. 17 to Feb. 24, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Feb. 22, 1984	Belridge/Wisconsin	RQ8-62
Feb. 6, 1984	Amoco/Leaseway Transportation Corporation	FR21-12283
Feb. 6, 1984	Amoco/Leaseway Transportation Corporation	FR21-12284
Feb. 23, 1984	Amoco/Felker's Standard Service	FR21-12285
Feb. 23, 1984	Amoco/Alabama	RQ21-63

[FR Doc. 84-7332 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

**Cases Filed; Week of February 24 through March 2, 1984**

During the Week of February 24 through March 2, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings

and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of

notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person or actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: March 8, 1984.

George B. Breznay,  
Director, Office of Hearings and Appeals.

## LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 24 through Mar. 2, 1984]

Date	Name and location of applicant	Case No.	Type of Submission
Feb. 27, 1984	Mid-Continent Systems, Inc., Washington, D.C.	HRD-0202, HRH-0202	Motions for Discovery and Evidentiary Hearing if granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Mid-Continent Systems, Inc. remand proceeding (Case No. HCX-0045) pursuant to the August 25, 1982 Order of the United States District Court for the Eastern District of Arkansas.
Feb. 29, 1984	U.S.A. Petroleum Company, Washington, D.C.	HES-0041	Request for Stay if granted: The distribution of funds from the Consent Order issued to U.S.A. Petroleum Company by the Economic Regulatory Administration would be stayed pending a final determination on U.S.A. Petroleum's Petition for Special Redress (Case No. HEG-0029).
Feb. 29, 1984	U.S. Department of the Interior, Washington, D.C.	HEE-0088	Exception from the crude oil producer certification rules if granted: The Department of Interior would receive an exception from certain certification requirements applicable to first sellers of crude oil as set forth in 10 C.F.R. Part 212 with respect to its sales of offshore crude oil.
Mar. 1, 1984	Howard L. Rosenberg, Silver Spring, MD	HFA-0211	Appeal of an Information Request Denial if granted: The February 24, 1984 Freedom of Information Request Denial issued by the DOE Office of Reference and Information Management would be rescinded, and Howard L. Rosenberg would receive a waiver of the fees for search and duplication of documents.
Mar. 2, 1984	Utex Oil Company, Washington, D.C.	HEE-0089	Price Exception if granted: Utex Oil Company would be permitted to sell the crude oil produced from the Wells 3-1, 5-1, and 29-1, located in Duchesne County, Utah at market prices for the period of July 1, 1975 through January 30, 1981.

## REFUND APPLICATIONS RECEIVED

[Week of Feb. 24 to Mar. 2, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Feb. 2, 1984	Belridge Oil Company/Georgia	RQ8-64
Mar. 1, 1984	Amoco/Nebraska	RQ21-65
Mar. 2, 1984	Amoco/Navajo Nation	RQ21-66
Mar. 1, 1984	Amoco/Capitol Rent-A-Truck, Inc.	RF21-12286

[FR Doc. 84-7331 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

**Issuance of Decisions and Orders; Week of January 23 through January 27, 1984**

During the week of January 23 through January 27, 1984, the decisions and orders summarized below were issued with respect to appeals and applications

for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

**Appeals**

Bassman and Mitchell, 1/27/84, HFA-0199

Bassman and Mitchell filed an Appeal from a partial denial by the Director, Office of Oil and Gas, Energy Information Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the determination by the Director was inadequate and that the case should be remanded to EIA for a redetermination or release of the requested material. Important



issues that were considered in the Decision and Order were (i) whether the material requested contained information exempt from mandatory public release under Exemption 4 and (ii) the sufficiency of the determining official's determination that the requested material meets the tests enunciated in *National Parks*.

*Subia Corporation of New Mexico*, 1/27/85, HFA-0203

Subia Corporation of New Mexico filed an Appeal from a partial denial by the Authorizing Official of the DOE's Albuquerque Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the portions of the documents under exemption 5 of the FOIA was proper. With respect to Exemption 5, the DOE found that the withheld material contained numerical scores used by the Evaluation Board during its bid selection process. As such, these scores reflect the opinions and recommendations of the Evaluation Board, were part of the deliberative process and therefore were properly withheld under Exemption 5. However, the DOE did determine that the Authorizing Official's justification for withholding information pursuant to Exemption 6 was inadequate. Accordingly, this information was remanded to the Authorizing Official who must either release the material or prepare a new determination that adequately justifies the withholding of this material.

#### Remedial Order

*Gulf Oil Corporation*, 1/27/84, HRO-0160, HRH-0162, HRD-0162

Gulf Oil Corporation objected to a Proposed Remedial Order which the Office of Special Counsel of ERA issued to the firm in 1981. In the Proposed Remedial Order, OSC found that Gulf improperly implemented the retro-tilt amendment to the refiner price regulations set forth in 10 CFR 212.83. On November 16, 1983, OSC filed a motion for withdrawal of the PRO. The DOE concluded that the Motion should be granted on the grounds that good cause existed for withdrawal as OSC requires more extensive development and analysis of the issues involved in the PRO.

#### Request for Exception

*Power Management, Inc.*, 1/24/84, BEE-1655

Power Management, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D in which the firm sought to retroactively recertify crude oil that it provided at prices in excess of ceiling price levels. In considering the request, the DOE found that the firm did not satisfy the standards for the approval of retroactive exception relief for the crude oil producing properties involved.

#### Supplemental Order

*Thriftway Company*, 1/27/84, HCX-0096

On October 18, 1983, the Federal Energy Regulatory Commission issued an Order to Thriftway Company, 25 FERC ¶ 61,122, which remanded to the Office of Hearings and Appeals an Order which the OHA issued on

March 11, 1982. That Order partially denied two requests for exception relief. *Thriftway Co.*, 9 DOE ¶ 81,021 (1982). The March 11, 1982 Order was remanded to afford OHA with the opportunity to consider Thriftway's position that its convenience food operations should be segregated from its petroleum marketing operations in OHA's analysis of the petroleum operations for purposes of considering the approval of exception relief from the Entitlements Program. On remand from the FERC, OHA found that it was neither appropriate nor possible to segregate the two operations, since the two business activities share the same facilities and have been consistently accounted for by Thriftway on a consolidated basis.

#### Implementation of Special Refund Procedures

*Office of Special Counsel: In the Matter of Conoco, Inc.*, 1/23/84, DFF-0003

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of a consent order which the DOE entered into with Continental Oil Company, commonly known as Conoco. The funds will be available to firms which purchased motor gasoline or No. 2 heating oil traceable to purchases by M&A Petroleum Company or Foremost Oil Company from Conoco during the consent order period. The two firms were first purchasers from Conoco who allegedly engaged in a scheme with Conoco which violated the applicable petroleum pricing regulations during the period March through November 1973. Applications for refund must be filed within 90 days of the publication of the decision in the Federal Register. Specific information regarding the information to be included in refund applications is discussed in the Decision.

#### Refund Applications

*Standard Oil Company (Indiana)/Anchor Distributors, Inc.*, 1/24/84, RF21-10119, RF21-10120, RF21-10121

The DOE issued a Decision and Order concerning 3 Applications for refund filed by Anchor Distributors, Inc., a wholesaler and retailer of Amoco motor gasoline, as well as a reseller of Amoco middle distillates. Anchor elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering the applications, the DOE concluded that the firm should receive a refund based upon the volume of its eligible Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total \$13,584.

*Standard Oil Company (Indiana)/Botsford Standard*, 1/24/84, RF21-3048

The DOE issued a Decision and Order concerning an Application for Refund filed by Botsford Standard, a retailer of Amoco motor gasoline. In its Application, Botsford applied for a refund on its motor gasoline purchases and elected to use the presumption methodology set forth in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In addition, Botsford requested an additional 40 percent of the volumetric amount on its total Amoco

motor gasoline purchases as a form of compensation for Amoco's termination of its Company Assistance Program Agreement. In terminating the Agreement, Amoco ceased paying Botsford a monthly fee to subsidize the station's utility costs. Botsford claimed that this was, in effect, a rent increase that was not permissible under the DOE regulations. The DOE denied Botsford's request for the additional 40 percent noting that the termination occurred prior to the imposition of federal price controls. In denying the request, the DOE also noted that the termination of the Agreement occurred before the beginning of the Amoco consent order period, and thus was not covered by the Amoco special refund proceeding. The retail refund granted under the presumption methodology totals \$2,193.

*Standard Oil Company (Indiana)/Highstreet Petroleum Coher Oil Co.*, 1/25/84, RF21-12194, RF21-12264, RF21-12265

The DOE issued a Decision and Order concerning 3 Applications for Refund filed by wholesalers of Amoco motor gasoline and resellers of Amoco middle distillates. The applicants elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering the applications, the DOE concluded that the applicants should receive a refund based upon the volume of their eligible Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total \$1,404.

*Standard Oil Company (Indiana)/Rock Creek Amoco*, 1/23/84, RF21-10672, RF21-10673

The DOE issued a Decision and Order concerning two Applications for Refund filed by Rock Creek Amoco, a retailer of Amoco motor gasoline and reseller of Amoco middle distillates. Rock Creek Amoco elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering the applications, the DOE concluded that the firm should receive a refund based upon the volume of its eligible Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total \$417.

*Standard Oil Company (Indiana)/State of Illinois*, 1/26/84, RF21-8750, RF21-12263

The DOE issued a Decision and Order concerning an Application for Refund filed by the State of Illinois as a Consumer of Amoco motor gasoline. Illinois elected to apply for a refund based upon the presumptions of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (Amoco). In considering the application, the DOE concluded that Illinois should receive a refund based upon the total volume of its eligible Amoco motor gasoline purchases. The refund granted in this proceeding is \$35,867.

*Standard Oil Company (Indiana)/State of Iowa*, 1/26/84, RF21-8349, RF21-8354, RF21-8355

The DOE issued a Decision and Order concerning three Applications for Refund filed by the State of Iowa as a consumer of



Amoco middle distillates and aviation gasoline. Iowa elected to apply for a refund based upon the presumptions of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (Amoco). In considering the application pertaining to middle distillate purchases, the DOE applied the Amoco presumption methodology and concluded that Iowa should receive a refund based upon the total volume of its eligible purchases. In analyzing the applications pertaining to aviation gasoline, which Iowa purchased from resellers, the DOE applied the presumption established in *Standard Oil Company (Indiana)/Bismarck Airport*, 11 DOE ¶ 85,201 (1983), and concluded that the resellers from whom Iowa purchased the product had absorbed 73 percent of any overcharges by Amoco. Accordingly, the DOE determined that Iowa, as the ultimate consumer of the product, was entitled to receive a refund based on 27 percent of its eligible purchase volumes. The refunds granted in this proceeding total \$4,340.

*Standard Oil Company (Indiana)/Sun Company, Inc.*, 1/25/84, RF21-10399, RF21-10400

The DOE issued a Decision and Order concerning two Applications for Refund filed by Sun Company, Inc., a wholesaler of Amoco motor gasoline and a reseller of Amoco middle distillates. Sun elected to apply for a refund based upon the presumptions of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (Amoco). In considering the applications, the DOE concluded that the firm should receive a refund based upon the total volume of its eligible Amoco motor gasoline and middle distillate purchases. The refund granted in this proceeding is \$1,019.

*Standard Oil Company (Indiana)/Van's Rowboats*, 1/26/84, RF21-7373, RF21-7374

The DOE issued a Decision and Order concerning Applications for Refund filed by Van's Rowboats as a consumer and a retailer of Amoco motor gasoline. Van Rowboats elected to apply for a refund based upon the presumptions of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (Amoco). In considering the applications, the DOE concluded that Van's Rowboats should receive a refund based upon the total volume of its eligible Amoco motor gasoline purchases. The refund granted in this proceeding is \$82.

#### Dismissals

The following submissions were dismissed:

Name	Case No.
Bessen Oil Co	RF21-9309
Do	RF21-9310
City of Madison	RF21-8640
Ecol, Inc	RF21-11509
Ergon, Inc	HER-0056
F. J. Janoski Petroleum Co.	RF21-9107
Do	RF21-9108
Friendly Service Station	RF21-10762
Louis J. Leblanc	RF21-10115

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: March 7, 1984.

George B. Briznay,  
Director, Office of Hearings and Appeals.

[FR Doc. 84-7320 Filed 3-19-84; 8:45 am]

BILLING CODE 6450-01-M

#### Industry Advisory Board; Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (EPCA), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) of the International Energy Agency (IEA) is scheduled to be held on March 21, 1984, at the Chateau de la Muette, 2 rue Andre Pascal, Paris 16, France, beginning at 9:45 a.m., to permit attendance by representatives of members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ). The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be adopted:

1. Adoption of the Draft Agenda.
2. Summary of the 46th Meeting.
3. Oil Supply and Demand:
  - (a) End February Assessment;
  - (b) Quarterly Oil Forecast; and
  - (c) Base period Final Consumption.
4. Emergency Preparedness:
  - (a) U.S. Antitrust; and
  - (b) Emergency Response Programs:
    - United States
    - Germany
    - Italy
    - the Netherlands
    - Sweden
5. AST-5Data Test.
6. Any other business.
7. Date of the next meeting.

Notice of this meeting is given, conditioned upon the approval by the President, prior to the meeting, of an extension of section 252 of EPCA, which passed both Houses of Congress on March 15.

As permitted by section 5(c)(2) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, the Secretary of Energy

has approved the submission of the notice of this revised agenda item, less than 14 calendar days in advance of the date of the meeting.

In addition, as permitted by 10 CFR § 209.32, the usual 7-day period for publication of notices of meetings in the *Federal Register* has been shortened because of recent Congressional action to extend section 252 of EPCA.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., March 16, 1984.

Craig S. Bamberger,  
Assistant General Counsel International Trade & Emergency Preparedness.

[FR Doc. 84-7057 Filed 3-19-84; 11:54 am]

BILLING CODE 6450-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-2546-5]

#### Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the *Federal Register* a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for reviews. The information collection requests listed are available to the public for review and comment.

**FOR FURTHER INFORMATION CONTACT:** David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

#### SUPPLEMENTARY INFORMATION:

##### Water Programs

The following are renewals of existing activities. No revisions are being proposed.

- Title: POTW Pretreatment Compliance Schedule Progress Report (EPA 0146).

**Abstract:** A publicly owned treatment works required to develop a pretreatment program reports to the approval authority (EPA or State agency) on the status of its required program development activities. The approval authority determines whether



progress is satisfactory or if remedial action is necessary.

Respondents: Publicly owned treatment works.

• Title: Industrial User Compliance Attainment Report (EPA 0149)

Abstract: An industrial user of a publicly owned treatment works (POTW) must report to the control authority (POTW, EPA Regional office or State agency) on its compliance with the applicable categorical standard. The control authority uses the report, along with other information, to determine compliance and to decide if enforcement action is necessary.

Respondents: Businesses.

#### Contracts Programs

• Title: Notice of Rights in Data and Contract Requirements for Delivery of Additional Data (EPA 1168).

Abstract: Contractors identify what information required by an EPA contract embodies trade secrets or is commercial/financial and confidential/privileged. Respondents provide additional information as the Agency needs it during the contract performance or within three years after EPA acceptance of all contract deliverables. The Agency will use the information to determine its rights to use and disclose the data.

Respondents: Current/former EPA contractors and those submitting bids.

#### Agency PRA Clearance Requests Completed by OMB

EPA 0262, RCRA Hazardous Waste Permit Application, Part A, was approved February 24 (OMB #2000-0061).

EPA 0293, Application for Certification of Pollution Control Facilities, was approved February 26 (OMB #2020-0001).

EPA 0559, Applications for Reference and Equivalent Methods Determinations, was approved February 26 (OMB #2080-0005).

EPA 0947, Reporting and Recordkeeping and Financial Requirements, Subpart B, was approved February 24 (OMB #2000-0445).

EPA 1055, NSPS for Kraft Pulp Mills, was approved February 26 (OMB #2060-0021).

EPA 1085, NSPS for SOCM Distillation, was approved February 15 (OMB #2060-0055).

EPA 1131, NSPS for Glass Manufacturing Plants, was approved February 15 (OMB #2060-0054).

EPA 1159, Solid Waste Management of Primary Smelters-Refineries, was approved February 22 (OMB #2050-0027).

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S.

Environmental Protection Agency,  
Office of Standards and Regulations,  
401 M Street, SW., Washington, D.C.  
20460, and

Wayne Leiss, Carlos Tellez or Rick Otis,  
Office of Management and Budget,  
Office of Information and Regulatory  
Affairs, New Executive Office  
Building (Room 3228), 726 Jackson  
Place, NW., Washington, D.C. 20503

Dated: March 14, 1984.

Daniel J. Fiorino,

Acting Director Regulation and Information  
Management Division.

[FR Doc. 84-7249 Filed 3-19-84; 8:45 am]

BILLING CODE 6560-50-M

#### [WH-FRL-2546-7]

#### Clean Water; Paragraph 4(c) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under the terms of Paragraph 4(c) of the Clean Water Act Toxics Consent Decree, EPA is required to establish and implement a program to identify and study pollutants, other than the Clean Water Act section 307 toxic pollutants that are introduced into publicly owned treatment works and are not compatible with these works. EPA was to develop a list of these compounds and then undertake regulatory action for these pollutants. This notice announces the availability of report which summarizes the work that has been accomplished under the Paragraph 4(c) Program and presents the results of that work.

ADDRESSES: Copies of the Summary Report may be obtained by writing to the Document Control Officer—4(c) Summary Report, Effluent Guidelines Division (WH-552), 401 M St. SW., Washington, DC 20460. Copies of the report will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library) 401 M St., SW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Richard E. Williams, (202) 382-7186.

Dated: March 13, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-7426 Filed 2-19-84; 8:45 am]

BILLING CODE 6560-50-M

#### [FRL-2546-6]

#### Science Advisory Board; Subcommittee on Risk Assessment for Radionuclides; Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Science Advisory Board's Subcommittee on Risk Assessment for Radionuclides to be held April 9-10, 1984 in Room 1112 Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting will begin at 9:00 a.m. on April 9 and adjourn at approximately 12:00 p.m. on April 10.

This is the fourth meeting of the Subcommittee. The primary topic on the agenda is to allow Subcommittee members to continue to develop a draft report that addresses the key scientific issues associated with the assessment of human health risk from radionuclides. A list of these issues was previously published in the Federal Register on January 13, 1984 on pages 1788-1789.

The Subcommittee plans to hold the meeting in executive session unless there are specific requests from the public for the presentation of technical statements or unless there are additional briefings from Environmental Protection Agency staff. Any member of the public wishing to present information or make a technical statement to the Subcommittee should contact Dr. Terry F. Yosie, Director, Science Advisory Board before close of business, April 2, 1984.

Dated: March 14, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84-7425 Filed 3-19-84; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL HOME LOAN BANK BOARD

#### Empire Savings & Loan Association, Mesquite, Tex.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Empire Savings and Loan Association, Mesquite, Texas, on March 14, 1984.

Dated: March 14, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84-7460 Filed 3-19-84; 8:45 am]

BILLING CODE 6720-01-M



**FEDERAL MARITIME COMMISSION****Agreements Filed**

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 2846-54.

Title: West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference.

**Parties:**

Atlanttrafik Express Service  
Spanish Line  
Constellation Lines, S.A.  
Costa Line  
Egyptian Navigation Co., Ltd.  
Farrell Lines, Inc.  
Italia S. p. A.N.  
Jugolinija  
Nedlloyd Lines  
Sea-Land Service, Inc.  
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would provide for conference U.S. and Continental European intermodal authority, and would also authorize a right of independent action on 30 days' notice.

Filing Party: Warren L. Lewis, Esquire, Billig, Sher & Jones, 2033 K Street, NW., Suite 300, Washington, D.C. 20006.

Agreement No.: 5200-47.

Title: Pacific Coast European Conference.

**Parties:**

Blue Star Line, Ltd.  
Compagnie Generale Maritime  
D'Amico Societa de Navigazione Per Azioni

The East Asiatic Co., Ltd.  
Hapag-Lloyd AG  
Intercontinental Transport (ICT) B.V.  
Italian Line  
Johnson Line AB  
United Yugoslav Line  
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would extend for one year until May 25, 1985, the special independent action provisions relating to area groups.

Filing Party: David C. Nolan, Esquire, Graham & James, One Maritime Plaza, San Francisco, California 94111.

Agreement No.: 5660-37

Title: Marseilles/North Atlantic U.S.A. Freight Conference.

**Parties:**

Nedlloyd Lines  
Sea-Land Service, Inc.  
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would provide for conference U.S. intermodal authority, and would also authorize a right of independent action on 30 days' notice.

Filing Party: Warren L. Lewis, Esquire, Billig, Sher & Jones, 2033 K Street NW., Suite 300, Washington, D.C. 20006.

Agreement No.: 9615-38.

Title: Iberian/U.S. North Atlantic Westbound Freight Conference.

**Parties:**

Atlanttrafik Express Service  
Spanish Line  
Costa Line  
Egyptian Navigation Co.  
Farrell Lines, Inc.  
Hapag Lloyd AG  
Italia S. p. A.N.  
Nedlloyd Lines  
Sea-Land Service, Inc.  
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would provide for conference U.S. intermodal authority, and would also authorize a right of independent action on 30 days' notice.

Filing Party: Warren L. Lewis, Esquire, Billig, Sher & Jones, 2033 K Street, NW., Suite 300, Washington, D.C. 20006.

Agreement No.: 10045-11.

Title: South Atlantic & Gulf-Panama & Costa Rica Rate Agreement.

**Parties:**

Coordinated Caribbean Transport, Inc.  
Concorde/Nopal Lines  
Seaboard Marine, Ltd.  
Sea-Land Service, Inc.

Synopsis: The proposed amendment would alter the geographic scope of the agreement to include all Atlantic Coast ports, ports in Puerto Rico and the U.S. Virgin Islands and ports and points in Nicaragua. In addition the amendment would authorize the parties to establish

uniform levels of freight forwarder compensation and brokerage and further clarify existing authority with respect to the establishment of proportional rates.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Agreement No.: 10105-9.

Title: South Atlantic & Gulf-El Salvador/Guatemala/Honduras Rate Agreement.

**Parties:**

Coordinated Caribbean Transport, Inc.  
Concorde/Nopal Lines  
Seaboard Marine, Ltd.  
Sea-Land Service, Inc.

Synopsis: The proposed amendment would alter the geographic scope of the agreement to include all Atlantic Coast ports, ports in Puerto Rico and the U.S. Virgin Islands. In addition the amendment would authorize the parties to establish uniform levels of freight forwarder compensation and brokerage and further clarify existing authority with respect to the establishment of proportional rates.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

By Order of the Federal Maritime Commission.

Dated: March 14, 1984.

Francis C. Hurney,  
Secretary.

[FR Doc. 84-7385 Filed 3-19-84; 8:45 am]

BILLING CODE 6730-01-M

**[Independent Ocean Freight Forwarder License No. 2605]****Garrison International Trade Services, Inc.; Order of Revocation**

On March 12, 1984, Garrison International Trade Services, Inc., P.O. Box 61588, DFW Airport, Texas 75261 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2605.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 2605, be revoked effective March 12, 1984.

It is further ordered, that a copy of this Order be published in the Federal



Register and served on Garrison International Trade Services, Inc.  
Robert G. Drew,  
Director, Bureau of Tariffs.

[FR Doc. 84-7381 Filed 3-19-84; 8:45 am]  
BILLING CODE 6730-01-M

**[Independent Ocean Freight Forwarder License No. 2222]**

**Murphy Worldwide Transportation Services, Inc.; Order of Revocation**

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond of file.

The bond issued in favor of Murphy Worldwide Transportation Services, Inc., 3434 State Road, Bensalem, PA 19020 was cancelled effective February 29, 1984.

By letter dated January 19, 1984, Murphy Worldwide Transportation Services, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2222 would be automatically revoked unless a valid surety bond was filed with the Commission.

Murphy Worldwide Transportation Services, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2222 be and is hereby revoked effective February 29, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 2222 issued to Murphy Worldwide Transportation Services, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Murphy Worldwide Transportation Services, Inc.  
Robert G. Drew,  
Director, Bureau of Tariffs.

[FR Doc. 84-7382 Filed 3-19-84; 8:45 am]  
BILLING CODE 6730-01-M

**Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation, Premier Cruise Lines, Ltd.; Issuance of Certificate (Performance)**

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540); Premier Cruise Lines, Ltd., 101 George King Blvd., Port Canaveral, Cape Canaveral, Florida 32920.

Dated: March 15, 1984.  
Francis C. Hurney,  
Secretary.

[FR Doc. 84-7380 Filed 3-19-84; 8:45 am]  
BILLING CODE 6730-01-M

**[Independent Ocean Freight Forwarder License No. 2295]**

**Louis A. Segarra d.b.a. AAA Customs Brokers; Order of Revocation**

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Louis A. Segarra d.b.a. AAA Customs Brokers, P.O. Box 810, Old San Juan, PR 00902 was cancelled effective February 25, 1984.

By letter dated January 30, 1984, Louis A. Segarra d.b.a. AAA Customs Brokers was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2295 would be automatically revoked unless a valid surety bond was filed with the Commission.

Louis A. Segarra d.b.a. AAA Customs Brokers has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Freight Forwarder License No. 2295 be and is hereby revoked effective February 25, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 2295

issued to Louis A. Segarra d.b.a. AAA Customs Brokers be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Louis A. Segarra d.b.a. AAA Customs Brokers.  
Robert G. Drew,  
Director, Bureau of Tariffs.

[FR Doc. 84-7383 Filed 3-19-84; 8:45 am]  
BILLING CODE 6730-01-M

**[Independent Ocean Freight Forwarder License No. 2600]**

**Southeast Forwarders, Inc.; Order of Revocation**

On March 12, 1984, Southeast Forwarders, Inc., 2719 N.W. 91st Street, Miami, FL 33147 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2600.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 2600, be revoked effective March 12, 1984 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 2600 issued to Southeast Forwarders, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Southeast Forwarders Inc.

Robert G. Drew,  
Director, Bureau of Tariffs.

[FR Doc. 84-7384 Filed 3-19-84; 8:45 am]  
BILLING CODE 6730-01-M

**FEDERAL RESERVE SYSTEM**

**Federal Open Market Committee; Domestic Policy Directive of December 19-20, 1983**

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Policy Directive issued at its meeting held on December 19-20, 1983.<sup>1</sup>

<sup>1</sup> The Record of policy actions of the Committee for the meeting of December 19-20, 1983, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.



The following domestic policy directive was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggests that real GNP has grown at a relatively rapid pace in the current quarter, although the rate of expansion appears to have moderated since the spring and summer. In November, industrial production and nonfarm payroll employment increased appreciably further and the civilian unemployment rate declined 0.4 percentage point to 8.4 percent. Retail sales rose substantially in November following sizable gains in September and October. Housing starts increased in November to a level close to their third-quarter average. Recent data indicate continuing expansion in business capital spending. Producer prices were little changed on average in October and November, and consumer prices continued to increase in October at about the same pace as in other recent months. The index of average hourly earnings changed little in November after rising somewhat faster in September and October than in previous months; over the first eleven months of the year the index has risen more slowly than in 1982.

The foreign exchange value of the dollar has risen considerably further since mid-November against a trade-weighted average of major foreign currencies. In October the U.S. foreign trade deficit was markedly higher than in the third quarter, reflecting a sharp rise in imports.

After slowing substantially over the summer months, growth in  $M_2$  and  $M_3$  strengthened in October and November.  $M_1$  continued to grow at a sluggish pace in November but increased substantially in early December. Through November,  $M_2$  was at a level in the lower portion of the Committee's range for 1983,  $M_3$  was close to the upper limit of its range, and  $M_1$  was near the lower end of the Committee's monitoring range for the second half of the year. Most interest rates have risen somewhat since mid-November.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in July the Committee reconsidered the growth ranges for monetary and credit aggregates established earlier for 1983 in furtherance of these objectives and set tentative ranges for 1984. The Committee recognized that the relationships between such ranges and

ultimate economic goals have become less predictable; that the impact of new deposit accounts on growth of monetary aggregates cannot be determined with a high degree of confidence; and that the availability of interest on large portions of transaction accounts may be reflected in some changes in the historical trends in velocity.

Against this background, the Committee at its July meeting reaffirmed the following growth ranges for the broader aggregates: for the period from February–March of 1983 to the fourth quarter of 1983, 7 to 10 percent at an annual rate for  $M_2$ ; and for the period from the fourth quarter of 1982 to the fourth quarter of 1983, 6½ to 9½ percent for  $M_3$ . The Committee also agreed on tentative growth ranges for the period from the fourth quarter of 1983 to the fourth quarter of 1984 of 6½ to 9½ percent for  $M_2$  and 6 to 9 percent for  $M_3$ . The Committee considered that growth of  $M_1$  in a range of 5 to 9 percent from the second quarter of 1983 to the fourth quarter of 1983, and in a range of 4 to 8 percent from the fourth quarter of 1983 to the fourth quarter of 1984, would be consistent with the ranges for the broader aggregates. The associated range for total domestic nonfinancial debt was reaffirmed at 8½ to 11½ percent for 1983 and tentatively set at 8 to 11 percent for 1984.

In implementing monetary policy, the Committee agreed that substantial weight would continue to be placed on the behavior of the broader monetary aggregates. The behavior of  $M_1$  and total domestic nonfinancial debt will be monitored, with the degree of weight placed on  $M_1$  over time dependent on evidence that velocity characteristics are resuming more predictable patterns. The Committee understood that policy implementation would involve continuing appraisal of the relationships between the various measures of money and credit and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

The Committee seeks in the short run to maintain at least the existing degree of reserve restraint. The action is expected to be associated with growth of  $M_2$  and  $M_3$  at annual rates of around 8 percent from November to March. The Committee anticipates that  $M_1$  growth at an annual rate of around 6 percent from November to March will be consistent with its objectives for the broader aggregates, and that expansion in total domestic nonfinancial debt would continue at around its recent pace. Depending on evidence about the continuing strength of economic recovery and other factors bearing on the business and inflation outlook,

somewhat greater restraint would be acceptable should the aggregates expand more rapidly. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By Order of the Federal Open Market Committee, February 15, 1984.

Stephen H. Axilrod,  
Secretary.

[FR Doc. 84-4713 Filed 3-19-84; 8:45 am]  
BILLING CODE 6210-01-M

## Agency Forms Under Review

March 14, 1984.

### Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the *Federal Register*, but occasionally the public interest requires more rapid action.

### List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the *Federal Register*. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no charge), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board



clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

**FOR FURTHER INFORMATION CONTACT:**

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829).

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

**Request for Approval To Implement a One-Time Survey**

1. Report title: One-time Survey of Futures and Options Markets

Agency form number: FR 3031

Frequency: One-time.

Reporters: Professional and public participants in futures and options markets

Small businesses are affected.

General description of report:

Respondent's obligation to reply is voluntary; a pledge of confidentiality is not promised.

Survey of individual and commercial traders to assess the proliferation and growth of new financially based futures and options markets to determine the economic implications and the need for Congressional action.

Board of Governors of the Federal Reserve System, March 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-7390 Filed 3-19-84; 8:45 am]

BILLING CODE 6210-01-M

**Citicorp; Application To Engage de Novo in Permissible Nonbanking Activities**

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The 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 on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 10, 1984.

**A. Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage directly or indirectly through various subsidiaries in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; industrial banking activities (including making consumer and commercial loans and accepting time and savings deposits); the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; the sale at retail of money orders, traveler checks and U.S. savings bonds; the sale at retail of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the originating, acquiring, and servicing, for its own account and for the account of others, of extensions of credit secured

by liens on residential or non-residential real estate, and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans.

Board of Governors of the Federal Reserve System, March 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-7391 Filed 3-19-84; 8:45 am]

BILLING CODE 6210-01-M

**First Bancorp, Inc.; Formation of a Bank Holding Co.**

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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 April 11, 1984.

**A. Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Bancorp, Inc.*, Mechanicsburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First Bank and Trust Company of Mechanicsburg, Pennsylvania, Mechanicsburg, Pennsylvania.

**B. Federal Reserve Bank of Richmond** (Fred L. Bagwell, Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Branch Corporation*, Wilson, North Carolina; to merge with Carolina Bancorp, Inc., Sanford, North Carolina, and thereby indirectly acquire The Carolina Bank, Sanford, North Carolina and Bank of Alamance, Graham, North Carolina.

2. *L.S.B. Bancshares, Inc.*, Lexington, South Carolina; to become a bank



holding company by acquiring 100 percent of The Lexington State Bank, Lexington, South Carolina.

**C. Federal Reserve Bank of Dallas**  
(Anthony J. Montelaro, Vice President)  
400 South Akard Street, Dallas, Texas 75222:

1. *Catahoula Holding Company*, New Orleans, Louisiana; to become a bank holding company by acquiring 87.7 percent of the voting shares of Catahoula Bank, Jonesville, Louisiana.

Board of Governors of the Federal Reserve System, March 14, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-7392 Filed 3-19-84; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

### Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Merrill Lynch & Co., Inc. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the *Federal Register*.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

#### *Transaction and Waiting Period Terminated Effective*

- (1) 84-0120—Merrill Lynch & Company, Incorporated's proposed acquisition of voting securities of AXIA Incorporated; February 27, 1984
- (2) 84-0126—Merrill Lynch & Company, Incorporated's proposed acquisition of voting securities of AXIA Incorporated; February 27, 1984
- (3) 84-0146—Energy Methods Corporation's proposed acquisition of voting securities of G. L. M. Oil and Gas Company, (Mr. George L. Miller, UPE); February 29, 1984
- (4) 83-1097—Tele-Communications, Incorporated's proposed acquisition of voting securities of CableScope,

Incorporated and assets of Cowless Media Company, UPE; February 29, 1984

- (5) 84-0113—Palmer G. Lewis Company, Incorporated's proposed acquisition of voting securities of Seattle Pacific Sales Company; February 29, 1984
- (6) 84-0114—Enterprise Products Company's of Mississippi proposed acquisition of voting securities of Enterprise Transportation Company, and assets of The Enterprise Companies, Incorporated, UPE; February 29, 1984
- (7) 84-0140—Tenneco, Incorporated's proposed acquisition of voting securities of GEO Oil and Gas Company of Houston, (Mr. George L. Miller, UPE); February 29, 1984
- (8) 84-0145—Tyco Laboratories, Incorporated's proposed acquisition of voting securities of Multi-Circuits, Incorporated, (Merrill J. Whiston, UPE); March 1, 1984
- (9) 84-0094—Pyro Energy Corporation's proposed acquisition of voting securities of Coal Systems, Incorporated, Kinlock Coals, Incorporated, Walker Machinery & Supply Company, Incorporated and Gateway Malls, Incorporated assets of Charles H. Raines, UPE; March 1, 1984
- (10) 84-0095—Pyro Energy Corporation's proposed acquisition of voting securities of Coal Systems, Incorporated, Kinlock Coals, Incorporated, Walker Machinery & Supply Company, Incorporated, and Gateway Malls, Incorporated, and assets of F. Ellis Taylor, UPE; March 1, 1984
- (11) 84-0125—Nestle S. A.'s proposed acquisition of voting securities of Warner Concepts Ltd, (Warner Communications, Incorporated, UPE); March 1, 1984
- (12) 84-0105—Martin D. Gruss' proposed acquisition of voting securities of Midlands Energy Company; March 2, 1984
- (13) 84-0135—The 1964 Simmons Trust's proposed acquisition of voting securities of The Amalgamated Sugar Company; March 2, 1984
- (14) 84-0157—Pizza Inn, Incorporated's proposed acquisition of voting securities of Branch Cheese Company, Incorporated; March 5, 1984
- (15) 84-0139—Philadelphia Industries, Incorporated's proposed acquisition of voting securities of Seligman & Latz, Incorporated; March 7, 1984
- (16) 84-0143—Nisshin Steel Company, Ltd.'s proposed acquisition of voting securities of Wheeling-Pittsburgh Steel Corporation; March 8, 1984
- (17) 84-0118—Vermont American Corporation's proposed acquisition of voting securities of R. M. Smith, Incorporated and R. M. Smith DISC, Incorporated, (Robert M. Smith and R. Dillion Smith, UPE's); March 8, 1984
- (18) 84-0131—DeSoto Incorporated's proposed acquisition of asset of Southland Paint Company, (H M K Industries, Incorporated, UPE); March 8, 1984
- (19) 84-0142—Societe Nationale Elf Aquitaine's proposed acquisition of voting securities of Dairyland Foods Laboratories, Incorporated; March 8, 1984

For further information contact: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D. C. 20580, (202) 523-3894.

By direction of the Commission.

**Benjamin I. Berman,**

*Acting Secretary.*

[FR Doc. 84-7396 Filed 3-19-84; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control

#### Annual Report: Availability of Filing

Notice is hereby given that pursuant to Section 13 of Public Law 92-463 (5 U.S.C. Appendix I), the fiscal year 1983 annual report for the following Federal advisory committee utilized by the Centers for Disease Control has been filed with the Library of Congress:

#### Safety and Occupational Health Study Section

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C. (telephone 202/287-6310). Additionally, on weekdays between 9:00 a.m. and 4:30 p.m. copies will be available for inspection at the Department of Health and Human Services, Department Library, HHS North Building, Room 1436, 300 Independence Avenue, SW., Washington, D.C. (telephone 202/245-6791).

Date: March 7, 1984.

**William C. Watson, Jr.,**

*Acting Director, Centers for Disease Control.*

[FR Doc. 84-7317 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-19-M

### Immunization Practices Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Dates: April 5-6, 1984.

Place: Conference Room 207, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open.



Contact Person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee, Centers for Disease Control (1-2047) 1600 Clifton Road, NE, Atlanta, Georgia 30333, TELEPHONES: FTS: 236-3751, Commercial: 404/329-3751.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will discuss several parts of the adult immunization statement; discuss formulation of statements on pneumococcal polysaccharide, influenza, rabies, and rubella vaccines; discuss screening of pregnant women for hepatitis B; and will consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: March 13, 1984.

William C. Watson, Jr.,  
Acting Director, CDC.

[FR Doc. 84-7463 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-18-M

## Food and Drug Administration

[Docket No. 82P-0252 and 82P-0353]

### Availability of Approved Variances for Laser-Aimed Firearms

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that variances from certain requirements of the performance standard for laser products have been approved by FDA's National Center for Devices and Radiological Health for specified firearm laser aiming products manufactured by two organizations. The products are intended to be mounted onto a customer-supplied weapon and, as an alignment device, will aid in improving aiming speed and accuracy.

**DATES:** The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information".

**ADDRESS:** The applications and all correspondence concerning the applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Glenn E. Conklin, National Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600

Fishers Lane, Rockville, MD 20857, 301-443-4874.

**SUPPLEMENTARY INFORMATION:** Under the provisions of § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), both of the organizations listed in the table below have been granted a variance from certain requirements of the performance standard for laser products § 1040.10 (21 CFR 1040.10). The products consist of a laser system built into a weapon to project an intense, collimated beam of red light downrange to align the weapon's point of aim with the intended target. Thus, the laser-aimed firearm is considered to be a surveying, leveling, and alignment laser product subject to all the applicable provisions of 21 CFR 1040.10 and 1040.11(b) including the power limit of 5 milliwatts.

The specific requirements of the standard for which the variances were granted pertain to the performance features of a remote control connector § 1040.10(f)(3), emission indicator § 1040.10(f)(5)(ii), or beam attenuator § 1040.10(f)(6). All other provisions of § 1040.10 remain applicable to the laser firearms.

Suitable means of radiation protection will be provided by conditions on the physical and optical design and on the labeling of the product. The laser system

incorporated into the laser-aimed firearm can be turned only by using a normally-off monetary switch; the actuation of this switch is significantly distinct but not necessarily physically separate from the trigger action of the weapon. In addition, labels and instructions provided to users of laser-aimed firearms, including servicing dealers and distributors, will include adequate information and instructions to assure that individuals who are untrained in the safe use of lasers can use the product safely.

The organizations granted the variances are to establish and maintain current records with respect to the radiation safety of the laser-aimed firearms, especially with regard to those sold to the general public. These records are to include copies of all written communications between the manufacturer and dealers, distributors, and purchasers concerning radiation safety, including complaints, investigations, instructions, or explanations affecting the use, repair, adjustment, maintenance, or testing of the listed product.

To associate the product with the variance granted to the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)), the docket number (which is the identifying number of the variance and the effective date of the variance as specified in the table below).

Docket No. & organization granted the variance	Laser product	Paragraph in 21 CFR 1040.10 pertaining to variance	Effective date/termination date
82P-0252 Power Technology Inc., 7925 Mabelvale Cutoff Mabelvale, Arkansas 72103.	PTI laser pistol sight assembly and PTI laser rifle sight assembly.	(f)(3), (f)(5)(ii), (f)(6).....	Jan. 19, 1983- Jan. 19, 1984.
82P-0353 Laser Arms Corp. P.O. Box 4647 Las Vegas, Nevada 89127.	Laser gun-sight model R-100.....	(f)(5)(ii) .....	Feb. 4, 1983- Feb. 4, 1984.

In accordance with § 1040.4, the applications and all correspondence (including the written notice of approval) on the various applications have been placed on public display in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-7355 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0077]

### Dental X-Ray Patient Selection Criteria Panel; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a

forthcoming meeting of the Dental X-Ray Patient Selection Criteria Panel. This is the second meeting of the Panel. The meeting is being called to continue the assessment of the existing state of knowledge regarding the use of dental radiography on the asymptomatic patient and to develop patient selection criteria for selected examinations.



**DATES:** Open sessions: April 4, 1984, 8:30 a.m. and 9 a.m. and April 5, 1984, 8:30 a.m. to 9 a.m.; closed sessions: April 4, 1984, 9:15 a.m. to 4:30 p.m. and April 5, 1984, 9:15 a.m. to 12 m.

**ADDRESS:** The Panel meeting will be held at the Twinbrook Bldg., Rm. T-400, 12720 Twinbrook Parkway, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Lireka P. Joseph, National Center for Devices and Radiological Health (HFZ-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4600.

**SUPPLEMENTARY INFORMATION:** Through the National Center for Devices and Radiological Health (NCDRH), FDA conducts and supports research and training to minimize unproductive radiation exposure from diagnostic radiological examinations. One possible source of unproductive radiation exposure is radiological examinations that are not likely to affect patient management. To reduce the use of ineffective examinations, it is important that the dentist have current information about when a given radiological study is likely to provide needed diagnostic information. This information can take the form of decision guidelines based on patient signs, symptoms, or history, sometimes known as "patient selection criteria."

Under one part of a program designed to facilitate the development and testing by the dental profession of patient selection criteria for diagnostic radiological examinations, FDA is providing logistical support for the convening of a small panel of clinical and scientific experts to formulate draft patient selection criteria or statements of use. A detailed description of the X-ray patient selection criteria development process was published in the Federal Register of June 9, 1981 (46 FR 30568).

Any interested person who wishes to request time for oral presentations during the open portion of the meeting or who would like to submit written comments to the Panel and is unable to attend open portions of the meeting should inform the contact person listed above, either orally or in writing, by March 23, 1984. Persons attending the meeting who did not request time for an oral presentation will be permitted to make a presentation at the conclusion of the open portion if time permits.

A list of committee members, the meeting agenda, and the summary of the previous Panel meeting may be reviewed at the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday. The

summary of the Panel meeting contains minutes of the open session and copies of written data and views submitted to the Panel in open session.

Dated: March 13, 1984.

William F. Randolph,  
*Acting Associate Commissioner for  
Regulatory Affairs.*

[FR Doc. 84-7354 Filed 3-15-84; 8:45 am]

BILLING CODE 4160-01-M

#### [Docket No. 84F-0048]

#### The Dow Chemical Co.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydroxypropyl methylcellulose in food with hydroxypropoxy and methoxy substitution ranges expanded from the ranges currently permitted.

**FOR FURTHER INFORMATION CONTACT:** James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4A3768) has been filed by The Dow Chemical Co., Midland, MI 48640, proposing that § 172.874 Hydroxypropyl methylcellulose (21 CFR 172.874) be amended in paragraph (a) to provide for the safe use of the additive in food with hydroxypropoxy and methoxy substitution ranges expanded from the ranges currently permitted.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: March 7, 1984.

Richard J. Ronk,  
*Acting Director, Bureau of Foods.*

[FR Doc. 84-7361 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0050]

#### ICI Americas, Inc.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that ICI Americas, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polysorbate 60 as an emulsifier in ice cream, frozen custard, ice milk, fruit sherbet, and nonstandardized frozen desserts.

**FOR FURTHER INFORMATION CONTACT:** Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4A3774) has been filed by ICI Americas, Inc., Wilmington, DE 19897, proposing that the food additive regulations be amended to provide for the safe use of polysorbate 60 (polyoxyethylene (20) sorbitan monostearate) as an emulsifier in ice cream, frozen custard, ice milk, fruit sherbet, and nonstandardized frozen desserts when used alone or in combination with polysorbate 65 and/or polysorbate 80.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: March 7, 1984.

Richard J. Ronk,  
*Acting Director, Bureau of Foods.*

[FR Doc. 84-7362 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-01-M

#### [Docket No. 84F-0054]

#### American Cyanamid Co.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that American Cyanamid Co. has filed a petition proposing that the food additive



regulations be amended to provide for the safe use of poly[(6-morpholino-8-triazine-2,4-diyl)[(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[2,2,6,6-tetramethyl-4-piperidyl]imino]] as a light stabilizer for polyolefins.

**FOR FURTHER INFORMATION CONTACT:** Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3780) has been filed by American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of poly[(6-morpholino-8-triazine-2,4-diyl)[(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a light stabilizer for polyolefins.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the *Federal Register* in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: March 7, 1984.

Richard J. Ronk,  
Acting Director, Bureau of Foods.

[FR Doc. 84-7359 Filed 3-19-84; 8:45 am]  
BILLING CODE 4160-01-M

[Docket Nos. 80P-0157 et al.]

#### Availability of Approved Variances for Laser Light Shows

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by the National Center for Devices and Radiological Health (NCDRH) for 10 organizations that manufacture and produce laser light shows, or the laser light show projector, or both the light show and projector. The projector provides a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

**DATES:** The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information."

**ADDRESS:** The applications and all correspondence on the various applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Glenn E. Conklin, National Center for

Devices and Radiological Health (HFZ-84), Food and Drug Administration, Rockville, MD 20857, 301-443-4874.

**SUPPLEMENTARY INFORMATION:** Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), each of the 10 organizations listed in the table below has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product which is the particular variety of laser light show, or laser light show projector, or both, assembled and produced by the manufacturer. Each of the shows has levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product. Suitable means of radiation protection are provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for personnel who will operate the products. To associate the product with the variance granted to the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) the docket number (which is the identifying number of the variance) and effective date of the variance as specified in the table below. By letter to each manufacturer, the Deputy Director of NCDRH approved the requested variances.

Docket No.	Manufacturing organization	Demonstration laser products	Effective date and termination date
80P-0157 (Amendment)	Image Engineering Corp., 10 Beacon Street, Somerville, Mass. 02143.	Laser light show assembled and produced by Image Engineering Corp. for the Goodyear Exhibit at the Association of the U.S. Army trade show in Wash., D.C., from the 15th through the 19th of October 1983.	Oct. 14, 1983- Oct. 20, 1983.
81P-0264 (Extension)	Laser World, Inc., P.O. Box 8021, Maitland, Fla. 32751.	Rainbow 3 AK projector.	Sept. 9, 1983- Sept. 9, 1985.
81P-0389 (Amendment)	Mrs. Nancy Gorgione d.b.a. Laser Affiliates/L.A.S.E.R., 973 Page Street, San Francisco, Calif. 94117.	Laser light shows using Class II, III, and/or IV helium/neon, argon, helium-cadmium and/or krypton lasers.	Sept. 9, 1985- June 16, 1983- Dec. 8, 1984.
83V-0151 (Amendment)	Precision Projection Systems, Inc., 11563 Radley Street, Artesia, Calif. 90701.	Laser light shows assembled and produced by Precision Projection Systems Inc., using certified Class IIIB or Class IV Laser Images CS Series or Mark IV Series laser projectors.	Oct. 24, 1983- Dec. 16, 1985.
83V-0204	Laser Optronics, P.O. Box 1776, 1044 North 800 East, Orem, Utah 84058.	Laser light shows assembled and produced by Laser Optronics using the Audio-Visual Imagineering AVI S400 laser projection system.	Sept. 27, 1983- Sept. 27, 1985.
83V-0209	Laser Light Entertainment Ltd., 3130 Ala Ilima St., No. 6A, Honolulu, Hawaii 96818.	Laser light shows using the Metatron Laser Arts Model ML 95-5K or the Laser Light Entertainment Model ML 600A.	Sept. 27, 1983- Sept. 27, 1985.
83V-0306	Williamette Science & Technology Center, 1331 West Broadway, Eugene, Oreg. 97402.	Williamette Science & Technology Center laser light show using argon & krypton ion lasers.	Sept. 26, 1983- Sept. 26, 1984.
83V-0307	Foursight Visual Systems, Inc., 37521 Larkin Ave., Palm-dale, Calif. 93550.	Foursight Visual Systems Model 118 laser projector and ion laser light shows assembled and produced by the firm. The projector may be sold or employed in the firm's laser light shows.	Sept. 15, 1983- Sept. 15, 1985.
83V-0322	Baumann LASCAN, Communication-Design, Sallerstr.-10, D-4000, Duesseldorf 11, West Germany.	Class IV Baumann LASCAN System—containerized laser projection system and laser light shows assembled and produced by Baumann LASCAN, Communication-Design.	Dec. 12, 1983- Dec. 12, 1985.
83V-0431	Laser Dynamics, Inc., 5020 S. Atlanta Rd., Suite 3, Atlanta, Ga. 30080.	Laser Media LMS 007 laser projector.	Jan. 3, 1984- Jan. 3, 1986.

In accordance with § 1010.4, the applications and all correspondence (including the written notice of approval) on the various applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.



Dated: March 13, 1984.

William F. Randolph,  
Acting Associate Commissioner  
for Regulatory Affairs.

[FR Doc. 84-7357 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0057]

# **Codex Standard for Unshelled Pistachio Nuts**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is publishing the Codex Standard for Unshelled Pistachio Nuts (Codex standard) developed by the Codex Alimentarius Commission and announcing that no U.S. standard will be established for unshelled pistachio nuts based on the Codex standard.

**FOR FURTHER INFORMATION CONTACT:** F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C Street SW., Washington DC 20204, 202-485-0107.

**SUPPLEMENTARY INFORMATION:** The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

The United States can accept some or all the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies by establishing a standard under the authority of section 401 of the act (21 U.S.C. 341), or by appropriately revising an existing standard to incorporate the Codex provisions within the U.S. standard. However, section 401 of the act states that, with certain stated exceptions that are not applicable here, no definition and standard of identity and no standard of quality shall be established for fresh or dried fruits for fresh or dried vegetables. Therefore, there are no U.S. standards for unshelled pistachio nuts.

Although no U.S. standard for unshelled pistachio nuts can be established, FDA is publishing the Codex standard (Codex standard 131-1981), as set forth below, in accordance with 21 CFR 130.6. Because FDA cannot establish a standard for unshelled pistachio nuts, no comments are solicited in response to this notice. The Codex Alimentarius Commission will be informed that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

The Codex standard for Unshelled Pistachio Nuts is as follows:

## **Codex Stan. 131-1981**

### **Codex Standard for Unshelled Pistachio Nuts**

(World-wide Standard)

#### **1. Scope.**

This standard applies to unshelled pistachios from varieties of *Pistacia vera* L. either in natural or in processed condition and which are offered for direct consumption. It also covers unshelled pistachios which are packed in bulk containers and which are intended for repacking in consumer size containers.

#### **2. Description.**

##### **2.1 Product Definition.**

Pistachios are the product obtained from mature seeds from the fruit of *Pistacia vera* L. which have been artificially sun-dried and naturally or mechanically opened. The product may be roasted, salted, and/or lime-juice treated.

##### **2.2 Varietal Type.**

Varietal types are classified as:

(a) Long pistachio.

(b) Round pistachio.

#### **2.3 Styles.**

The product shall be presented in one of the following styles:

(a) Raw pistachio.

(b) Roasted pistachio.

#### **2.4 Sub-styles.**

The product may be presented in one or more of the following sub-styles:

(a) Salted.

(b) Lime-juice treated.

#### **2.5 Size Classification (Optional)**

Pistachios may be designated as to size in accordance with the following Table:

Designation	No. of pistachios per 100 grams
Small	Over 106.
Medium	92 to 106.
Large	81 to 91.
Very Large	71 to 80.
Extra Large	Under 71.

### **3. Essential Composition and Quality Factors.**

#### **3.1 Raw Material.**

Clean, sound pistachios of a quality suitable for human consumption.

#### **3.2 Optional Ingredients.**

(a) Salt.

(b) Lime juice.

#### **3.3 Final Product.**

##### **3.3.1 Composition—Moisture Content.**

Maximum moisture content 7% m/m.

##### **3.3.2 Quality Factors—General Requirements.**

(a) Practically free from mould and mouldy or rancid taste.

(b) Free from living insects and mites.

(c) Practically free from foreign matter—anything other than pistachio (kernel, hard shell and pericarp)

##### **3.3.3 Definition of Defects.**

(a) *Closedness (unsplit)*—pistachio shells which are not split open, but contain a fully developed kernel;

(b) *Emptiness*—the condition of pistachio in which the kernel is not developed;

(c) *Unripeness (immaturity)*—the condition of pistachio in which the kernel has not developed adequately;

(d) *Insect damaged fruit*—fruit which is affected by insect damage or containing dead insects, mites, or other pests.

(e) *Mouldy fruit*—fruit which is affected by mould to a visible extent, or decay.

##### **3.3.4 Allowances for Defects.**



The maximum allowances by count for defects as defined in section 3.3.3 are as follows:

- Category 3.3.3(a)—5%
- Category 3.3.3(b)—5%
- Category 3.3.3(c)—8%
- Category 3.3.3(d)—4%
- Category 3.3.3(e)—1%

Total defects (a) to (e) shall not exceed 10%.

#### 3.4 Lot Acceptance.

A lot will be considered as meeting the quality criteria requirements of the standard when:

- (a) there is no evidence of live infestation; and
- (b) the sub-samples as taken in accordance with section 8.1.2 meet the general requirements for subsections 3.3.1 and 3.3.2 and do not exceed the allowances for the respective defects in sub-section 3.3.4.

#### 4. Food Additives.

No additives are permitted.

#### 5. Hygiene.

5.1. It is recommended that the product covered by the provisions of this standard be prepared and handled in accordance with the appropriate sections of the Recommended International Code of Hygienic Practice—General Principles of Food Hygiene (CAC/RCP 1-1969, Rev. 1) and the Recommended International Code of Hygienic Practice for Dried Fruits (CAC/RCP 3-1969).

5.2 To the extent possible in good manufacturing practice, the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product:

- (a) shall be free from microorganisms capable of development under normal conditions of storage; and
- (b) shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

#### 6. Weights and Measures.

Containers shall be as full as practicable without impairment of quality and shall be consistent with a proper declaration of contents for the product.

#### 7. Labeling.

In addition to sections 1, 2, 4 and 6 of the *General Standard for the Labeling of Prepackaged Foods* Ref. No. CODEX STAN. 1-1981 the following specific provisions apply:

##### 7.1 The Name of the Food.

7.1.1 The name of the product as declared on the label shall be "unshelled pistachio", "unshelled pistachio nuts" or "inshell pistachio nuts".

7.1.2 In addition, there shall appear on the label as part of the name or in

close proximity to the name the form of presentation as indicated below:

- (a) Raw.
- (b) Roasted.

7.1.3 The name of the product may include the varietal type as "long" or "round", and the sub-style as "salted", or "lime-juice treated" and the size designation as "small", "medium", "large", "very large" or "extra large".

##### 7.2 List of Ingredients.

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-sections 3.2(a) and 3.2(c) of the *General Standard for the Labeling of Prepackaged Foods* (Ref. No. CODEX STAN. 1-1981).

##### 7.3 Net Contents.

The net contents shall be declared by weight in either the metric system ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

##### 7.4 Name and Address.

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

##### 7.5 Country of Origin.

7.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

##### 7.6 Lot Identification.

Each container shall be permanently marked in code or in clear to identify the producing factory and the lot.

##### 7.7 Date Marking.

The date of minimum durability shall be declared using terms such as "best before" or "will keep at least until".

#### 8. Methods of Sampling, Analysis and Examination.

##### 8.1 Sampling.

###### 8.1.1 Gross Sampling.

Select at random not less than 2 individual packages per each 1,000 kg portion of the lot. From each individual package draw a sample of 150 g, and in any case, sufficient to obtain a gross sample of not less than 1,500 g. Where the product is packed in bulk containers select at random from various parts of the containers and per each portion of 1,000 kg of the lot, not less than two samples of 150 g. and in any case sufficient to obtain a gross sample of not less than 1,500 g. Use the gross sample for checking carefully for live infestation, mouldy pistachios and general cleanliness of the product prior

to its examination for compliance with other provisions of the standard.

##### 8.1.2 Sub-samples for Examination and Testing.

Mix the gross sample well and take small quantities at random from many different places as follows:

- (a) Moisture Test—50 g
- (b) General Requirements—500 g
- (c) Specific Defects—600 g

#### 8.2 Test Procedures.

##### 8.2.1 Moisture.

According to the AOAC (1975) method (Official Methods of Analysis of the AOAC, 1975, 22.013: Moisture in Dried Fruits(7)—Official Final Action or 27.005: Moisture in Nuts and Nut Products(3)—Official first action.

##### 8.2.2 Determination of Specific Defects.

See Annex I to this Standard.

(a) *Determination of Closedness*—See Annex I to this Standard.

(b) *Determination of Emptiness and Unripeness*—See Annex to this Standard.

(c) *Determination of Pest and Disease Damage*—See Annex I to this Standard.

##### 8.2.3 Size Classification.

(a) Weigh 500 g of the above pistachios, the foreign matter of which has been separated;

(b) count the number of pistachios;

(c) divide the number of pistachios counted in 500 g by 5 and match the result with the figures in 2.5 for size classification.

#### Annex I

##### Determination of Specific Defects

###### 1. Determination of Closedness.

(a) Weigh 500 g of the pistachios and count the number.

(b) Separate all the closed pistachios.

(c) Count the closed pistachios.

(d) Divide the number of closed pistachios by the number of pistachios in the sample to determine the percentage of closedness ( $\times 100$ ).

###### 2. Determination of Emptiness and Unripeness.

(a) Mix the closed pistachios with the rest of the weighed sample.

(b) Open all the pistachios in the sample. Count the empty ones and unripe ones separately.

(c) Divide the number of empty ones and unripe ones by the number of pistachios in the sample to determine the percentage of emptiness and unripeness ( $\times 100$ ).

###### 3. Determination of Pest and Disease Damage.

(a) Examine all the kernels of the above sample individually for pest and disease damaged kernels.

(b) Count the damaged kernels.



(c) Divide the number of pest and disease damaged pistachios by the number of pistachios in the sample to determine the percentage of pest and disease damaged pistachios ( $\times 100$ ).

Dated: March 7, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-7363 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0040]

### Union Carbide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Union Carbide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of glutaraldehyde as an antimicrobial agent in pigment and filler slurries used in the manufacture of paper and paperboard intended for use in contact with food.

**FOR FURTHER INFORMATION CONTACT:** Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3772) has been filed by Union Carbide Corp., Product Safety and Regulatory Services, Tarrytown Technical Center, Tarrytown, NY 10591, proposing that the food additive regulations be amended to provide for the safe use of glutaraldehyde as an antimicrobial agent in pigment and filler slurries used in the manufacture of paper and paperboard intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: March 7, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-7360 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-01-M

### Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

#### Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat, and Dental Devices Panel

**Date, time, and place.** April 16 and 17, 9 a.m., Auditorium, 200 Independence Avenue SW., Washington, DC.

**Type of meeting and contact person.** Open public hearing, April 16, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, April 17, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; George C. Murray, National Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

**General function of the committee.** The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

**Agenda—Open public hearing.** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 2 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

**Open committee discussion.** On April 16 the committee will discuss general

issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's) and neodymium:yttrium-aluminum-garnet (Nd:YAG) lasers, and may discuss specific PMA's for these devices. If discussion of all pertinent IOL or Nd:YAG laser issues is not completed, discussion will be continued the following day. On April 17, the committee will discuss PMA's for contact lenses and other ophthalmic devices. The committee will also discuss comments on the recent FDA reassessment analysis of the class III contact lens guidelines for determining whether revisions to the guidelines need to be made. Copies of the reassessment analysis and proposed revised guidelines may be obtained by notifying the contact person. Interested persons wishing to comment on the reassessment analysis and proposed revised guidelines should inform the contact person and reserve time on the agenda. Copies of the FDA reassessment analysis and proposed revised contact lens guidelines will be available for interested persons both days at the meeting.

**Closed committee deliberations.** On April 16, the committee will conduct reviews of PMA's and IOL's and Nd:YAG lasers. On April 17, the committee may discuss trade secret or confidential commercial information relevant to PMA's for contact lens or other ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.



Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation

of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs of devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: March 13, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-7356 Filed 6-19-84; 8:45 am]

BILLING CODE 4160-01-M

[FDA-225-75-8004]

#### Memorandum of Understanding Between the U.S. Department of Agriculture and the Department of Health and Human Services; Notice of Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Assistant Secretary for Health and the Acting Commissioner of Food and Drugs, Department of Health and Human Services (DHHS), have executed a memorandum of understanding with the Assistant Secretary, Marketing and Inspection Services, U.S. Department of Agriculture (USDA). The purpose of the agreement is to update a 1971 agreement delineating responsibilities of DHHS and USDA for food inspections during wartime emergencies.

**FOR FURTHER INFORMATION CONTACT:** Walter J. Kustka, Intergovernmental and

Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Health and the Acting Commissioner of Food and Drugs, DHHS, have executed a memorandum of understanding with the Assistant Secretary, Marketing and Inspection Services, USDA. The purpose of the agreement is to update a 1971 agreement delineating responsibilities of DHHS and USDA for food inspections during wartime emergencies. The agreement became effective December 13, 1983. A copy of the agreement is available from the contact person listed above.

This notice is published in accordance with § 20.108(c) (21 CFR 20.108(c)) of FDA's regulations on publication of agreements and memoranda of understanding between FDA and others.

Dated: March 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-7356 Filed 3-19-84; 8:45 am]

BILLING CODE 4160-01-M

#### Office of Human Development Services

#### Privacy Act of 1974; Notice of New System of Records

AGENCY: Office of Human Development Services (HDS), HHS.

ACTION: Notice of New System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974 (Pub. L. 93-579), as amended, the Office of Human Development Services is proposing to establish a new system of records, Records Maintained on Individuals for Program Evaluation Purposes Under Contracts, HHS, HDS No. 09-80-0100.

We have provided background information about the proposed system in the "SUPPLEMENTARY INFORMATION" section below. HDS invites public comments by April 19, 1984 on the proposed routine uses of the system.

**DATES:** HDS filed a report of a new system of records with the President of the Senate, the Speaker of the House of Representatives, and the Director, Office of Management and Budget (OMB) on March 14, 1984. The new system will become effective on May 13, 1984, unless HDS receives comments which would result in a contrary determination.



**ADDRESS:** The public should address comments to the HDS Privacy Act Coordinator at the address listed below. Comments received will be available for public inspection from 9 a.m. to 3 p.m., Monday through Friday at that address.

**FOR FURTHER INFORMATION CONTACT:**

Willie Etheridge, HDS Privacy Act Coordinator, Room 334-F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201. Telephone: (202) 245-2892.

**SUPPLEMENTARY INFORMATION:** HDS proposes to establish a new system of records containing data maintained on individuals under the authority of the various statutes governing HDS programs (See the paragraph on "Authority" in the system notice).

The evaluation studies under contract that will be performed will be for the purpose of evaluating the impact of an HDS administered program, service or activity on individuals who are recipients under HDS administered programs. These may include such programs as Head Start, Runaway Youth and Developmental Disabilities. Records to be maintained on individuals will include data such as names, addresses, occupations, professions, school or job performances, health status, test scores and other personal information needed to carry out contract evaluations.

Four routine uses are proposed for this system. The first routine use will allow for disclosure to contractors working on the evaluation projects. The second routine use will allow for disclosure to contractors engaged in program evaluation support activities such as processing and refining records. The third routine use will permit disclosure to a Congressional office to allow subject individuals to obtain assistance from their representatives in Congress, should they so desire. The fourth routine use will allow disclosure to the Department of Justice to defend the Federal Government, the Department, or employees of the Department in the event of any litigation (e.g., when an individual claims to have been harmed mentally, physically, or financially as a result of the evaluation activities supported by this system).

HDS will not create any comprehensive index identifying individuals included in the records for the different contracts. However, HDS will treat the records as a single system under the Privacy Act because: (1) all of the records will be for the purpose of evaluating the impact of an HDS administered program, service, or activity on individuals, and contain similar categories of data about the

individuals; (2) consistent policies and practices will be applied in the maintenance of the records; (3) maintaining the records under a single system will enable efficient management; and (4) a single system will facilitate the individuals' exercise of their rights of notification, access and amendment.

HDS contractors will maintain the proposed records system in a secure manner, compatible with the content and purpose of the system. Only individuals with a specified need to compile or use the information in performing the contract evaluation studies will have routine access to the records. The system manager will limit access by others to disclosures consistent with the Privacy Act.

Records will be kept in limited access areas which will be locked during off-duty hours. Information on individual identities will be kept separate from data used for analysis.

Access to computer files will be controlled through security codes known only to authorized users. Names and other information sufficient to enable easy identification of individuals will not be included in data files used for analysis. These files will be indexed by code numbers or symbols. Code numbers or symbols and complete identifying information on the individual will be linked only if there is a specific need, such as for data verification or follow up.

Contractors who maintain records in this system will be instructed not to disclose records except as authorized by the system manager. Contracts that include evaluation activities supported by this system will include explicit Privacy Act requirements.

The particular safeguards implemented in each project will be developed in accordance with 45 CFR Part 5b, Chapter 45-13, "Safeguarding Records Contained in Systems of Records" of the HHS General Administration Manual, and Part 6, "ADP Systems Security", of the HHS ADP Systems Manual and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

The proposed system of records will not become effective until 60 days after the date it was reported to OMB, as discussed above. However, the following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: March 13, 1984.

**Dorcas R. Hardy,**  
*Assistant Secretary for Human Development Services.*

09-80-0100

**SYSTEM NAME:**

Records Maintained on Individuals for Program Evaluation Purposes Under Contract, HHS, HDS.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATIONS:**

Hubert H. Humphrey Building, Room 306-E, 200 Independence Avenue, SW., Washington, D.C. 20201.

Independent contractors of HDS and collaborating Federal and State local government agencies.

Write to the system manager at the address below for the address of current locations.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons who are the subjects in various HDS program evaluation projects under contracts administered by HDS.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information about evaluation project participants including their identities, addresses, occupations, professions, school or job performances, health status, and test scores.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Authority is provided by Titles IV-B, IV-E and XX of the Social Security Act, as amended; Developmentally Disabled Assistance and Bill of Rights Act, Pub. L. 94-103 (1975), as amended; Native American Programs Act of 1974, Pub. L. 93-644, Title VIII, as amended; Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, Pub. L. 95-266; Head Start—Follow Through Act, Pub. L. 93-644 (1975), as amended; Runaway Youth Act, Pub. L. 93-415, Title III (1974); and Older Americans Act of 1965, Pub. L. 89-73, as amended.

**PURPOSE:**

To enable HDS to determine the effectiveness of certain programs it administers by having HDS contractors perform evaluation studies of various HDS programs.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

**DISCLOSURE MAY BE MADE TO:**

(1) HDS contractors in order to perform the program evaluation studies



for which the records are maintained. These contractors are required to comply with the requirements of the Privacy Act with respect to the records.

(2) HDS contractors engaged in program evaluation support activities such as collating, analyzing, aggregating or otherwise refining records in this system. These contractors will be required to comply with the requirements of the Privacy Act with respect to the records.

(3) A Congressional office from the record of an individual in response to an inquiry which the Congressional office makes at the request of that individual.

(4) In the event of litigation, where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM**

##### **STORAGE:**

File folders, microfilms, charts, graphs, computer tapes, disks, and punch cards.

##### **RETRIEVABILITY:**

By name, Social Security Number when supplied voluntarily in addition to some other alternative system of retrieval, or other identifying number or symbol.

##### **SAFEGUARDS:**

Measures to prevent unauthorized disclosures are required as appropriate for each contractor location and for the particular records maintained under each contract. Each contractor implements personnel, physical and procedural safeguards such as the following:

(1) *Authorized users:* Records maintained in this system are accessible to only contractors compiling or using the information necessary to perform the program evaluation activities for which the system is designed.

(2) *Physical safeguards:* Records are kept in limited access areas. Offices and

record storage locations are locked during off-duty hours. Input data for computer files is coded to preclude easy identification of individuals. Information on individual identities is kept separate from data used for analysis.

(3) *Procedural and Technical safeguards:* Access to manual files is available only to authorized personnel, as described above. Access to computer files is controlled through security codes known only to authorized users. Names and other information sufficient for easy identification of individuals are not included in data files used for analysis. These files are indexed by code number or symbols. Code numbers or symbols and complete identifying information in the individual are linked only if there is a specific need, such as for data verification and follow up.

Contractors maintaining records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in all contracts for program evaluation activities supported by this system. The system manager is the Director, Office of Policy Coordination and Review, HDS. HDS project officers responsible for overseeing performances of HDS contractors will also oversee compliance with these Privacy Act requirements.

The particular safeguards implemented at each site are developed in accordance with 45 CFR Part 5b, Chapter 45-13, "Safeguarding Records Contained in Systems of Records", of the HHS General Administration Manual, and Part 6 ADP Systems Security, of the HHS ADP Systems Manual and the National Bureau of Standards, Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

##### **RETENTION AND DISPOSAL:**

Contractors are to retain records as long as necessary to accomplish the purpose for which the records were kept. Disposal methods include erasing computer tapes and disks, burning hard copies, shredding or any other method which effectively obliterates that data contained in the records.

##### **SYSTEM MANAGER AND ADDRESS:**

Director, Office of Policy and Legislation, OHDS, Hubert H. Humphrey Building, Room 306-E, 200 Independence Avenue, SW., Washington, D.C. 20201.

##### **NOTIFICATION PROCEDURES:**

To determine if a file exists, write to the system manager and provide the following information:

a. System name: Records Maintained on Individuals for Program Evaluation Purposes Under Contracts, HHS, HDS;

b. The requester's complete name at the time of program participation;

c. Facility used by (if applicable), and home address of, the requester at the time of participation; and

d. In some cases, where records are retrieved by an identifying number, it may be necessary to provide that number. A requester may be asked to voluntarily disclose his or her Social Security Number (SSN) in which case statutory authority for SSN solicitations will be provided to the requester. The SSN will only be used to retrieve any records that may be retained on the requester. Should a requester refuse to disclose his or her SSN then the system will be designed to ensure that his or her records will still be retrievable by some alternative means.

The requester must also verify his or her identity by: Providing one piece of tangible identification (e.g., driver's license, passport, etc.); or submitting a notarized request; or providing a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Privacy Act, subject to a maximum fine of five thousand dollars.

A parent or guardian who requests notification of, or access to, the record of a minor or legal incompetent must verify his or her relationship to the minor or incompetent person in the manner prescribed by 45 CFR 5b.5(b)(2)(iii), in addition to verifying his or her own identity.

##### **RECORD ACCESS PROCEDURES:**

Write to the system manager and provide the same information as required under the notification procedures above. Requesters should also reasonably specify the record content being sought. Requesters may ask for a list of accounting of the disclosures which have been made of their records.

##### **CONTESTING RECORD PROCEDURES:**

Write to the system manager at the address specified above and reasonably identify the record and specify the information to be contested. State the corrective action and the reasons for the correction, and provide supporting justification to show that the record is



inaccurate, incomplete, irrelevant, untimely, or unnecessary. Refusals to correct a record may be appealed in writing to the Assistant Secretary for Human Development Services, pursuant to 45 CFR 5b.8(a)(iv).

#### RECORD SOURCE CATEGORIES:

The data contained in these records is furnished by the individual and third party contacts having specific knowledge about the individual that is needed to complete the program evaluation.

#### SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-7388 Filed 3-19-84; 8:45 am]

BILLING CODE 4130-01-M

#### Advisory Board on Child Abuse and Neglect; Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, of the meeting of the Advisory Board on Child Abuse and Neglect, April 23 and 24, 1984, at 9:00 a.m., Hubert H. Humphrey Building, Room 703-727A, Washington, D.C.

The Advisory Board on Child Abuse and Neglect was established by the Department of Health and Human Services to assist the Secretary in coordinating programs and activities related to child abuse and neglect planned, administered or assisted by the Federal agencies whose representatives are members of the Advisory Board.

At this meeting, the Advisory Board will discuss the status of the reauthorization of the Child Abuse and Neglect Legislation and possible new tasks for the Board relating to possible revisions to the legislation; program planning for Fiscal Year 1985 1985 child abuse and neglect discretionary activities and will meet jointly with the Child Abuse and Neglect State Liaison Officers on Tuesday, April 24 at 11:00, Hubert H. Humphrey Building, Room 503A-529A.

Further information on the Advisory Board meeting may be obtained from Ms. Arlene Taylor, National Center on Child Abuse and Neglect, Room 3838, Donohoe, Building, P.O. Box 1182, Washington, D.C. 20013. The telephone number is (202) 245-2840.

Advisory Board meetings are open for public observation.

Dated: March 14, 1984.

Philip Jarmack,  
HDS Committee Management Officer.

[FR Doc. 84-7422 Filed 3-19-84; 8:45 am]

BILLING CODE 4130-01-M

#### National Institutes of Health

##### Biotechnology Resources Review Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biotechnology Resources Review Committee, Division of Research Resources (DRR), April 9-10, 1984, Conference Room 2, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

This meeting will be open to the public April 9 from 9 a.m. to approximately 1 p.m. during which time there will be comments by the Director, DRR, an update on the Biotechnology Resources Program, a report on the National Science Foundation's Program on Advanced Scientific Computing Resources, and a discussion of the small grants program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 1 p.m. to approximately 5 p.m. on April 9 and from 8:30 a.m. to adjournment on April 10 for the review, discussion, and evaluation of individual research 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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-10, National Institutes of Health, Bethesda, MD 20205, telephone area code 301-496-5545, will provide summaries of meetings and rosters of committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B-41, National Institutes of Health, Bethesda, MD 20205, telephone area code 301-496-5411, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health)

Dated: March 12, 1984.

Betty J. Beveridge,  
National Institutes of Health Committee Management Officer.

[FR Doc. 84-7386 Filed 3-19-84; 8:45 am]

BILLING CODE 4140-01-M

#### National Digestive Diseases Advisory Board; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Digestive Disease Advisory Board on May 4, 1984, 8:30 a.m. to 4:00 p.m., at Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland 20205. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of current digestive diseases plan. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496-2232, will provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496-6917.

Dated: March 13, 1984.

Betty J. Beveridge,  
National Institutes of Health Management Officer.

[FR Doc. 84-7387 Filed 3-19-84; 8:45 am]

BILLING CODE 4140-01-M

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Office of the Secretary

[Docket No. N-84-1356]

##### Privacy Act of 1974; Proposed Amendment to System of Records

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Notice of proposed amendment to existing system of records.

**SUMMARY:** The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/DEPT-24, Investigation Files.

**EFFECTIVE DATE:** The amendment shall become effective without further notice in 30 calendar days (April 19, 1984) unless comments are received on or before that date which would result in a contrary determination.

**ADDRESS:** Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:** Arthur L. Stokes, Department Privacy



Act Officer, Telephone 202-744-5320.  
(This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The Department proposes to amend the Investigation Files System (HUD/DEPT-24). This system contains records concerning alleged irregularities in connection with HUD programs and includes initial complaints filed against subjects alleging violations, reports of investigation, findings of HUD officials, and recommendations and dispositions to be made. The proposed amendment results from plans for the partial automation of the name file indices maintained in OIG Headquarters. The name file indices have previously been maintained on 3" x 5" index cards and stored in Headquarters.

The system will be supplanted by automation, containing a name, file number, geographic location, and date entered on each file reference. This change will allow OIG Headquarters and all OIG Regional Offices to enter and retrieve the names of individuals/firms who have been the subject of an OIG audit, investigation, or complaint. To reflect the partial automation of the Investigation Files, this amendment adds the words, "and subject name," to the Retrieval section of the system description.

The system description is published below in its entirety, as amended. The prefatory statement containing General Routine Uses applicable to most of the Department's system of records was published at 46 FR 34322 (August 6, 1982). Appendix A, which lists the addresses of HUD's Field Offices, was published at 46 FR 34331 (August 6, 1982). Previously, the system was published at 46 FR 54885 (August 6, 1982).

(5 U.S.C. 552a, 88 Stat. 1896; Section 7(d) Department of HUD Act 42 U.S.C. 3535(d))

Issued at Washington, D.C., March 1, 1984.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

#### HUD/DEPT-24

#### SYSTEM NAME:

Investigation Files.

#### SYSTEM LOCATION:

Headquarters.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD program participants and HUD employees involved in matters under Office of Inspector General cognizance, and HUD investigators.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Manual Files contain information concerning investigation of alleged irregularities in connection with HUD programs and include initial complaints filed against subject alleging violations, reports of investigation, findings of HUD officials, and recommendations and dispositions to be made. Manual and automated files contain case file number, status and disposition, investigator name and number, and staff hour usage.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, Pub. L. 95-452.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Use paragraphs in prefatory statement. Other routine uses: To Department of Labor—for investigative research; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related personnel management functions or manpower studies. Files may also be used to respond to general request for statistical information (without personal identification of individuals) under the Freedom of Information Act, or to locate specific individuals for personnel research or other personnel management functions.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Paper records in file folders. The automated portion of the system is stored on magnetic tape/disc/drum.

##### RETRIEVABILITY:

Manual records can be retrieved by name, investigation file number, case number; manual records containing investigator time accounting information can be retrieved by investigator name and investigator number. Information in automated records can be retrieved by case file number, investigator name, investigator number, and subject name.

##### SAFEGUARDS:

Manual Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those persons whose official duties require access. Computer terminals are secured in controlled areas which are locked when unoccupied. Access to automated files is limited to authorized personnel who

must use a password system to gain access.

#### RETENTION AND DISPOSAL:

Records are primarily active; however, records are destroyed in conformance with Records Schedule 28 (Investigation Records), Appendix 28, HUD Handbook 2225.6.

#### SYSTEM MANAGER(S) AND ADDRESS:

Director, Administrative Support Staff, Office of the Inspector General, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

#### NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

#### RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

#### CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location, which is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

#### RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureau; financial institutions; corporations or firms; law enforcement agencies.

#### SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the agency regulations in order for the



Department's legal staff to perform its function properly.

[FR Doc. 84-7379 Filed 3-19-84; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. N-84-1359]

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal

should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

### Notice of Submission of Proposed Information to OMB

Proposal: Issuer's Monthly Accounting Reports

Office: Government National Mortgage Association

Form Number: HUD-11710A, B, C, D, and E

Frequency of Submission: On Occasion  
Affected Public: Businesses or Other For-Profit

Estimated Burden Hours: 1

Status: Extension

Contact: Patricia Gifford, HUD, (202) 755-5550  
Robert Neal, OMB, (202) 395-7316

**AUTHORITY:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 21, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84-7376 Filed 3-19-84; 8:45 am]

BILLING CODE 4210-02-M

[Docket No. N-84-1358]

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal described below for the collection of information to OMB for review, as

required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

### Notice of Submission of Proposed Information Collection to OMB

Proposal: Substantial Equivalency

Review Questionnaire

Office: Fair Housing and Equal Opportunity

Form Number: None

Frequency of Submission: On Occasion  
Affected Public: State or Local Governments

Estimated Burden Hours: 100

Status: Reinstatement

Contact: Steven J. Sacks, HUD, (202) 426-3500  
Robert Neal, OMB, (202) 395-7316

**AUTHORITY:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 9, 1984.

Dennis F. Geer,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84-7377 Filed 3-19-84; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-84-1357]

### Submission of Proposed Information Collections to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirements described below



have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

**ADDRESS:** Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposals; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

#### Notice of Submission of Proposed Information Collection to OMB

**Proposal:** Coinsured Mortgage Record Change.

**Office:** Administration.

**Form Number:** HUD-8084.

**Frequency of Submission:** On Occasion.

**Affected Public:** Businesses or Other For-Profit and Small Businesses or Organizations.

**Estimated Burden Hours:** 1,200.

**Status:** Reinstatement.

**Contact:** Curtis D. Myron, HUD, (202) 755-5816, Robert Neal, OMB, (202) 395-7316.

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Proposal:** Protection of Human Subjects in Research

**Office:** Policy Development and Research

**Form Number:** None

**Frequency of Submission:** Recordkeeping

**Affected Public:** Individuals and Households

**Estimated Burden Hours:** 2

**Status:** New

**Contact:** Arthur S. Newburg, HUD, (202) 755-5360, Robert Neal, OMB, (202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Proposal:** Definition of Income, Income Limits, Rent and Reexamination of Family Income for the Public and Indian Housing Programs

**Office:** Public and Indian Housing

**Form Number:** None

**Frequency of Submission:** On Occasion

**Affected Public:** State or Local Governments

**Estimated Burden Hours:** 280

**Status:** New

**Contact:** Edward Whipple, HUD, (202) 426-0744, Robert Neal, OMB, (202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Proposal:** Definition of Income, Income Limits, Rent and Reexamination of Family Income for the Section 8 Housing Assistance Payments Program

**Office:** Housing

**Form Number:** None

**Frequency of Submission:** On Occasion

**Affected Public:** State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions

**Estimated Burden Hours:** 606

**Status:** New

**Contact:** Susan Donahue, HUD, (202) 755-6870, Robert Neal, OMB, (202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Proposal:** Combination and Manufactured (Mobile) Home Lot Loans

**Office:** Housing

**Form Number:** None

**Frequency of Submission:** On Occasion

**Affected Public:** Individuals or Households

**Estimated Burden Hours:** 150

**Status:** New

**Contact:** James L. Anderson, HUD, (202) 755-6880, Robert Neal, OMB, (202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Proposal:** Hospital—Section 242

**Contractor's Requisition**

**Office:** Housing

**Form Number:** FHA-2448 (HOSP)

**Frequency of Submission:** Monthly

**Affected Public:** Businesses or Other For-Profit and Federal Agencies or Employees

**Estimated Burden Hours:** 336

**Status:** Extension

**Contact:** C. Edward Lewis, Jr., HUD, (202) 426-8730, Robert Neal, OMB, (202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Proposal:** Operating Budget and Supporting Schedules

**Office:** Public and Indian Housing

**Form Number:** HUD-52564, HUD-52566, HUD-52567, HUD-52571, and HUD-52573

**Frequency of Submission:** Annually

**Affected Public:** State or Local Governments and Non-Profit Institutions

**Estimated Burden Hours:** 360,000

**Status:** Extension

**Contact:** John T. Comerford, HUD, (202) 426-1872, Robert Neal, OMB, (202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Dated:** March 2, 1984.

**Dennis F. Geer,**

*Acting Director, Office of Information Policies and Systems.*

[FR Doc. 84-7378 Filed 3-19-84; 8:45 am]

**BILLING CODE 4210-01-M**



## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

Plan for the Use and Distribution of  
Kenaitze Indian Tribe Judgment Funds  
in Docket 595-77 Before the United  
States Court of Claims

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, required that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on April 5, 1982, in satisfaction of the award granted to the Kenaitze Indian Tribe in United States Court of Claims Docket 595-77. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated July 29, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on August 3, 1983, and by the Senate on August 4, 1983. The plan became effective on January 24, 1984, as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated on April 5, 1982, in satisfaction of a judgment granted to the Kenaitze Indian Tribe in Docket 595-77 by the United States Court of Claims, including all interest and investment income accrued, shall be used and distributed as herein provided.

As outlined in the tribal proposal adopted by the Tribal Council under Resolution No. 82-6 on March 16, 1982, a portion of the funds shall be utilized to pay off several loans acquired from the Kenai Natives Association and other expenses pertaining to the filing and prosecution of the tribe's claims in Docket 595-77 before the United States Court of Claims. The remaining funds shall be used for the general welfare of the tribe, subject to the approval of the Secretary of the Interior.

None of the funds made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita

shares in excess of \$2,000, any Federal or federally assisted programs."

Kenneth Smith,

*Assistant Secretary—Indian Affairs.*

[FR Doc. 84-7371 Filed 3-19-84; 8:45 am]

BILLING CODE 4310-02-M

## Bureau of Land Management

## New Mexico; Filing of Plat of Survey

March 12, 1984.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on March 12, 1984.

## New Mexico Principal Meridian.

A dependent resurvey of a portion of the New Mexico Principal Meridian, a portion of the north boundary, a portion of the south boundary, a portion of the subdivisional lines, the subdivision of sections 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 32, and 33, the dependent resurvey of certain boundaries of small holding claims, reestablishment of a portion of the meander lines of the Rio Grande, and survey of lots in section 32 and the survey of accreted lands and riparian surveys in sections 5, 6, 8, and 17 in Township 4 South, Range 1 East, NMPM, under Group 768 and was accepted February 29, 1984.

This survey was requested by the District Manager, Socorro, New Mexico.

The plat will be placed in the open files on the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of \$2.50 per sheet.

Gary S. Speight,

*Chief, Branch of Cadastral Survey.*

[FR Doc. 84-7319 Filed 3-19-84; 8:45 am]

BILLING CODE 4310-FB-M

## Bureau of Indian Affairs

Seneca-Cayuga Tribe of Oklahoma;  
Plan for the Use and Distribution of  
Seneca-Cayuga Tribe of Oklahoma  
Judgment Funds in Dockets 341-A,  
341-B and 343 Before the Indian  
Claims Commission

March 12, 1984.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and

submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on December 18, 1975, and June 16, 1978, in satisfaction of the awards granted to the Seneca-Cayuga Tribe in Indian Claims Commission Dockets 341-A, 341-B and 343. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated April 29, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives and by the Senate on May 9, 1983. The plan became effective on July 29, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated on December 18, 1975, and June 16, 1978, in accordance with section 1302 of the Supplemental Appropriation Act, 31 U.S.C. 724-A, in satisfaction of judgment granted to the Seneca-Cayuga Tribe of Oklahoma et al. in Dockets 341-A and 341-B and to the Cayuga Nation of Indians in Docket 343 by the Indian Claims Commission, less attorney fees and litigation expenses, including all interest and investment income accrued, shall be used and distributed as herein provided.

"The Secretary of the Interior (hereinafter 'Secretary') shall invest the funds pursuant to the Act of June 24, 1938, 25 U.S.C. 162a. The totality of the funds shall be immediately available to the Seneca-Cayuga Tribe of Oklahoma upon the presentation of a proposal from the General Council, subject to the approval of the Secretary, for their utilization.

"None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of \$2,000, any Federal or federally assisted programs."

John W. Fritz,

*Deputy Assistant Secretary—Indian Affairs.  
(Operations).*

[FR Doc. 84-7451 Filed 3-19-84; 8:45 am]

BILLING CODE 4310-02-M



**Bureau of Land Management**

**Alaska: Filing and Transfer of Mineral Patent Applications and Casefiles to the Anchorage and Fairbanks District Offices; Applications and Casefiles on Forest Service Administered Lands Retained at Alaska State Office**  
**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Filing and Transfer of Mineral Patent Applications and Casefiles to the Anchorage and Fairbanks District Offices; Applications and Casefiles on Forest Service Administered Lands Retained at Alaska State Office.

**SUMMARY:** The filing of mineral patent applications and location of all related casefiles for the Anchorage and Fairbanks land districts have been officially transferred to the appropriate office as follows:

Anchorage District Office, 4700 E. 72nd Avenue, Anchorage, Alaska 99507, (907) 267-1200

and  
 Fairbanks District Office, Ft. Wainwright, Building 33, P.O. Box 1150, Fairbanks, Alaska 99707, (907) 356-2025

Exception: On lands administered by the U.S. Department of Agriculture Forest Service, mineral patent applications are to be filed and casefiles located at: Alaska State Office, Public Service Room, 701 C Street, Box 13, Anchorage, Alaska 99513, (907) 271-5960.

**EFFECTIVE DATE:** March 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Kay Kletha, (907) 271-3791.

Curtis V. McVee,  
 State Director.

[FR Doc. 84-7385 Filed 3-19-84; 8:45 am]

**BILLING CODE 4310-JA-M**

**North Dakota: Call for Expressions of Coal Leasing Interest and Opportunity for Refinement of Previous Expressions of Leasing Interest for the Fort Union Coal Region**

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management is asking the public, industry, small businesses, public bodies and state and local governments to identify areas in North Dakota where there is interest in leasing federal coal. Refinements of previous expressions, with respect to the urgency of need and the timing of potential lease needs, and

additional small business expressions are particularly sought.

This call for expressions is a follow-up to the call issue in the Federal Register on January 12, 1984 (FR Vol. 49, No. 8, 1579), and is an additional opportunity for further expressions.

Responses to this Notice will be accepted for 30 days following the date of publication of this Notice. All information submitted in the expressions of interest shall be available for public inspection and copying upon request.

**ADDRESS:** Two copies of the expression of interest must be sent to the Bureau of Land Management State Director for Montana and the Dakotas: Michael Penfold, State Director (921), Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107.

**FOR FURTHER INFORMATION CONTACT:** Chuck Pettee, Bureau of Land Management, Gate City Building, 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58602 (telephone 701-225-9148).

**SUPPLEMENTARY INFORMATION:**

Following the call for expressions of leasing interest January 12, 1984, 10 expressions of interest in federal coal in North Dakota were received. Some expressions did not clearly indicate the company's urgency of need for the federal coal in which interest was expressed. This information is needed by the Regional Coal Team (RCT) in their deliberations on tract delineation and leasing level recommendations. At the Fort Union Regional Coal Team meeting of March 2, 1984, the RCT added as an additional preliminary tract ranking subfactor "leasing time frame for federal coal". Accordingly, those companies which did not clearly specify desired timing of leasing to meet those needs, are invited to supplement those previous expressions in response to this Notice. New expressions, particularly from small businesses, are also invited. An expression of interest is not an application for coal leasing. Information obtained as a result of this invitation will be used along with other information gathered by the BLM to delineate potential lease tracts that could be ranked, selected, and scheduled for inclusion into a lease sale, as described in 43 CFR 3420.5-1.

Expressing interest in a certain area does not guarantee that the area will be included in a potential lease tract. Among other things, thoroughness and completeness of an expression are determining factors in deciding whether or not to delineate a tract. Expressions of leasing interest should include the following data, where applicable:

1. Location:

a. Locate proposed mining project boundaries on a Fort Union coal interest map (available from the BLM Dickinson District).

b. If no location is indicated but other specific information is provided, the expression could still be considered.

2. Type of mine:

a. Surface or underground.

b. Technique of mining (i.e., longwall, shovel and truck, room and pillar, dragline).

3. Quantity and quality of coal needs including total tonnage, life of mine, average annual production rates, and the year mine production would begin.

4. Proposed use of coal:

a. Identify the likely market and location, or potential alternative locations for coal use including type and size of power plant and synthetic fuel plant, or other use both within and outside the Fort Union coal region.

5. Transportation and proposed routes to existing and proposed facilities (i.e., railroads, pipelines, and highways).

6. Information relating to mineral ownership:

a. Information on surface owner consents over federal coal previously granted (i.e., name of qualified surface owner, date of surface lease agreement, description of leased land, whether agreement is transferable and termination date of consent, etc.).

b. Commitments from fee coal owners or commitments for associated nonfederal coal.

7. A nonconfidential indication of the leasing time frame for the federal coal for which interest is expressed.

8. Contacts. List the name, address, and phone number of the person who may be contacted for clarification or additional information on the area of interest and end use information.

Coal deposit	Estimated in-place Federal coal	
	Acres	Million tons
<b>McKenzie-Williams MFP Area:</b>		
Williston .....	44,462	764.1
Hanks .....	42,620	645.2
Sand Creek .....	48,970	846.1
Tobacco Garden .....	10,980	92.4
Bennie Peor .....	2,037	32.0
<b>Totals .....</b>	<b>150,069</b>	<b>2,379.8</b>
<b>Southwest MFP Area:</b>		
Elgin-New Leipzig .....	14,360	156.6
Mott .....	41,060	477.6
New England .....	87,910	1,384.3
Bowman-Gascoyne .....	18,760	605.3
Dickinson .....	24,195	635.5
<b>Totals .....</b>	<b>186,285</b>	<b>3,259.3</b>
<b>West-Central MFP Area:</b>		
Dickinson .....	63,112	1,762.9
Dunn Center .....	41,550	1,095.6
Center-Stanton .....	12,975	363.3



Coal deposit	Estimated in-place Federal coal	
	Acres	Million tons
Hazen.....	3,200	60.1
Renner's Cove.....	10,025	289.5
North Beulah.....	2,838	59.6
Zap.....	2,084	32.8
South Beulah.....	7,849	178.6
Washburn.....	1,035	14.5
Underwood.....	1,430	27.5
Garrison.....	3,600	30.4
North Garrison.....	3,858	64.3
Totals.....	153,566	3,979.1
Grand totals.....	489,920	9,618.2

Information considered proprietary should not be submitted as part of this expression of leasing interest. If proprietary information is submitted, please include a signed release stating that the information can be made available for public inspection and copying upon request.

Dated: March 7, 1984.  
**Michael J. Penfold,**  
*State Director.*  
 [FR Doc. 84-7366 Filed 3-19-84; 8:45 am]  
**BILLING CODE 4310-DN-M**

### Realty Action, Competitive Sale of Public Land in Mariposa County, California

The following described land has been examined and through the development of land use planning decisions based on public input, resource considerations, regulations and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, (90 Stat. 2750; 43 U.S.C. 1713). Parcel 1 will be offered for sale June 4, 1984, at no less than the appraised fair market value. Parcels 2

through 12 will be offered for sale June 8, 1984, at no less than the appraised market value. The BLM solicits and will accept bids on these lands; and may accept or reject any and all bids, or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

If unsold, parcel 3 through 12 will remain available for sale over the counter on a first come, first serve basis until September 14, 1984. Parcels 3 through 12 failing to sell by September 14, 1984, will be offered in 1985 at a date to be determined.

If parcel 1 or 2 remains unsold, they will be re-offered September 14, 1984, through competitive bidding procedures. If still unsold, parcels 1 and 2 will be available over the counter on a first come, first serve basis until December 31, 1984.

Parcel No.	Serial No.	Legal Description	Acres	Fair market value	Bidding procedure
1	CA 14718	T. 4 S., R. 18 E., Sec. 22, Lot 4	4.03	\$8,000	Modified, competitive.
2	CA 14723	T. 4 S., R. 15 E., Sec. 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$	80	\$34,000	Modified, competitive.
3	CA 14724	T. 4 S., R. 16 E., Sec. 23, SE $\frac{1}{4}$ SW $\frac{1}{4}$	40	\$20,000	Competitive.
4	CA 14725	T. 4 S., R. 16 E., Sec. 15, SW $\frac{1}{4}$ NW $\frac{1}{4}$	40	\$17,000	Competitive.
5	CA 14726	T. 4 S., R. 16 E., Sec. 10, SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 15, E $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$	180	\$64,000	Competitive.
6	CA 14727	T. 4 S., R. 16 E., Sec. 10, Lot 4 and Lot 5	29.99	\$14,250	Competitive.
7	CA 14728	T. 4 S., R. 16 E., Sec. 9, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$	30	\$14,250	Competitive.
8	CA 15598	T. 4 S., R. 16 E., Sec. 9, SW $\frac{1}{4}$ NW $\frac{1}{4}$	40	\$17,000	Competitive.
9	CA 15600	T. 4 S., R. 16 E., Sec. 9, NW $\frac{1}{4}$ NE $\frac{1}{4}$	40	\$18,000	Competitive.
10	CA 15601	T. 4 S., R. 16 E., Sec. 4, SW $\frac{1}{4}$ SE $\frac{1}{4}$	40	\$18,000	Competitive.
11	CA 15602	T. 4 S., R. 16 E., Sec. 4, NE $\frac{1}{4}$ SW $\frac{1}{4}$	40	\$18,000	Competitive.
12	CA 15603	T. 4 S., R. 16 E., Sec. 4, NW $\frac{1}{4}$ SW $\frac{1}{4}$	40	\$18,000	Competitive.
Total			584.02		

#### *Sale terms and conditions are as follows:*

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).
2. All bidders must be United States citizens; Corporations must be authorized to own real property in the State of California; political subdivisions of the State and State instrumentalities must be authorized to hold property. Proof of meeting these requirements shall accompany bids.
3. A reservation for an existing road right-of-way (CA 9440) will be incorporated into the patent for parcel 1 (CA 14718).
4. A reservation for an existing transmission and electrical power line right-of-way (CA 6260) will be incorporated into the patent for parcel 5 (CA 14726).
5. A reservation for an existing electric line right-of-way (CA 8339) will be incorporated into the patents for

parcel 9 (CA 15600) and parcel 10 (CA 15601).

6. The successful bidder for parcels 3, 4, and 5 agrees to take the real estate subject to the existing grazing authorization No. 4149 and be bound by the terms and conditions of that authorization until it expires on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from the leasee in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.

7. Because of the size, shape and character of parcel 1, it is marginally suited for a homesite and may be best used for assemblage by one of the adjoining landowners. Therefore, a modified competitive bid procedure, whereby the adjacent landowners will be designated bidders with the right to meet the high bid will be utilized.

8. In order to avoid jeopardizing the existing use of adjacent land and the possible dislocation of those uses,

parcel 2 will be offered by modified competitive bid procedure. The number of people allowed to bid will be limited to only the adjacent landowners.

Upon publication of this notice in the **Federal Register** as provided in 43 CFR 2440.4, the above lands will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period of not to exceed two years, or until the lands are sold, whichever occurs first. The segregation effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two year period.

The above-described lands will be separately offered for sale by sealed bids. The sealed bids for parcels 2 through 12 will be opened at 10:00 a.m. on June 8, 1984, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. Sealed bids shall be considered only if received at the above



address prior to 10:00 a.m. on June 2, 1984. Each sealed bid shall be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior-BLM for not less than one-fifth of the bid. The sealed bid envelopes must be marked on the front lower left corner "Folsom Resource Area, June 1984, Land Sale, Parcel Number . . ." After opening all sealed bids, if two or more offer the identical amount for high bid, then a subsequent round of oral bids will determine the high bid among those qualified. The oral bidding, if needed, will be conducted by the authorized officer immediately following the opening of the sealed bids. The person declared to have entered the highest qualifying oral bid shall submit payment of not less than one-fifth of the bid in cash or as specified above, immediately following the close of the sale.

The successful bidder, whether such bid is a sealed or oral bid, shall submit the remainder of the full purchase price within 30 days of the sale date. Failure to submit the balance of the full bid within the above specified time limit shall result in cancellation of the sale and the deposit shall be forfeited. The next high bid will then be honored. Parcel No. 1 (CA 14718) will be offered according to the above procedure except the sealed bids will be opened at 10:00 a.m. on June 4, 1984.

It has been determined that the lands are without known mineral interests and a successful bid will constitute a simultaneous request for conveyance of the reserved mineral estate. As such, the successful high bidder will be required to deposit a \$50.00 nonreturnable filing fee for conveyance of the mineral estate plus the one-fifth of the bid as mentioned at the sale.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State

Director, this realty action will become a final determination.

Deane K. Swickard,  
Area Manager.

[FR Doc. 84-7364 Filed 3-19-84; 8:45 am]  
BILLING CODE 4310-DN-M

[NM 077260]

#### New Mexico; Proposed Withdrawal and Opportunity for Public Hearing

On February 19, 1984, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights:

##### New Mexico Principal Meridian

T. 29 N., R. 13 W.,  
Sec. 7, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

The area described contains 20.00 acres more or less in San Juan County, New Mexico.

The purpose of the withdrawal is to enlarge the existing withdrawal (PLO 2299) to allow for the construction of a larger administrative site, including an office building, warehouse, and warehouse.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management at P.O. Box 1449, Santa Fe, NM 87501.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501, within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public hearing will be held, a notice of the time and place will be published in the *Federal Register* at least 30 days before the scheduled date of the hearing.

For a period of 2 years from the date of publication of this notice in the *Federal Register*, the lands will be segregated as specified above unless the application is denied or canceled, or the

withdrawal is approved prior to that date.

The application will be processed in accordance with regulations set forth in 43 CFR Part 2300.

For further information in connection with this proposed withdrawal contact Charles W. Luscher, State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, NM 87501, (505) 988-6030.

Charles W. Luscher,  
State Director.

[FR Doc. 84-7432 Filed 3-19-84; 8:45 am]  
BILLING CODE 4310-FB-M

#### Minerals Management Service

##### Development Operations Coordination Document

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1022, Block 218, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

**DATE:** The subject DOCD was deemed submitted on March 12, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.



**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Joseph, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0867.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: March 12, 1984.

John L. Rankin,  
Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-7450 Filed 3-19-84; 8:45 am]

BILLING CODE 4310-MR-M

## National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 9, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 4, 1984.

Carol D. Shull,  
Chief of Registration, National Register.

## ARIZONA

### Navajo County

Homolovi I Ruin,

### Yuma County

Yuma, Lee Hotel (Yuma MRA), 390 Main St.  
Yuma, Masonic Temple (Yuma MRA), 153 S. Second Ave.

Yuma, San Carlos Hotel (Yuma MRA), 106 First St.

## CALIFORNIA

### Fresno County

Reedley, Reedley Opera House Complex, 10th and G Sts.

## CONNECTICUT

### New Haven County

New Haven, Chapel Street Historic District, Roughly bounded by Park, Chapel, Temple, George, and Crown Sts.

### New London County

East Lyme, Gorton, William, Farm, 14 West Lane

## GEORGIA

### Whitfield County

Dalton, Berry, Thomas A., House, 507 Hawthorne St.

## KENTUCKY

### Mason County

Pyles Site (15MS28),

## LOUISIANA

### East Baton Rouge Parish

Baton Rouge, Central Fire Station, 427 Laurel St.

### Pointe Coupee Parish

Oscar, Pleasant View Plantation House, LA 1

### St. Martin Parish

Breaux Bridge vic., Pellerin-Chauffee House, S of Breaux Bridge on LA 347

## MAINE

### York County

Limerick, Limerick Upper Village Historic District, ME5

## MICHIGAN

### Calhoun County

Battle Creek, Battle Creek City Hall, 103 E. Michigan Ave.

Marshall, Brooks, Harold C., House (Jabez S. Fitch House) (Boundary Increase), 310 N. Kalamazoo Ave.

### Lapeer County

Columbiaville, Detroit-Bay City Railroad Company Columbiaville Depot, 4643 First St.

## MISSISSIPPI

### Marshall County

Byhalia, Byhalia United Methodist Church (Johnson, Andrew, Architecture in North Mississippi TR), College Ave.

### Panola County

Batesville, Lee House (Johnson, Andrew, Architecture in North Mississippi TR), 201 Booth St.

Como, Craig-Seay House (Johnson, Andrew, Architecture in North Mississippi TR), Craig St.

Como, Popular Price Store (Johnson, Andrew, Architecture in North Mississippi TR), Railroad St.

Como, Tait-Taylor House (Johnson, Andrew, Architecture in North Mississippi TR), Oak Ave.

Como, Taylor-Falls House (Johnson, Andrew, Architecture in North Mississippi TR), Pointer Ave.

Como, Taylor-Mansker House (Johnson, Andrew, Architecture in North Mississippi TR), Railroad St.

Como, Wardlaw-Swango House (Johnson, Andrew, Architecture in North Mississippi TR), Railroad St.

Crenshaw, Crenshaw House (Johnson, Andrew, Architecture in North Mississippi TR), MS 310

Sardis, Ballentine-Bryant House (Johnson, Andrew, Architecture in North Mississippi TR), 506 Butler St.

Sardis, Ballentine-Seay House (Johnson, Andrew, Architecture in North Mississippi TR), Pocahontas St.

Sardis, Hall-Henderson House (Johnson, Andrew, Architecture in North Mississippi TR), Sycamore St.

Sardis, Hall-Roberson House (Johnson, Andrew, Architecture in North Mississippi TR), 510 S. Main St.

Sardis, Huff House (Johnson, Andrew, Architecture in North Mississippi TR), 117 Pocahontas St.

Sardis, Johnson-Tate Cottage (Johnson, Andrew, Architecture in North Mississippi TR), Stonewall St.

Sardis, Kyle-Spencer House (Johnson, Andrew, Architecture in North Mississippi TR), 18 McLaurine St.

Sardis, Taylor-Wall-Yancy House (Johnson, Andrew, Architecture in North Mississippi TR), 114 Sycamore St.

Sardis, Walton-Howry House (Johnson, Andrew, Architecture in North Mississippi TR), 308 S. Main St.

## Washington County

Greenville, Griffen-Spragins House, SW of Greenville off US 82

## Webster County

Mathiston, Wood Home for Boys, Horton St.

## MISSOURI

### Saline County

Marshall, Bucker House, 125 N. Brunswick Ave.

## NEVADA

### Washoe County

Reno, Giraud, Joseph, House, 442 Flint St.

### White Pine County

East Ely, East Ely Depot, 11th St.

## NEW JERSEY

### Cap May County

Dennisville, Townsend, William S., House, 96 Delsea Dr.

### Hunterdon County

Pittstown vic., Rockhill Agricultural Historic District, N. of Pittstown on SR 513

## NEW YORK

### New York County

New York, Level Club, 253 W. 73rd St.



**Queens County**

New York, Fort Tilden Historic District,  
Rockaway Beach Blvd.

**NORTH CAROLINA****Cherokee County**

Murphy, Harshaw Chapel and Cemetery,  
Church and Central Sts.

**Durham County**

Durham, Watts and Yuille Warehouses, 905  
W. Main St.

**Forsyth County**

Winston-Salem, Bland, Joseph Franklin,  
House, 1809 Virginia Rd.

Winston-Salem, Sosnik-Morris-Early  
Commercial Block, 500 W. Fourth St.

**Graham County**

Topton vicinity, George, Charles Noden,  
House, Off US 129

**Robeson County**

Orum vicinity, Williams-Powell House, SR  
2256

**OREGON****Clatsop County**

Astoria, Clatsop County Courthouse, 749  
Commercial St.

**Deschutes County**

Bend, Smith, N. P., Pioneer Hardware Store,  
935-937 NW Wall St.

**Douglas County**

Canyonville, Canyonville Methodist Church,  
Second and Pine Sts.

**Jackson County**

Ashland, Trinity Episcopal Church, 44 N.  
Second St.

**Josephine County**

Grants Pass, McLean, Robert and Lucy,  
House, 724 NW 4th St.

**Washington County**

Beaverton, Fanno, Augustus, Farmhouse, 8385  
SW Hall Boulevard

**SOUTH CAROLINA****Aiken County**

North Augusta, Georgia Avenue—Butler  
Avenue Historic District, Georgia, Butler  
Aves. and Martintown Rd.

**Edgefield County**

Edgefield, Simkins, Paris, House, 202 Gary St.

**Marlboro County**

Bennettsville, Robertson-Easterling-  
McLaurin House, W of Bennettsville off SC  
912

**Richland County**

Columbia, Fair-Rutherford and Rutherford  
Houses, 1326 and 1330 Gregg St.

**TENNESSEE****Bradley County**

Cleveland, Broad Street United Methodist  
Church, 263 Broad St. NW

**Hamilton County**

Chattanooga, Market Street Warehouse  
Historic District, 1118-1148 Market St.

**Loudon County**

Loudon vicinity, Robinson Mill, TN 72

**Marshall County**

Cornersville vicinity, Valley Farm,  
Cornersville Rd.  
Lewisburg vicinity, Ewing Farm, Franklin Rd.

**Maury County**

Spring Hill, White Hall, Duplex Rd.  
Williamsport vicinity, Webster, George,  
House, Sawdust Rd.

**Polk County**

Parksville vicinity, Copeland House, Cookson  
Creek Rd.

**Sumner County**

Hendersonville, Hazel Path, 175 E. Main St.

**WYOMING****Albany County**

Laramie, St. Matthew's Cathedral Close, 104  
S. 4th St.

**Carbon County**

Saratoga, Hugus Hardware, 123 E. Bridge St.

**Johnson County**

Buffalo, Main Street Historic District, Main  
St.

**Sheridan County**

Big Horn, Johnson Street Historic District,  
Johnson, 1st, and 2nd Sts.

[FR Doc. 84-7461 Filed 3-19-84; 8:45 am]

BILLING CODE 4310-70-M

**INTERSTATE COMMERCE  
COMMISSION**

[Ex Parte No. 297; Sub-7]

**Motor Carrier Rate Bureaus—  
Expansion of Collective Ratemaking  
Territory**

**AGENCY:** Interstate Commerce  
Commission.

**ACTION:** Notice of proposed  
consolidation and request for comments.

**SUMMARY:** Six motor carrier rate  
bureaus have filed petitions seeking  
approval to expand the scope of the  
respective territories in which they  
publish tariffs and engage in collective  
activities. All petitions raise issues that  
are similar to those discussed in *Rocky  
Mountain Carriers—Agreement—  
Expansion to Nationwide Scope*, 48 FR  
53192 (November 25, 1983). The rate  
bureaus are concerned that Commission  
action in *Rocky Mountain Carriers*,  
*supra*, prior to action on their own  
similar requests, will put them at a  
competitive disadvantage in serving  
their member-carriers that are also  
members of Rocky Mountain Carriers.

Accordingly, we are consolidating the  
petitions to ensure that any forthcoming  
relief be afforded to all bureaus on an  
equal basis. We seek comment on  
whether the requested relief should be  
granted, either broadly or in individual  
circumstances. Rate bureaus that have  
not petitioned for territorial expansion  
are invited to submit appropriate  
amendments to their pending  
agreements.

Copies of the petitions are available  
for public inspection and copying at the  
Office of the Secretary, Interstate  
Commerce Commission, 12th St. and  
Constitution Ave., NW., Washington,  
D.C. 20423, and from petitioners'  
representatives:

**Southern Motor Carriers Rate**

Conference, Inc., Sherman D.  
Schwartzberg, 1307 Peachtree St.,  
N.E., Atlanta, GA 30309

Central States Motor Common Carriers,  
Ronald C. Nesmith, 5440 South Cicero  
Avenue, Chicago, IL 60638

Chicago Suburban Motor Carriers  
Association, Inc., Waldo B. Jeffrey,  
2051 Ridge Road, P.O. Box 1429,  
Homewood, IL 60430

Eastern Central Motor Carriers  
Association, Inc., J. Anthony Terilla,  
P.O. Box 3600, Akron, OH 44310

Rocky Mountain Motor Tariff Bureau,  
Inc., William E. Kenworthy, 4045  
Pecos St., P.O. Box 5746, Denver, CO  
80217

Central and Southern Motor Freight  
Tariff Association, Inc., Robert A.  
Wilson, 2722 Crittendon Drive,  
Louisville, KY 40209

**DATES:** Comments are due May 4, 1984.  
The petitioning rate bureaus have until  
May 21, 1984, to reply. The Commission  
will issue a decision by July 5, 1984.

**ADDRESS:** An original and fifteen copies,  
if possible, of comments should be sent  
to: Ex Parte No. 297 (Sub-7), Office of the  
Secretary, Case Control Branch,  
Interstate Commerce Commission,  
Washington, D.C. 20423.

**FOR FURTHER INFORMATION CONTACT:**  
Robert G. Rothstein, (202) 275-7912, or  
Howell I. Sporn, (202) 275-7691.

**SUPPLEMENTARY INFORMATION:**  
Additional information is contained in  
the full Commission decision which may  
be obtained from the Office of the  
Secretary, Room 2215, 12th Street and  
Constitution Ave., NW., Washington,  
D.C. 20423; or call (202) 275-7428.

This notice and accompanying decision  
are issued pursuant to 49 U.S.C. 10321  
and 10706 and 5 U.S.C. 553.

Decided: March 12, 1984.



By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,  
Acting Secretary.

[FR Doc. 84-7411 Filed 3-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30403]

**Rail Carriers; the Baltimore and Ohio Railroad Co. and Western Maryland Railway Co., Discontinuance of Service Exemption; in Washington County, Md.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** This Interstate Commerce Commission exempts the Baltimore and Ohio Railroad Company (B&O) and Western Maryland Railway Company (WM) from the requirements of prior approval under 49 U.S.C. 10903 *et seq.* regarding the proposed discontinuance of service by B&O over 8.26 miles of WM track in Washington County, MD, subject to the standard employee protective conditions.

**DATES:** This exemption will be effective on April 19, 1984. Petitions for reconsideration must be filed by April 9, 1984. Petitions to stay must be filed by March 30, 1984.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 30403 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: March 13, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Commissioner Gradison did not participate.

James H. Bayne,  
Acting Secretary.

[FR Doc. 84-7412 Filed 3-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30401]

**Rail Carriers; Chicago & North Western Transportation Co.; Abandonment Exemption in McHenry County, IL**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of proposed exemption.

**SUMMARY:** Chicago & North Western Transportation Company (C&NW) filed a petition under 49 U.S.C. 10505 seeking exemption for abandonment of 0.1 mile of track known as the Cary Spur track at milepost 38.4 in Cary, McHenry County, IL. The Railway Labor Executives' Association and C. Franke & Company (Franke) (the only shipper located on the line) filed in opposition to the abandonment. The Commission has determined that the notice and comment procedure should be instituted because the impact of the proposed abandonment cannot be ascertained from the present record.

**DATES:** Comments may be filed with the Commission and served on C&NW's and Franke's representatives by April 19, 1984. Replies to the comments may be filed by May 9, 1984.

**ADDRESSES:** Send comments referring to Finance Docket No. 30401 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Myles L. Tobin, One North Western Center, Chicago, IL 60606
- (3) Protestant, Norman A. Franke, Jr., C. Franke & Co., Inc., 150 W. Crystal Street, Cary, IL 60013.

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: March 13, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison

James H. Bayne,  
Acting Secretary.

[FR Doc. 84-7409 Filed 3-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-158X)]

**Rail Carriers; Chicago and North Western Transportation Co.; Abandonment; in Greene County, IA.; Exemption**

Chicago and North Western Transportation Company (C&NW) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is between milepost 260.5 at Grand Junction and milepost 266.5 at Rippey, a total distance of 6.0 miles in Greene County, IA.

C&NW has certified (1) that no local or overhead traffic has moved over the line for at least 2 years and (2) that no formal complaint filed by a user of rail service on the line or by a State or local governmental entity acting in behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Iowa has been notified in writing at least 10 days prior to the filing of this notice. See *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on April 19, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by March 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed April 9, 1984, 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 C&NW's representative: Myles L. Tobin, One North Western Center, Chicago, IL 60606.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: March 5, 1984.

By the Commission, Heber P. Hardy,  
Director, Office of Proceedings.

James H. Bayne,  
Acting Secretary.

[FR Doc. 84-7410 Filed 3-19-84; 8:45 am]

BILLING CODE 7035-01-M



## DEPARTMENT OF LABOR

Employment and Training  
AdministrationDeterminations Regarding Eligibility  
To Apply for Worker Adjustment  
Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 5, 1984-March 9, 1984.

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 production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of 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-15,006; Sarama Lighting of Pennsylvania, Inc., Nesquehoning, PA

TA-W-14,995; U.S. Steel Corp., Eastern Limestone Operations, Cedarville Plant, Port Dolomite, MI

TA-W-15,077; Jones & Laughlin Steel, Inc., Warren Plant, Warren, MI

TA-W-15,080; Pittsburgh Pacific Co., Hibbing, MN

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-15,107; Cooper Industries, Inc., Jamestown, NY

TA-W-15,021; Harris Calorific Co., Cleveland, OH

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15,037; A.P. Green Refractories, Co., Massillon, OH

Aggregate U.S. imports of claybricks and shapes are negligible.

TA-W-15,089; Celanese Corp., Amcelle Plant, Cumberland, MD

Aggregate U.S. imports of yarns are negligible.

TA-W-15,003; National Gypsum Corp., Cement Division, Southfield, MI

Aggregate U.S. imports of cement did not increase and sales and production, or both did not decrease as required for certification.

TA-W-15,030; National Gypsum Corp., Alpena, MI

Aggregate U.S. imports of cement did not increase and sales and production, or both, did not increase as required for certification.

TA-W-15,013; Harbison-Walker Refractories Co., Clearfield, PA

Aggregate U.S. imports of claybricks and shapes are negligible.

TA-W-15,022; Mr. Jon of Miami, Inc., Miami Beach, FL

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-15,092; Curtiss-Wright Corp., Woodridge, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-15,065; Cleveland Cliffs Iron Co., General Shops, Ishpeming, MI

The investigation revealed that criterion (1) has not been met. During the period of possible coverage employment has not declined as required for certification.

## Affirmative Determinations

TA-W-14,977; Georgia Boot-Durango Boot Co., Gainesboro, TN

A certification was issued covering all workers separated on or after August 31, 1982 and before November 1, 1983.

TA-W-15,048; Carter Leather Goods, Inc., New York, NY

A certification was issued covering all workers separated on or after September 23, 1982 and before April 30, 1983.

TA-W-15,017; Wells Lamont Corp., Brownsville, TN

A certification was issued covering all workers separated on or after October 1, 1983 and before February 1, 1984.

TA-W-14,915; Anchor Die Supply, Inc., Fraser, MI

A certification was issued covering all workers separated on or after August 12, 1982 and before November 30, 1983.

TA-W-14,945; H.H. Brown Shoe Co., Inc., Worcester, MA

A certification was issued covering all workers separated on or after August 15, 1982 and before October 31, 1983.

TA-W-15,049; Morgan Engineering, Alliance, OH

A certification was issued covering all workers separated on or after September 26, 1982.

TA-W-15,024; The Timken Co., Wooster, OH

A certification was issued covering all workers separated on or after September 23, 1982 and before January 1, 1983.

TA-W-14,982; Oehler Industries, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after August 30, 1982.

TA-W-15,105; Aliquippa & Southern Railroad Co., Aliquippa, PA

A certification was issued covering all workers separated on or after November 16, 1982.

I hereby certify that the aforementioned determinations were issued during the period March 5, 1984-March 9, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 13, 1984.

Marvin M. Fooks

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-7433 Filed 3-19-84; 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 request 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 March 30, 1984.

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 March 30, 1984.

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, D.C. 20213.

Signed at Washington, D.C. this 12th day of March 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

#### APPENDIX

Petitioner (Union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Atlas Minerals Div. of Atlas Corp. (workers)	Moab, Utah	3/5/84	2/28/84	TA-W-15,239	Uranium oxide and vanadium pentoxide.
Bon Dana Sportswear, Inc. (ILGWU)	Brooklyn, NY	2/28/84	2/22/84	TA-W-15,240	Skirts, blouses, culottes.
Brown Shoe Company "E" Factory (ACTWU)	Pittsfield, Ill.	3/1/84	2/27/84	TA-W-15,241	Men's shoes.
Dorchester Coal Co., Dorchester #1 Mine (workers)	Florence, Colorado	3/6/84	2/29/84	TA-W-15,242	Steam coal mining.
Eaton Corp., Engine Components Div. (UAW)	Battle Creek, MI	3/2/84	2/27/84	TA-W-15,243	Engine valves.
Great Lakes Carbon Corp. (Int'l Chemical)	Morganton, NC	3/6/84	2/29/84	TA-W-15,244	Graphite electrodes and nipples.
Inspiration Consolidated Copper Co. (USWA)	Claypool, AZ	3/5/84	2/29/84	TA-W-15,245	Copper mining.
Mann Manufacturing, Inc. (ILGWU)	Newark, NJ	1/12/84	1/4/84	TA-W-15,246	Contractor—ladies' dresses, blouses, outerwear.
Pfizer, Inc., MPM Div., Valparaiso Plant (workers)	Valparaiso, Indiana	3/6/84	2/27/84	TA-W-15,247	Magnetic iron oxide.
Sterling Knitting Mills, Inc. (workers)	Brooklyn, NY	1/30/84	1/23/84	TA-W-15,248	Sweaters and collars and cuffs.
Tobin-Hamilton Co., Inc. (ACTWU)	Birchtree, Mo.	2/29/84	2/23/84	TA-W-15,249	Children's shoes.
J.M.S. Fashions (workers)	Patchogue, NY	3/6/84	3/1/84	TA-W-15,250	Ladies' pants, blouses, dresses and sportswear.
Federated Apparel, Inc. (workers)	Bayshore, NY	2/27/84	1/15/84	TA-W-15,251	Ladies', men's & children's sweaters.

[FR Doc. 84-7434 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-30-M

#### Mine Safety and Health Administration

[Docket No. M-81-55-C]

##### Acme Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Acme Coal Company, 130 East Broad Street, Williamstown, Pennsylvania 17098 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 5 Lykens Vein Slope (I.D. No. 36-01778) located in Dauphin County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

##### Request for Comments

Persons interested in this petition may furnish written comments. These

comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7485 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-91-C]

##### Burnrite Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Burnrite Coal Company, 803 Walnut Street, Ashland, Pennsylvania 17925 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 3 Slope (I.D. No. 36-06453) located in Columbia County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes

underground a self-rescue device or devices approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The distance from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 15 minutes.

3. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. The miners are equipped with filter-type self-rescue devices.

4. For these reasons, petitioner requests a modification of the standard.

##### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7483 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M



[Docket No. M-81-63-C]

**Joe Shalamanda Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

Joe Shalamanda Coal Company, R. D. No. 2, Box 76, Ashland, Pennsylvania 17921 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 4 Vein Slope (I.D. 36-04866) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the Petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 15 minutes.

3. The mine is always damp to very wet and there are two pieces of electrical equipment in the mine, a small pump located at the foot of the slope and a blow fan; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7486 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-80-C]

**K and L Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

K and L Coal Company, 742 Coal Street, Trevorton, Pennsylvania, 17881 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 1 Slope (I.D. No. 36-06649) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 10 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump at the foot of the slope; therefore, the possibility of a fire is remote.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner request a modification of the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7489 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-183-C]

**K. M. K. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

K. M. K. Coal Company, Box 40, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its D and R Slope (I.D. No. 36-01821) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7487 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-44-C]

**M.S.W. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

M.S.W. Coal Company, P.O. Box 507, Valley View, Pennsylvania 17983 has filed a petition to modify the application



of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 2 Slope (I.D. No. 36-02679) and its Skidmore Slope (I.D. No. 36-05703) both located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The mines can be evacuated in less than 10 minutes.

3. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-7481 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-172-C]

#### North Mountain Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

North Mountain Coal Company, 130 E. Independence Street, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its North Mountain Slope (I.D. No. 36-05873) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes

underground a self-rescue device or devices approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The mine can be evacuated in less than 5 minutes, including travel time up the slope.

3. The mine is wet, and with all the escapeways, the temperature of the air in the mine during winter months goes below freezing. There is also a lot of ice in the gangway.

4. Petitioners states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Since sections of the mine are subjected to freezing temperatures, this makes constant availability of the devices questionable.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-7482 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-86-C]

#### Pine Line Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Pine Line Coal Company, Box 14, Waterville, Pennsylvania 17776 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 1 Mine (I.D. No. 36-02213) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is

less than 2,000 feet; the mine can be evacuated in less than 15 minutes.

3. The mine is always damp to very wet and there is limited electrical equipment in the mine; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the haulage slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine and subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-7491 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-67-C]

#### Polcovich Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Polcovich Coal Company, Centralia, Pennsylvania 17927 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Seven Foot Slope No. 3 (I.D. No. 36-06459) located in Columbia County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes



underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 15 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small electrical saw located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape up the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,  
Director, Office of Standards, Regulations  
and Variances.

[FR Doc. 84-7484 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

Slope No. 1 (I.D. No. 36-07018) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 250 feet; the mine can be evacuated in less than 9 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,  
Director, Office of Standards, Regulations  
and Variances.

[FR Doc. 84-7490 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-49-C]

#### Woratyla Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Woratyla Coal Company, Box 2, Llewellyn, Pennsylvania 17944 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Mammoth Slope (I.D. No. 36-02049) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,  
Director, Office of Standards, Regulations  
and Variances.

[FR Doc. 84-7488 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-94-C]

#### A & R Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

A & R Coal Company, 1550 Montgomery Street, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 2 Vein Slope (I.D. No. 36-07108) located in Northumberland

[Docket No. M-81-92-C]

#### TAG Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

TAG Coal Company, 836 W. Spruce Street, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its



County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 200 feet; the mine can be evacuated in less than 7 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,  
Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7447 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-34-C]

#### B & S Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

B & S Coal Company, 317 Branch Street, Tremont, Pennsylvania 17981 has

filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Castle Comer Tunnel (I.D. No. 36-05862) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,  
Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7444 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-43-C]

#### Bernitsky Bros. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Bernitsky Bros. Coal Company, 17 Water Street, New Philadelphia, Pennsylvania 17959 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Bernitsky No. 2 Slope (I.D. No. 36-01789) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,  
Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7442 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-95-C]

#### Chestnut Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Chestnut Coal Company, R.D. No. 3, Box 142, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 10 Slope (I.D. No. 36-07059) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 15 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return,



the miners could escape out the gangway and up the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulation and Variances.

[FR Doc. 84-7441 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-42-C]

#### Colket Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Colket Coal Company, 117 School Row, Branchdale, Pennsylvania 17923 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Tracy Slope (I.D. No. 36-01816) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7437 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-84-1-M]

#### Hecla Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Hecla Mining Company, P.O. Box 320, Wallace, Idaho 83873 has filed a petition to modify the application of 30 CFR 57.11-59 (hoist operator; independent respirable atmosphere) to its Lucky Friday Mine (I.D. No. 10-00088) and its Consolidated Silver Project (I.D. No. 10-00158), both located in Shoshone County, Idaho, and its Neihart Project (I.D. No. 24-01710) located in Cascade County, Montana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that hoist operators be provided with an independent ventilation system that will convert, without contamination, to an approved and properly maintained 2-hour self-contained breathing apparatus.

2. Paragraph (a)(1) of the standard requires boreholes from the surface into the hoist enclosure. Petitioner states that such boreholes are technologically infeasible because of the great depth of the hoists from the surface, and some boreholes would intersect old mine workings.

3. Paragraph (a)(2) of the standard permits air coursed from the surface through metal duct work, but the ducts may not pass through timber-supported workings. Petitioner states that this alternative is not possible because each mine has extensive areas supported by timbers.

4. Paragraph (a)(3) of the standard permits air supplied by surface compressors to be coursed through metal pipes into the hoist enclosures. Petitioner states that this alternative is

unworkable in the mines because it would be necessary to place the metal pipes through the extensive areas supported by timber. In the event of a fire in areas supported by timber, the timber would burn, causing damage or destruction of the pipe.

5. As an alternative to paragraph (a) of the standard, paragraph (b) requires a self-contained breathing apparatus system consisting of a mask connected to compressed air with a quick connect to an approved 2-hour self-contained breathing apparatus. Petitioner states that this alternative is not feasible because such an apparatus does not exist.

6. As an alternate method, petitioner proposes to provide a respirable atmosphere independent of the mine atmosphere for hoist operators as part of each mine's escape and evacuation plan. The hoist operators will be supplied with:

a. An approved and properly maintained independent air breathing system consisting of a mask connected to compressed air stored in containers adjacent to the hoist controls;

b. An air supply equal to at least twice the time necessary to complete the evacuation of all persons designated to use the hoist; and

c. The system will further provide at least a 30-minute escape pack, which is a self-contained breathing apparatus capable of quick connection with the compressed air stored in the containers.

7. Paragraph (b) of the standard requires that the self-contained breathing apparatus system provide a minimum of 24 hours of respirable atmosphere to the hoist operator.

Petitioner's proposal will allow at least 4.5 hours of breathing air for the hoist operators. The longest evacuation time in any of the mines is less than one hour. Any hoisting required subsequent to evacuation would not be performed by the regular hoist operator, but done by mine rescue team members who are trained to operate the hoist using self-contained breathing apparatus. Mechanical transportation is available to all hoist operators.

8. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All



comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7435 Filed 3-19-84; 8:45 am]

BILLING CODE 7510-43-M

[Docket No. M-81-197-C]

#### **Keno Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

Keno Coal Company, R. D. No. 1, Box 431-A, Barnesville, Pennsylvania 18214 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 1 Slope (I.D. No. 36-02257) located in Columbia County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that each operator makes available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.
2. The deepest penetration from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 15 minutes.
3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the slope in intake air.
4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions makes it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.
5. For these reasons, petitioner requests a modification of the standard.

#### **Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7438 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-66-C]

#### **K.L.M. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

K.L.M. Coal Company, 1147 Shamokin Street, Trevorton, Pennsylvania 17881 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 1 Slope (I.D. No. 36-06398) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.
2. The deepest penetration from the mine portal to the actual working face is less than 600 feet; the mine can be evacuated in less than 10 minutes.
3. The mine is always damp to very wet and there is no electrical equipment in the mine; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the slope in intake air.
4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to

locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### **Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7440 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-152-C]

#### **Last Chance Coal Co.; Petition for Modification of Application of Mandatory Safety Standard**

Last Chance Coal Company, 1012 Maple Street, Valley View, Pennsylvania 17983 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its No. 1 Slope (I.D. No. 36-07412) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.
2. Ignition, explosion and mine fire history are non-existent for the mine.
3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.
4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.
5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.
6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.



7. As an alternate method, petitioner proposes that:

- The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;
- The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and
- The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the proposed alternate method will provide the same measure of protection for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at the address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7436 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-75-C]

#### M and R Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

M and R Coal Company, R. D. No. 1, Box 32A, Dornsife, Pennsylvania 17823 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its M & R Slope (I.D. 35-05495) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

- The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is

less than 800 feet; the mine can be evacuated in less than 6 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7443 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-108-C]

#### Raven Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Raven Coal Company, R.D. No. 3, Box 142, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 1 Slope (I.D. No. 36-07112) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

- The petition concerns the requirement that each operator make

available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 400 feet; the mine can be evacuated in less than 15 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-7446 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-27-C]

#### S & S Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

S & S Coal Company, 135 West Street, Williamstown, Pennsylvania 17098 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Buck Mt. Slope (I.D. No. 36-05619) located in Schuylkill



County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers, and states that this will provide the same measure of protection for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-7445 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-81-255-C]

#### Three L Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Three L Coal Company, R. D. No. 1, Box 227-L, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 1 Slope (I.D. No. 36-07229) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 15 minutes.

3. The mine is always damp to very wet and there is only one piece of electrical equipment, which is a small pump located at the foot of the slope; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return, the miners could escape out the gangway and up the slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 19, 1984. Copies of the petition are available for inspection at that address.

Dated: March 13, 1984.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 84-7439 Filed 3-19-84; 8:45 am]

BILLING CODE 4510-43-M

#### NATIONAL SCIENCE FOUNDATION

##### Advisory Panel for Physiology, Cellular, and Molecular Biology; Melting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name. Subpanel on Biological Instrumentation of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time. Thursday and Friday, April 5 and 6, 1984 from 8:30 a.m. to 5:00 p.m.

Type of Meeting. Closed.

Contact person. John C. Wooley, Program Director, Biological Instrumentation Program, Room 325E, Telephone: 202/357-7652.

Purpose of advisory panel. To provide advice and recommendations concerning support for research instrumentation.

Agenda. To review and evaluate research proposals as part of the selection process for awards.

Reason for closing. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in Sunshine Act.

Authority to close meeting. Thus determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: March 15, 1984.

M. Rebecca Winkler,

*Committee Management Coordinator.*

[FR Doc. 84-7467 Filed 3-19-84; 8:45 am]

BILLING CODE 7555-01-M

##### Advisory Panel for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name. Advisory Panel for Behavioral and Neural Sciences—Subpanel for Anthropology (Systematic Collections).

Date & time. April 6, 1984; 8:30 a.m.–6:00 p.m.

Place. National Science Foundation, 1800 G St. NW., Room 523, Washington, D.C. 20550.

Type of meeting. Closed.

Contact person. Mary W. Greene, Assoc. Program Director for Anthropology, Room 320, National Science Foundation, Washington, D.C. 20550, (202) 357-7804.

Purpose of subpanel. To provide advice and recommendations concerning support for research in systematic anthropological collections.

Agenda. To review and evaluate research proposals as part of the selection process for awards.

Reason for closing. The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting. This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.



Dated: March 15, 1984.

M. Rebecca Winkler,  
Committee Management Coordinator.

[FR Doc. 84-7406 Filed 3-19-84; 8:45 am]

BILLING CODE 7555-01-M

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### Circular No. A-124, Patents; Small Business Firms and Nonprofit Organizations; Transmittal Memorandum No. 1

**AGENCY:** Office of Federal Procurement Policy, OMB.

**ACTION:** Notice and request for comment.

**SUMMARY:** This Transmittal Memorandum changes the Standard Patent Rights clause required by OMB Circular No. A-124 to be used in all grants, contracts, and cooperative agreements awarded to small businesses and nonprofit organizations for the performance of research and development work.

**EFFECTIVE DATE:** April 1, 1984. This date is required to be consistent with the effective date of the Federal Acquisition Regulation (FAR).

**REQUEST FOR COMMENTS:** Comments are due on or before May 20, 1984. Any changes required as a result of comments will be made to the Circular and the FAR.

**FOR FURTHER INFORMATION CONTACT:** William Maraist, Office of Federal Procurement Policy, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-3300.

**SUPPLEMENTARY INFORMATION:** On February 18, 1983, the President issued a memorandum on Government Patent Policy to the heads of Federal departments and agencies. The memorandum requires agencies to apply the policies of 35 U.S.C. 38 to other Federal R&D recipients, in addition to small businesses and nonprofit organizations. Since it is desirable to use a single patent rights clause wherever possible, implementation of the President's memorandum requires minor modification to the clause used with small businesses and nonprofit organizations.

The following changes were made to the present Standard Patent Rights Clause of Attachment A to OMB Circular A-124, to produce the proposed April 1, 1984 clause included with Transmittal Memorandum No. 1. Deletions from the original have been

bracketed and additions have been shown by arrows.

- a.(5) "Small Business Firm" means a domestic small . . .
- a.(6) "Nonprofit Organization" means a domestic university . . .
- Code [26 U.S.C. S501(a)] or any domestic nonprofit scientific or educational institution . . .
- c.(2) . . . by notifying the Federal agency within twelve months of disclosure to [the] contractor personnel responsible for patent matters . . .
- d. Section renumbered. (1) was deleted since there is no (2). (i), (ii), and (iii) were renumbered as (1), (2), and (3).
- d.(1)(i)(original) If the contractor fails to disclose or elect the subject invention within the times specified in c. above, or elects not to retain title. The agency may only request title within sixty days after learning of the contractor's failure to report or elect within the specified times.
- e.(2) . . . an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations and agency licensing regulations (if any).
- e.(3) The contractor has the right to appeal, in accordance with applicable agency licensing regulations (if any) [in] and the Federal Property Management Regulations . . .
- h. . . the agency agrees that, to the extent permitted by [35 USC S202(c)(5)] law, it will not disclose such information . . .

Dated: March 9, 1984.

Donald E. Sowle,  
Administrator.

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

[Circular No. A-124, Transmittal Memorandum No. 1]

#### To the Heads of Executive Departments and Establishments

**Subject:** Revision of Attachment A, Standard Patent Rights Clause

#### 1. Purpose

This Transmittal Memorandum provides a revised Standard Patent Rights clause that agencies can use with all classes of recipients of Federal research and development grants, contracts, and cooperative agreements.

#### 2. Background

On February 18, 1983, the President issued a memorandum on Government Patent Policy to the heads of agencies. The memorandum requires agencies to

apply the policies of 35 U.S.C. 38 to other Federal R&D recipients, in addition to small business and nonprofit organizations.

The Presidential Memorandum states: "To the extent permitted by law, agency policy with respect to the disposition of any invention made in the performance of a federally funded research and development contract, grant, or cooperative agreement shall be the same or substantially the same as applied to small business firms and nonprofit organizations under Chapter 38 of Title 35 of the United States Code."

Since it is desirable to use a single patent rights clause wherever possible, implementation of the President's memorandum has required minor modifications to the clause used with small businesses and nonprofit organizations.

#### 3. Policy and Scope

Agencies shall use the attached STANDARD PATENT RIGHTS CLAUSE (April 1, 1984) in all grants, contracts, and cooperative agreements awarded after April 1, 1984, to small businesses and nonprofit organizations for the performance of research and development work.

#### 4. Standard Patent Clause

Attachment A to this Transmittal Memorandum contains the STANDARD PATENT RIGHTS CLAUSE (April 1, 1984). The Clause contains the modifications necessary to allow a single clause to be used with all classes of R&D performers including those other than small businesses and nonprofit organizations. The clause also contains one substantive change. Subparagraph d(1)(i) now states that an agency may only request title to an invention within sixty days after learning of the contractor's failure to report the invention or elect title within the specified times. This is to preclude a continuing cloud on the contractor's title to an invention when the agency could but does not intend to request the title.

#### 5. Inquiries

All questions or inquiries should be submitted to William Maraist, Office of Federal Procurement Policy, 726 Jackson Place NW., Washington, DC 20503, (202) 395-3300.

David A. Stockman,  
Director.

#### Attachment A—Standard Patent Rights Clause (April 1, 1984)

##### a. Definitions.

(1) "Invention" means any invention or discovery which is or may be



patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the *contractor* conceived or first actually reduced to practice in the performance of work under this *contract*.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a domestic small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, shall be used.

(6) "Nonprofit Organization" means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any domestic nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

#### b. Allocation of Principal Rights.

The *contractor* may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the *contractor* retains title, the Federal Government shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

#### c. Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.

(1) The *Contractor* shall disclose each subject invention to the *Federal agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure to the *agency* shall be in the form of a written report

and shall identify the *contract* under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the *agency*, the *contractor* shall promptly notify the *agency* of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor*.

(2) The *contractor* shall elect in writing whether or not to retain title to any such invention by notifying the *Federal agency* within twelve months of disclosure to the *contractor*, provided that in any case where publication, on sale, or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period of election of title may be shortened by the *agency* to a date that is no more than 60 days prior to the end of the statutory period.

(3) The *contractor* shall file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The *contractor* shall file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the *agency*, election, and filing may, at the discretion of the *funding Federal agency*, be granted.

#### d. Conditions When the Government May Obtain Title.

The *contractor* shall convey to the *Federal agency*, upon written request, title to any subject invention:

(1) If the *contractor* fails to disclose or elect the subject invention within the times specified in c. above, or elects not to retain title. The *agency* may only request title within sixty days after learning of the *contractor's* failure to report or elect within the specified times.

(2) In those countries in which the *contractor* fails to file patent applications within the times specified in c. above; provided, however, that if the *contractor* has filed a patent application in a country after the times specified in c., above, but prior to its receipt of the written request of the *Federal agency*, the *contractor* shall continue to retain title in that country.

(3) In any country in which the *contractor* decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding, on, a patent on a subject invention.

#### e. Minimum Rights to Contractor.

(1) The *contractor* shall retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the *contractor* fails to disclose the subject invention within the times specified in c., above. The *contractor's* license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the *contractor* is a party and includes the right to grant sublicenses of the same scope to the extent the *contractor* was legally obligated to do so at the time the *contract* was awarded. The license is transferable only with the approval of the *funding Federal agency* except when transferred to the successor of that party of the *contractor's* business to which the invention pertains.

(2) The *contractor's* domestic license may be revoked or modified by the *funding Federal agency* to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations and agency licensing regulations (if any). This license shall not be revoked in that field of use or the geographical areas in which the *contractor* has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the *funding Federal agency* to the extent the *contractor*, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the *funding Federal agency* shall furnish the *contractor* a written notice of its intention to revoke or modify the license, and the *contractor*



shall be allowed thirty days (or such other time as may be authorized by the funding Federal agency for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with applicable agency licensing regulations (if any) and the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

*f. Contractor Action to Protect the Government's Interest.*

(1) The contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph d. above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the contractor each subject invention made under contract in order that the contractor can comply with the disclosure provisions of paragraph c. above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by c. (1) above. The contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The contractor shall notify the Federal agency of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: "This

invention was made with Government support under (identify the contract) awarded by (identify the Federal agency). The Government has certain rights in this invention."

*g. Subcontracts.*

(1) The contractor shall include this clause suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or nonprofit organization. The subcontractor shall retain all rights provided for the contractor in this clause, and the contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to those matters covered by this clause.

*h. Reporting Utilization of Subject Inventions.*

The contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceedings undertaken by the agency in accordance with paragraph j. of this clause. To the extent data or information supplied under this section is considered by the contractor, its licensee or assignee to be privileged and confidential and is so marked, the agency agrees that, to the extent permitted by law, it shall not disclose such information to persons outside the Government.

*i. Preference for United States Industry.*

Notwithstanding any other provision of this clause, the contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention shall be manufactured

substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

*j. March-in Rights.*

The contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in OMB Circular A-124 (and agency regulations at —) require the contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, the Federal agency has the right to grant such a license itself if the Federal agency determines that

(1) Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph i. of this clause has not been obtained or waived or because a license of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

*k. Special Provisions for Contracts with Nonprofit Organizations:* If the Contractor is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal Agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other



organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee shall be subject to the same provisions as the Contractor);

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal Agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use shall not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention shall not be deemed to end the exclusive period to different subsequent products covered by the invention.

(3) The Contractor shall share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, shall be utilized for the support of scientific research or education.

1. *Communications.* (Complete according to instructions at Part 8.b. of this Circular.)

[FR Doc. 84-7271 Filed 3-19-84; 8:45 am]

BILLING CODE 3110-01-M

listing and registration include the following:

1. The common stock of Berg Enterprises, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on February 17, 1984, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before April 4, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7406 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

prohibitions of Section 205(l) of the Act, and (2) exempting Applicant from the recordkeeping requirements of Rule 204-2(b) and (c) under the Act to the extent those provisions require separate records to be maintained for each limited partner in the partnerships. Applicant further requests an order of the Commission pursuant to Section 210(a) of the Act granting confidential treatment to the Limited Partnership Agreement ("Partnership Agreement") attached as Exhibit A to the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

Applicant states that it will be formed as a general partnership under California law by William K. Jurika and Glenn C. Voyles (two of the owners of Jurika & Voyles, Inc., a registered investment adviser). Applicant represents that it will register as an investment adviser under the Act.

Applicant proposes to form and become the general partner of one or more new limited partnerships ("Partnerships") each of which will include no more than 35 sophisticated individuals or entities as investors. According to the application, the partnerships will invest principally in relatively small emerging companies, generally with a market value of all outstanding securities of less than \$100 million, and will seek out other special situations involving high appreciation potential. Applicant represents that the partnerships will be exempt from registration as investment companies under Section 3(c)(1) of the Investment Company Act of 1940. Applicant also represents that the limited partnership interests will be sold in private offerings exempt from registration under the Securities Act of 1933.

According to the application, each of the limited partners of each partnership will be required to make a minimum contribution of \$100,000 (the General Partner may permit a limited number of limited partners to make an initial investment of \$50,000). With the General Partner's consent, such contributions may be made in securities rather than in cash. No limited partner of any of the partnerships will be permitted to contribute more than 10% of that partnership's total capital, if such investment would cause that partnership to be required to register under the Investment Company Act.

Applicant represents that each investor in the partnerships must have

[Release No. 901; 803-34]

#### **Jurika & Voyles; Filing of an Application for an Order Granting Confidential Treatment of an Exhibit to the Application**

March 13, 1984.

Notice is hereby given that Jurika & Voyles ("Applicant" or the "General Partner"), 1970 Broadway, Suite 1250, Oakland, CA 94612, which intends to register as an investment adviser under the Investment Advisers Act of 1940 ("Act") filed an application on October 5, 1983, and an amendment thereto on January 24, 1984, requesting an order of the Commission pursuant to section 206A of the Act (1) exempting Applicant's advisory fee arrangements with certain limited partnerships to be established by Applicant from the

#### **SECURITIES AND EXCHANGE COMMISSION**

[File No. 1-6871]

#### **Berg Enterprises, Inc., Common Stock, \$10 Par Value; Application To Withdraw From Listing and Registration**

March 14, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from



no less than \$150,000 under management by an entity controlled by Mr. Jurika and Mr. Voyles, and Applicant must reasonably believe that each investor, together with a client representative, has such experience in financial and business matters that he is capable of evaluating the risks and merits of the proposed method of compensation. Limited partners will be required to have a net worth of not less than \$500,000. In addition, a limited partner's investment in any or all of the partnerships must represent no more than 20% of the gross value of the assets in which he has a beneficial interest. A limited partner will be permitted to transfer his interest only with the General Partner's consent.

Applicant represents that the limited partnership agreement for each partnership will require that Applicant contribute to the partnership's capital an amount at least equal to the greater of 1% of the aggregate capital contributions by all partners (including any additional capital contributed in cash or kind to the partnership by any limited partner or received by the partnership upon the sale of additional partnership interests) or \$50,000. The Applicant will be solely responsible for the management and administration of the partnership's business, including the making of all investment decisions on behalf of the partnerships. The concurrence of a majority of the directors of the General Partner will be required for the purchase or sale of any securities by any of the partnerships.

Applicant will be responsible for all operating expenses of each partnership, including salaries, rent, travel, communications and other expenses of research and administrative support services. To cover the estimated amount of such expenses, Applicant states that each partnership will pay Applicant a quarterly management fee based on a percentage of the net value of that partnership's assets. Applicant further states that each partnership will pay its own expenses related to its securities portfolio (e.g., interest, brokerage fees, custodial expenses, registration expenses) and any cost of professional services rendered to the partnership.

Applicant states that it will maintain financial records for each partnership, and will provide quarterly reports to the limited partners on the affairs of the partnership. Applicant further represents that each partnership will be audited annually by an independent certified public accountant selected by the General Partners. Applicant will

provide to the limited partners an annual report of the partnership accompanied by the independent accountant's report. According to the limited partnership agreement, the limited partners of each partnership (excluding interests held by Applicant) must approve any action to be taken with respect to the following matters: extensions or early termination of the partnership, admission of general partners, transfer of the general partnership interest, expulsion of limited partners, removal of the general partner, independent valuation of securities and dissolution of the partnership upon the occurrence of certain events.

According to the application, in addition to the management fee, Applicant will be allocated in a suspense account a 20% share of all net operating income and realized and unrealized capital gains and, subject to the limits described below, of all net operating and realized and unrealized capital losses of each partnership. Applicant represents that each partner (limited and general) will be allocated a share of the remaining 80% of the profits and losses of the partnership, based on the proportion which his partnership capital account bears to the capital accounts of all of that partnership's partners.

Applicant will value the marketable securities held by each partnership quarterly and will value securities that are not publicly traded (or are infrequently traded) annually, unless facts come to the General Partner's attention that would cause it to believe that the value of such a security had materially changed. Applicant represents that the limited partners of each partnership shall have the right to demand an independent review of any quarterly valuation of the partnership's assets upon the request of thirty percent in interest of the limited partners or of four or more limited partners holding at least twenty percent in interest of the partnership. Applicant further states that upon each valuation, the capital account of each partner will be adjusted to reflect his allocable share of partnership income, gains and losses. However, the Applicant's suspense account in a partnership shall not be reduced below zero. Losses that would reduce Applicant's suspense account below zero shall be allocated to the limited partners as contingent losses. Such contingent losses shall be restored to the limited partners out of the first subsequent gains that would have been allocated to Applicant's suspense account.

The Partnership Agreement requires that 25% of each partnership's net income for each year be distributed annually to its partners in cash or in kind, in proportion to the amounts of such income credited to their respective capital accounts. In addition, in the General Partner's discretion, additional net realized profits may be distributed to the partners in cash or in kind as long as: (1) There are no unreturned contingent losses allocated to the limited partners; (2) after giving effect to the distribution, the net value of the remaining assets of the partnership equals or exceeds the amount of capital contributed to the partnership, plus 120% of the partnership's unrealized capital losses, less the amount of the original capital which has been withdrawn from the partnership; and (3) after giving effect to the distribution, the net value of the remaining assets of the partnership is not less than \$2 million. All such discretionary distributions of realized profits to the partners shall be in proportion to their respective capital accounts. The General Partner may also distribute securities in kind to the partners ratably in proportion to their profits interests.

For three years after the formation of each partnership, the limited partners may not, without the consent of the General Partner, and the General Partner may not, withdraw any amount from their capital accounts. After those three years, any limited partner may withdraw any portion of his capital account in a partnership. Withdrawals by and distributions of profits in cash or in kind to the General Partner may not reduce the General Partner's capital account below either (1) the greater of \$50,000 or 1% of the aggregate of all partner's capital contributions, or (2) the difference between the net realized profits previously allocated to the General Partner and 20% of the partnership's unrealized losses on the date of the distribution or withdrawal. All withdrawals will be based on year-end values. Each withdrawing partner shall pay the expenses of the partnership resulting from the withdrawal, as reasonably estimated by the General Partner. The withdrawal shall be paid to the partner in cash, or by distribution of a pro rata portion of each of the partnership's securities, or with the consent of a withdrawing limited partner, by a non-pro rata distribution of the securities. The General Partner will not be permitted to borrow funds from a partnership.

Applicant proposes to maintain the designated books and records for each



partnership rather than for each limited partner. Applicant further states that it will maintain capital accounts for each limited partner reflecting his contribution, allocations, distributions and withdrawals.

Applicant requests an exemption from Section 205(l) of the Act to the extent necessary to permit it to receive the proposed share of the profits of the partnerships. Applicant also request an order exempting it from the provisions of Section 204 of the Act and of Rule 204-2(b) and (c) thereunder to the extent that such provisions might otherwise require it to maintain the designated books and records with respect to each limited partner. Applicant represents that it will comply with all other applicable provisions of Rule 204-2.

Applicant further requests an order under Section 210 of the Act for confidential treatment of the form of partnership agreement designated as Exhibit A to the application. Applicant states that the essential terms of the limited partnership agreement have been disclosed in this application; the limited partnership agreement itself constitutes trade secret or commercial or financial information that is privileged and confidential; there will be no public offering of the partnership interests and prospective investors will be provided with a copy of the limited partnership agreement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7401 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

[Release NO. 23245; 70-6677]

**Middle South Utilities, Inc.; Proposal To Extend Time To Issue and Sell Common Stock Pursuant to Savings Plan and To Amend Certain Provisions of Savings Plan**

March 14, 1984.

Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration previously filed pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By order dated August 25, 1978 (HCAR No. 20685) and by a subsequent order dated January 8, 1982 (HCAR No. 22360), this Commission authorized Middle South to adopt a System Savings Plan ("Plan") and to issue and sell to Hibernia National Bank in New Orleans, as Trustee for the Plan ("Trustee"), through December 31, 1984 an aggregate of 4,000,000 shares of its authorized but unissued common stock, \$5 value ("Common Stock"). By order dated May 20, 1982 (HCAR No. 22503), the Commission authorized certain amendment to the Plan.

Of the 4,000,000 shares of Common Stock currently authorized for sale pursuant to the Plan through December 31, 1984, 1,802,864 shares were issued and sold to the Trustee as of February 29, 1984. Middle South currently expects that the remaining 2,197,136 shares will be sufficient to meet the requirements of the Plan through May 31, 1987. Middle South now seeks approval to have the period during which it may issue and sell the remaining 2,197,136 shares of Common Stock to the Trustee pursuant to the Plan extended through May 31, 1987.

Middle South also proposes to amend certain provisions of the Plan. The first proposed change would allow Participants to designate all or a portion of their Basic and/or Supplemental Contributions as tax-deferred contributions pursuant to Section 401(k) of the Code ("401(k) Contributions"). Each Employer would contribute to the Plan from its current or accumulated earnings and profits an amount equal to 50% of each Participant's Basic Contributions designated as either 401(k) or non-401(k) Contributions. The investment options available to Participants will not be changed. Middle South also proposes to amend the Plan by liberalizing the permissible cash withdrawals in the case of Participant

Contributions not designated as 401(k) Contributions.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 9, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a 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 this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7408 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7233]

**Standex International Corporation, Common Stock, \$1.50 Par Value; Application To Withdraw From Listing and Registration**

March 14, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Standex International Corporation ("Company") has determined that continued listing of its common stock on the BSE is no longer justified because trading of the common stock has been very low. The BSE has posed no objection to this matter.

Any interested person may, on or before April 4, 1984, submit by letter to the Secretary of the securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether



the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegate authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7403 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8547]

### Unicorp American Corp.; Application To Withdraw From Listing and Registration

March 14, 1984.

In the Matter of Unicorp American Corporation (formerly Institutional Investors Corporation) Common Stock, \$.01 Par Value; 8 1/4% First Priority Subordinated Notes (due 2-1-87) File No. 1-8547.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

1. The common stock and first priority subordinated notes ("notes") of Unicorp American Corporation ("Company") are listed and registered on the PSE. Pursuant to a Registration Statement on Form 8-A the Company is also listed and registered on the American Stock Exchange ("Amex"). Because of the low annual trading volume of the notes and the expense of maintaining the dual listing of the common stock and the notes on the PSE and the Amex, the Company has determined to remove both issues from listing and registration on the PSE.

2. This application relates solely to withdrawal of the common stock and notes from listing and registration on the PSE and shall have no effect upon the continued listing of the common stock and notes on the Amex. The PSE has posed no objection to this matter.

Any interested person may, on or before April 4, 1984, submit by letter to

the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7404 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20745; File No. SR-PSDTC-84-3]

### Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Securities Depository Trust Co.

March 13, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1); notice is hereby given that on February 8, 1984, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change modifies PSDTC's policy relating to interface settlement activity, including third-party movements and NIDS trade for trade items, on days when banks located in the State of California are open and banks located in other parts of the country, especially New York City, are closed. Settlement of money obligations related to interface activities is routinely included in PSDTC's daily money settlement cycle. Each day PSDTC receives from and distributes to participants checks in settlement of participants' interface activities. PSDTC's checks are usually presented to PCC's bank for payment the day after settlement (S+1). Settlement among the clearing corporations for participant interface activities, reflected in these PSDTC checks, occurs on S+1 in same-day funds. If PSDTC's bank is open on S+1 but another clearing corporation's bank is closed, PSDTC may be forced to overdraft its account to cover its payment obligations and incur interest

expenses on the overdraft. According to PSDTC, that expense may be substantial when bank holidays fall around a weekend and overdrafts exist for several calendar days.

Under the revised policy, PSDTC would continue to receive payments from its participants for interface settlement activities on settlement day but, would delay crediting its participants' money accounts for interface activities until S+1. PSDTC would invest these funds until the funds are distributed and rebate any interest earned to those participants. Participants would be able to obtain funds from PSDTC's bank on S+2 and, at the same time, PSDTC would be in receipt of the funds from the other clearing agencies and, therefore, would not incur any overdrafts or interest charges.

PSDTC believes that the proposed rule change is consistent with Section 17A of the Act by providing procedures for increased safeguarding of securities and funds which are in the custody of PSDTC. According to PSDTC, interface settlement financing costs and risks associated with non-uniform bank holidays were minimal until recently. In the past, PSDTC absorbed any interest costs resulting from interface settlement activity. PSDTC now believes that the volume and value of securities moving through the interface causes an unacceptable level of potential exposure and has modified its procedures accordingly to minimize these costs and risks of loss.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **FEDERAL REGISTER**. Persons desiring to making written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSDTC-84-3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed



rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7402 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

#### **Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing**

March 14, 1984.

In the matter of Applications of the Cincinnati Stock Exchange For Unlisted Trading Privileges in Certain Securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Eagle Clothes, Inc.

Common Stock, \$1 Par Value (File No. 7-7389)

Sunair Electronics, Inc.

Common Stock, \$10 Par Value (File No. 7-7390)

Unicorp American Corp.

Common Stock, \$10 Par Value (File No. 7-7391)

URS Corporation

Common Stock, \$.25 Par Value (File No. 7-7392)

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 April 4, 1984 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, Washington, D.C. 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.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7405 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

#### **Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing**

March 14, 1984.

In the matter of Applications of the Philadelphia Stock Exchange, Inc. For Unlisted Trading Privileges in Certain Securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities and Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Northeast Ohio Axle, Inc.

Common Stock, \$.05 Par Value (File No. 7-7393)

Gulf Oil Corporation

Common Stock, No Par Value (File No. 7-7394)

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 April 4, 1984 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, Washington, D.C. 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.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 84-7407 Filed 3-19-84; 8:45 am]

BILLING CODE 8010-01-M

#### **DEPARTMENT OF TRANSPORTATION**

##### **National Highway Traffic Safety Administration**

##### **International Harmonization of Safety Standards; Calendar of Meetings**

The National Highway Traffic Safety Administration (NHTSA) will continue its participation during this year in the international meetings to harmonize U.S. and foreign motor vehicle safety standards. These meetings will be conducted by the Group of Experts on the Construction of Vehicles (WP29) under the Inland Transport Committee of the United Nations' Economic Commission for Europe (ECE) and the eight groups of Rapporteurs of the WP29. The NHTSA participates in all of the rapporteur meetings except those on Pollution which are represented by the Environmental Protection Agency (EPA).

This calendar consists of those meetings in which the NHTSA and the EPA will provide representation and in which the public interest is expected. It is published for information and planning purposes and the meeting dates and places are subject to change. Inquiries or comments relating to specific meetings should be made at least two weeks preceding that meeting.

**FOR FURTHER INFORMATION CONTACT:**  
Francis J. Turpin, Office of Vehicle Safety Standards, (NRM-10), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-2212.

March 1-2, 1984—Ad Hoc Meeting on the Program of Work of the WP29, Twenty-fourth Session—Geneva, Switzerland

March 5-9, 1984—Group of Experts on the Construction of Vehicles (WP29), Seventy-second Session—Geneva, Switzerland

April 10-12, 1984—Group of Rapporteurs on Noise (GRB), Twelfth Session—Brighton, United Kingdom

April 16-19, 1984—Group of Rapporteurs on Protective Devices (GRDP), Thirteenth Session—Geneva, Switzerland

April 30-May 4, 1984—Group of Rapporteurs on Brakes and Running Gear (GRRF), Fifteenth Session—Geneva, Switzerland



May 22-25, 1984—Group of Rapporteurs on Safety Provisions on Motor Coaches and Buses (GRSA), Twenty-ninth Session—Stuttgart, Federal Republic of Germany

June 14-15, 1984—Ad Hoc Meeting on the Program of Work of the WP29, Twenty-fifth Session—Geneva, Switzerland

June 18-22, 1984—Group of Experts on the Construction of Vehicles (WP29), Seventy-third Session—Geneva, Switzerland

July 10-13, 1984—Group of Rapporteurs on General Safety Provisions (GRSG), Forty-fourth Session—Geneva, Switzerland

July 24-27, 1984—Group of Rapporteurs on Protective Devices (GRDP), Fourteenth Session—Geneva, Switzerland

August 28-31, 1984—Group of Rapporteurs on Crashworthiness (GRCS), Fifteenth Session—Geneva, Switzerland

September 3-5, 1984—Group of Rapporteurs on Pollution and Energy (GRPE), Tenth Session—Geneva, Switzerland

September 25-28, 1984—Group of Rapporteurs on Lighting and Light Signalling (GRE), Twelfth Session—Darmstadt, Federal Republic of Germany

October 18-19, 1984—Ad Hoc Meeting on the Program of Work of the WP29, Twenty-sixth Session—Geneva, Switzerland

October 22-26, 1984—Group of Experts on the Construction of Vehicles (WP29), Seventy-fourth Session—Geneva, Switzerland

November 6-9, 1984—Group of Rapporteurs on General Safety Provisions (GRSG), Forty-fifth Session—Rome, Italy

November 21-23, 1984—Group of Rapporteurs on Safety Provisions on Motor Coaches and Buses (GRSA), Thirtieth Session—Budapest, Hungary

December 4-7, 1984—Group of Rapporteurs on Brakes and Running Gear (GRRF), Sixteenth Session—Geneva, Switzerland

January 29-31, 1985—Group of Rapporteurs on Crashworthiness (GRCS), Sixteenth Session—Geneva, Switzerland

February 11-14, 1985—Group of Rapporteurs on Pollution and Energy (GRPE), Eleventh Session—Geneva, Switzerland

The following meetings took place earlier this year:

January 17-20, 1984—Group of Rapporteurs on Lighting and Light Signalling (GRE), Eleventh Session—Geneva, Switzerland

January 24-26, 1984—Group of Rapporteurs on Crashworthiness (GRCS), Fourteenth Session—Geneva, Switzerland

February 7-10, 1984—Group of Rapporteurs on Pollution and Energy (GRPE), Ninth Session—Geneva, Switzerland

Issued on March 14, 1984.

Barry Felrice,  
Acting Associate Administrator for  
Rulemaking.

[FR Doc. 84-7386 Filed 3-19-84; 8:45 am]

BILLING CODE 4910-59-M

## Urban Mass Transportation Administration

### Exclusionary and Discriminatory Specifications

**AGENCY:** Urban Mass Transportation Administration, DOT.

**ACTION:** Notice of agency position.

**SUMMARY:** Section 3(a)(2)(C) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602 (a)(2)(C)), provides that Federal mass transportation grant funds shall not be used "to support procurements utilizing exclusionary or discriminatory specifications." Several questions have arisen recently concerning the application and interpretation of this statutory provision. In this Notice, the Urban Mass Transportation Administration is stating its present interpretation of the provision, and discussing its application to specific circumstances.

**FOR FURTHER INFORMATION CONTACT:** Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-4063.

**SUPPLEMENTARY INFORMATION:** Since 1974, there has been a provision in the Urban Mass Transportation Act (Section 3(a)(2)(C)) which prohibits the use of Federal grant funds in procurements which utilize exclusionary or discriminatory specifications. This provision is contained in both the Standard Urban Mass Transportation Agreement, Part II, Terms and Conditions, and in UMTA Circular 4220.1A, *Third Party Contracting Guidelines*.

Several questions have arisen recently concerning the application and interpretation of Section 3(a)(2)(C). Many grantees have questioned the extent of the restrictions of this provision. In this Notice, UMTA will discuss several specific applications of this statutory provision, including the relationship of the provision to a recent

Supreme Court decision concerning hiring preferences, to the Cargo Preference Act, and to the "Buy America" provision of the Surface Transportation Assistance Act of 1982.

Of particular concern to many grantees and manufacturers is the question of procurements which entail specialized requirements such as a particular engine mounting or lift location. UMTA's position is that while such specifications may tend to limit the number of potential bidders, they are not *prima facie* exclusionary or unduly restrictive. However, if there is a bid protest, the grantee bears the burden of demonstrating that specialized requirements in its bid specification are justified and reflect valid needs (see generally, *AM General Corp. v. Department of Transportation*, 433 F. Supp. 1166 (1977)). A grantee seeking to justify its specifications with generalities like "ease of maintenance" has not established a valid need. It must be emphasized that it is UMTA's position that grantee procurement efforts must be in support of a valid need, and such a need must exist whether or not there is a probability of a protest. Therefore, grantee specifications must reflect this need in order to be considered valid specifications.

Several States and municipalities have local employment preference requirements. It has been UMTA's longstanding position that local preference provisions constitute exclusionary and/or discriminatory requirements, and thus violate Section 3(a)(2)(C). The recent opinion of the United States Supreme Court in *White v. Massachusetts Council of Construction Employers, Inc.*, 103 S. Ct. 1042 (1983) does not provide a basis for allowing local employment preferences under an UMTA funded project. In *White*, the Court upheld a local employment preference executive order issued by the Mayor of Boston.

That order applied to both federally funded and locally funded construction projects. The construction projects involved in *White* were funded under Urban Development Action Grants (UDAGs), Community Development Block Grants (CDBGs) and Economic Development Administration Grants (EDAGs). The implementing regulations under UDAG, CDBG and EDAG, unlike the UMTA requirements, either encourage or require local employment preferences. The *White* opinion upholds local preference requirements in federally funded projects when the applicable Federal law affirmatively sanctions local preference requirements.



However, *White* does not establish that local preference requirements will be upheld in federally funded projects when the applicable federal law either prohibits or is silent in regard to local preference requirements.

A number of questions have also arisen relative to the relationship of the Cargo Preference Act (46 U.S.C. 1241(b)) to restrictive specifications. This Act requires that U.S.-flag vessels carry at least 50 percent of the gross tonnage of any cargoes which are financed in whole or in part with Federal funds. That Act does not require that any particular port be used for the delivery of the cargoes, and it is UMTA's position that the designation of a particular port would be a discriminatory specification under Section 3(a)(2)(C) of the UMT Act.

Most of the questions concerning restrictive and discriminatory specifications have been asked in the context of the "Buy America" requirements. Section 165 of the Surface Transportation Assistance Act of 1982 (the "Buy America" provision) provides, with exceptions, that no Federal funds may be obligated for mass transportation projects unless all steel and manufactured products used in such projects are of United States origin. The main exception is that Federal funds may not be obligated for the purchase of mass transportation vehicles unless the cost of the vehicles' components which are produced in the United States is more than 50 percent of the cost of all components and final assembly of the vehicles takes place in the United States.

In several instances, UMTA grantees have attempted to require that this final assembly take place in a particular location—for example, either in the grantee's city or State. Such a requirement is not allowed under the "Buy America" provision, nor is it permitted under Section 3(a)(2)(C).

Section 165(d), however, does provide that a State Buy America or buy national requirement that is more restrictive than the Federal requirements in Section 165 governing mass transportation procurements is not only permitted, but must be given deference by UMTA. However, Section 165 only allows a State to impose a stricter buy national provision, and does not allow a State to impose a buy State or buy local provision on a procurement utilizing UMTA funds. Since Fiscal Year 1981, Congress has directed UMTA to give deference to State buy national requirement, but has clearly indicated that State provisions which require preferences for products manufactured in a particular State or subdivision are

not permitted. It is UMTA's position that these State "buy State" provisions are specifically prohibited by both Section 165 (which allows State buy national preferences) and by Section 3(a)(2)(C) (since a State local preference requirement is both exclusionary and discriminatory).

Dated: March 14, 1984.

Ralph L. Stanley,

Administrator.

[FR Doc. 84-7307 Filed 3-19-84; 8:45 am]

BILLING CODE 4910-57-M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

#### Treasury Notes of March 31, 1986; Series S-1986

[Department Circular; Public Debt Series—No. 7-84]

March 15, 1984.

#### 1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately \$8,250,000,000 of United States securities, designated Treasury Notes of March 31, 1986, Series S-1986 (CUSIP No. 912827 QP 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

#### 2. Description of Securities

2.1 The securities will be dated April 2, 1984, and will bear interest from that date, payable on a semiannual basis on September 30, 1984, and each subsequent 6 months on March 31 and September 30 until the principal becomes payable. They will mature March 31, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next succeeding business day.

2.2 The securities are subject to all taxes imposed under the Internal

Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3 The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4 Securities registered as to principal and interest will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5 The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

#### 3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Wednesday, March 21, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, March 20, 1984, and received no later than Monday, April 2, 1984.

3.2 The face amount of securities bid for must be stated on each tender. The minimum bid is \$5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for



account of customer if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the

Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

#### 4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

#### 5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, April 2, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, March 29, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other

documents submitted to the Internal Revenue Service (an individuals' social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

#### 6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public



announcement of such changes will be promptly provided.

**Carole Jones Dineen,**  
*Fiscal Assistant Secretary.*

[FR Doc. 84-7553 Filed 3-19-84; 3:34 pm]  
BILLING CODE 4810-25-M

#### UNITED STATES INFORMATION AGENCY

##### United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held in London, on March 27-28, 1984. The Commission will observe program activities of USIA's post in London, consult with senior public affairs officers from U.S. embassies in Europe, and meet with officials of the BBC External Service and the British Council.

If you have any question about this meeting, please call Elizabeth Fahl, (202) 485-2468.

Dated: March 14, 1984.

**Charles N. Canestro,**  
*Management Analyst, Federal Register  
Liaison.*

[FR Doc. 84-7473 Filed 3-19-84; 8:45 am]  
BILLING CODE 8230-01-M

#### VETERANS ADMINISTRATION

##### Veterans Administration Medical Center; 120-Bed Nursing Home Care Unit; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a 120-Bed Nursing Home at the Veterans Administration Medical Center, Amarillo, Texas, and has determined that the potential environmental impacts will be minimal from the construction of this project.

The project will be located north of a new clinic addition. The nursing home will be two levels connected at both levels to the clinic addition. The building design will be developed to achieve compatible physical qualities and harmony between the existing architecture and the nursing home. Total construction is estimated to include 44,000 gross square feet.

Construction of the project will cause minor impacts on the human and natural environment affecting noise levels, onsite traffic and parking. Short term effects of minor air pollution (dust and fumes), soil erosion, and noise levels will occur during construction operations. The VA will adhere to all applicable Federal, State, and local environmental regulations during

construction and operation of this project.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality, (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: March 13, 1984.

**Everett Alvarez, Jr.,**  
*Deputy Administrator.*

[FR Doc. 84-7416 Filed 3-19-84; 8:45 am]  
BILLING CODE 8320-01-M



# Sunshine Act Meetings

Federal Register

Vol. 49, No. 55

Tuesday, March 20, 1984

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).

## FEDERAL TRADE COMMISSION

**TIME AND DATE:** 2:00 p.m., Tuesday, March 27, 1984.

**PLACE:** Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

**MATTERS TO BE CONSIDERED:** *Portions Open to Public:*

(1) Oral Argument in General Motors Corporation Docket 9114.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in General Motors Corporation Docket 9114.

## CONTACT PERSON FOR MORE

**INFORMATION:** Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

Emily H. Rock,

*Secretary.*

[FR Doc. 84-7474 Filed 3-15-84; 4:13 pm]

**BILLING CODE 6750-01-M**

## FEDERAL TRADE COMMISSION

**TIME AND DATES:** 2:00 p.m., Wednesday, April 11, 1984.

**PLACE:** Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

**STATUS:** Open.

## MATTER TO BE CONSIDERED:

Consideration of resumption of Line of Business data collection for years subsequent to 1977.

## CONTACT PERSON FOR MORE

**INFORMATION:** Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

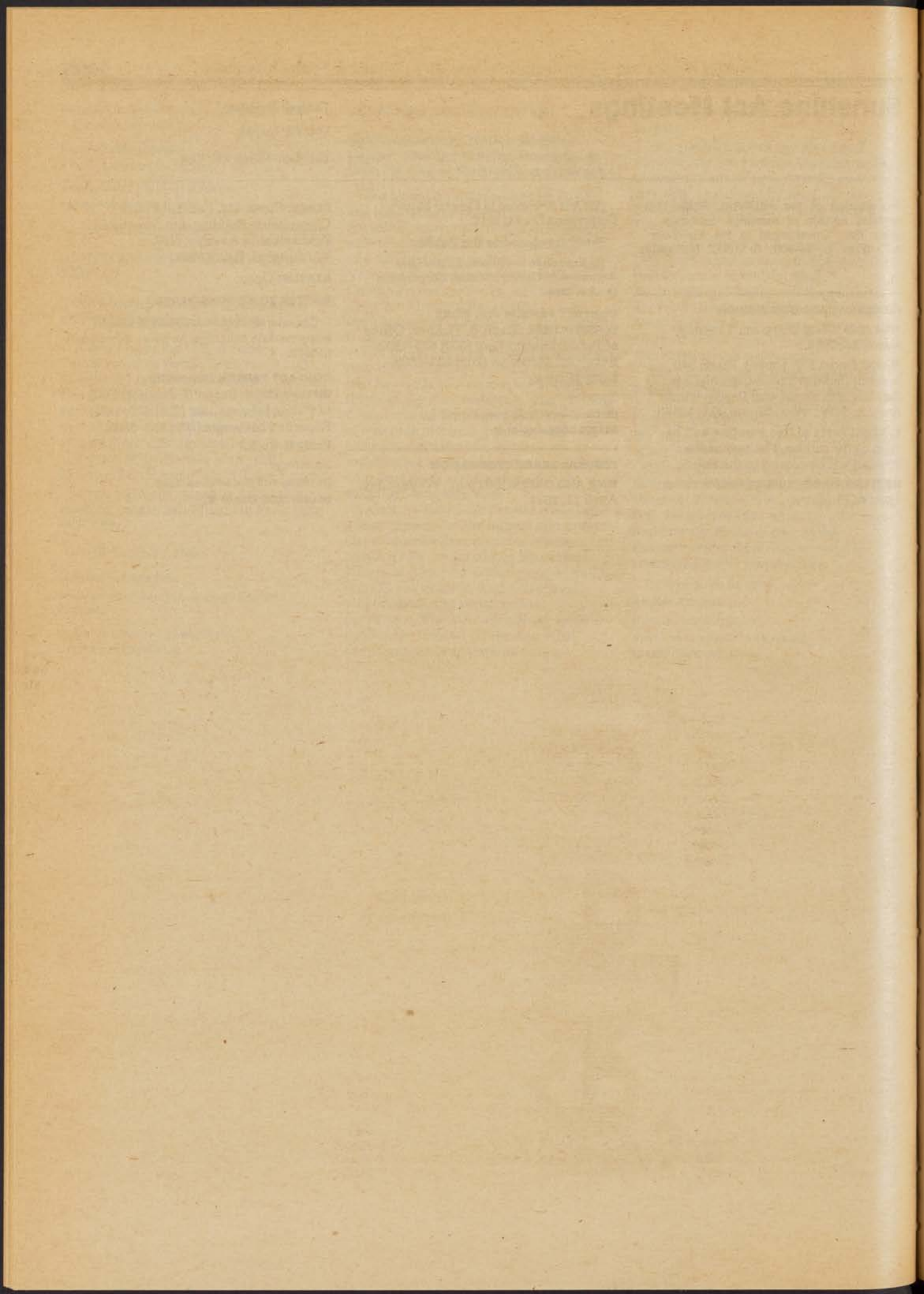
Emily H. Rock,

*Secretary.*

[FR Doc. 84-7475 Filed 3-15-84; 4:13 pm]

**BILLING CODE 6750-01-M**







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Tuesday  
March 20, 1984

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**Part II**

**Environmental  
Protection Agency**

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40 CFR Parts 50, 53, and 58  
National Ambient Air Quality Standards  
for Particulate Matter, Ambient Air  
Quality Surveillance for Particulate  
Matter, and Ambient Air Monitoring  
Reference and Equivalent Methods;  
Proposed Rules



# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 50

[AD-FRL 2491-5]

### Proposed Revisions to the National Ambient Air Quality Standards for Particulate Matter

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with sections 108 and 109 of the Clean Air Act, EPA has reviewed and revised the criteria upon which the existing primary and secondary particulate matter standards are based. The revised criteria document is being published simultaneously with this notice. The existing primary standards for particulate matter (measured as "total suspended particulate matter" or "TSP") are  $260 \mu\text{g}/\text{m}^3$ , averaged over a period of 24 hours and not to be exceeded more than once per year, and  $75 \mu\text{g}/\text{m}^3$  annual geometric mean. The secondary standard (also measured as TSP) is  $150 \mu\text{g}/\text{m}^3$ , averaged over a period of 24 hours, and not to be exceeded more than once per year.

As a result of its review and revision of the health and welfare criteria, EPA proposes the following revisions to the particulate matter standards:

- (1) That TSP as an indicator for particulate matter be replaced for both of the primary standards by a new indicator that includes only those particles with an aerodynamic diameter smaller than or equal to a nominal 10 micrometers ( $\text{PM}_{10}$ );
- (2) That the level of the 24-hour primary standard be changed to a value to be selected from a range of 150 to  $250 \mu\text{g}/\text{m}^3$  and that the current deterministic form of the standard be replaced with a statistical form that permits one expected exceedance of the standard level per year;
- (3) That the level and form of the annual primary standard be changed to a value to be selected from a range of 50 to  $65 \mu\text{g}/\text{m}^3$ , expressed as an expected annual arithmetic mean; and
- (4) That the current 24-hour secondary TSP standard be replaced by an annual TSP standard selected from a range of 70 to  $90 \mu\text{g}/\text{m}^3$ , expected annual arithmetic mean.

Because no scientific consensus exists on specific levels of the standards, and the analytical and policy bases for making these decisions under the statute are limited and difficult to implement, the Administrator is not proposing specific standard levels within the

above ranges. Rather, he is soliciting additional comment and information from the public to be considered in promulgating the final regulation, which will specify a specific level for each of the standards. Given the precautionary nature of the Act, the Administrator is inclined to select the levels of primary standards from the lower portion of the above ranges.

A new Federal Reference Method (Appendix J) is proposed to provide for measurement of  $\text{PM}_{10}$  in the ambient air. EPA also proposes to add a new Appendix K, which would provide guidance on the statistical nature of the proposed revisions to the standards. In addition, certain clarifying changes to Appendix B and Appendix G are proposed. This notice also proposes EPA's intention not to change how "particulate matter" is defined currently for purposes of the prevention of significant deterioration increments at 40 CFR 51.24(c) and 52.21(c).

Related notices published elsewhere in today's *Federal Register* set out proposed revisions to EPA's regulations concerning Ambient Air Monitoring Reference and Equivalent Methods (40 CFR Part 53), and Ambient Air Quality Surveillance (40 CFR Part 58). Proposed revisions to EPA's regulations concerning Requirements for Preparation, Adoption, and Submittal of Implementation Plans (40 CFR Part 51) with associated guidelines, and Approval and Promulgation of Implementation Plans (40 CFR Part 52) will be published later. Following the publication of these notices, the Agency will announce a supplementary review period for the limited purpose of taking comments on the implications, if any, of the proposed Parts 51 and 52 implementation requirements and guidelines for the Part 50 standards proposed today.

**DATES:** EPA will hold a public hearing on this notice and the related notices within 45 days. The time and place will be announced in a subsequent *Federal Register* notice. Written comments on this proposal, including any supplementary and rebuttal information submitted pursuant to section 307(d)(5) of the Clean Air Act, must be received by June 18, 1984.

**ADDRESSES:** Submit all comments (duplicate copies are preferred) except those relating to Prevention of Significant Deterioration increments (Parts 51 and 52) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-82-37, 401 M Street SW., Washington, D.C. 20460. Comments on Prevention of Significant Deterioration increments

should be sent to the same address, Attn: Docket No. A-83-48. Dockets No. A-82-37 and No. A-83-48 are located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street SW., Washington, D.C. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

**Availability of Related Information.** The revised criteria document, Air Quality Criteria for Particulate Matter and Sulfur Oxides (three volumes, EPA-600/8-82-029a-c, December, 1982; Volume I NTIS #PB-84-156785, \$19.00; Volume II NTIS #PB-84-156793, \$43.00; Volume III NTIS #PB-84-156801, \$47.00; complete set #PB-84-156777, \$93.00; microfiche \$4.50 for each volume) and the final revised staff paper, Review of the National Ambient Air Quality Standards for Particulate Matter: Assessment of Scientific and Technical Information—OAQPS Staff Paper (EPA-450/5-82-001, January, 1982; NTIS #PB-177874, \$21.00 paper copy and \$4.00 microfiche) are available from: U.S. Department of Commerce, National Technical Information Service, 2285 Port Royal Road, Springfield, Virginia 22161. A limited number of copies of other documents generated in connection with this standard review, such as the control techniques document, can be obtained from: U.S. Environmental Protection Agency Library (MD-35), Research Triangle Park, N.C. 27711, telephone (919) 541-2777 (FTS 629-2777).

**FOR FURTHER INFORMATION CONTACT:** Mr. John Haines, Strategies and Air Standards Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-5531 (FTS 629-5531).

#### SUPPLEMENTARY INFORMATION:

#### INTRODUCTION

The Clean Air Act requires EPA to set, and periodically reexamine, "national ambient air quality standards" for widespread pollutants. These standards consist of "primary" standards designed to protect public health and "secondary" standards designed to protect public welfare. The statute requires primary standards to be set low enough to protect public health with an "adequate margin of safety." Once these standards have been set, states must submit "implementation plans" that contain control measures needed to attain the standards within specific statutory deadlines. These legislative requirements are discussed more fully in subsequent portions of this preamble.



In 1971, EPA established primary and secondary ambient air quality standards for particulate matter. It has now reviewed those standards and the specific criteria on which they are based, as required by the Clean Air Act, and is today proposing appropriate changes.

This proposal has been preceded by an exhaustive review of all available scientific information on the health and welfare effects of airborne particulate matter. As detailed below in the "Background" section, this review has taken over three years. It has included three public meetings of EPA's Clean Air Scientific Advisory Committee (CASAC),\* five other formally announced public meetings, numerous informal meetings, and the review of written comments received throughout this process. Besides the CASAC scientists, the review has involved a large number of EPA staff, consultants, and external reviewers. In a number of areas, this wide-ranging discussion has led to significant agreement on a course of action. In one crucial area, however—the numerical stringency of the 24-hour and annual standards—the scientific and technical review has only produced relatively broad ranges of numbers from which the standard levels should be chosen.

The Administrator believes that, given the present design of the statute, the selection of a single air quality standard from each of the ranges of standards that have been recommended to him presents an extraordinarily difficult regulatory problem, one for which the existing legislative decision criteria may well be inadequate.

The review and assessment of scientific information by Agency and outside experts was intensive; it was not, however, intended to result in recommendations of any single level(s) of airborne particulate matter thought to be stringent enough to meet the statutory test of protecting public health with an "adequate margin of safety." Indeed, that review has revealed a highly limited data base—particularly where quantitative studies are concerned—and a wide range of views among qualified professionals about the exact pollution levels at which health effects are likely to occur. The setting of an "adequate margin of safety" below these levels calls for a further judgment—in an area for which the scientific data base is even more sparse

and uncertain. No "scientific" approach for selecting any single recommended standard seems possible against this background. Instead, the EPA staff has identified—with CASAC concurrence—"ranges of interest" to aid the Administrator in choosing levels for both the 24-hour and annual standards. In each case, the staff and CASAC have concluded that a standard at the upper end of the range would provide little or no margin of safety, and that standards at lower levels within the range would provide correspondingly greater margins of safety. This preamble follows staff recommendations and focuses on the lower levels being considered. Under the statute, the task remaining is to decide at which level within each of these refined ranges the margin of safety should be considered "adequate." In the end it will be up to the Administrator to make this judgment by picking a single number from each range.

The final judgment on standards triggers the process by which the standards are met and maintained—a process that requires potentially major expenditures for compliance within a limited time period. Following promulgation of the standards, the states have nine months to design and submit "implementation plans" to achieve the health based standards within three years. If, for some areas, attainment in this time period is economically, socially, or technologically infeasible, the Administrator's options for adjusting the deadlines are quite limited.

Despite the significant consequences that may flow from the establishment of standards, the statute as presently interpreted severely restricts the factors and analytical tools the Administrator may use to help pick these standards. The courts appear to have ruled that economic and technological feasibility have no function in deciding on an ambient standard. Given the scope of those statements, there is some doubt whether the Administrator may even consider the practical problems of implementation to guide his choice. Public health appears to be the sole criterion.

Yet long and expert review of public health issues has to date revealed no scientific method of assessing exactly what level of standards public health requires. The scientific review indicates substantial uncertainties concerning the health risks associated with lower levels of particulate matter. Assessing these risks is made even more complex by the fact that the composition of particulate matter and associated air pollutants can vary significantly from city to city.

Given the difficulty of this choice, EPA invites public comment on the general policy questions that it raises. If, indeed, only public health factors may be considered, what particular analytical approaches or methodologies may the Administrator apply to make his ultimate choice in a principled way? Is there room—at least scientific opinion is as lacking in definitive answers as it is here—to consider other, non-scientific factors in making the major social policy judgment of picking a precise number from a range of scientifically justified values? If so, what other factors should be considered, and in what manner?

## BACKGROUND

### Legislative Requirements Affecting This Proposal

#### *The Standards*

Two sections of the Clean Air Act govern the establishment and revision of national ambient air quality standards (NAAQS). Section 108 (42 U.S.C. 7408) directs the Administrator to identify pollutants which may reasonably be anticipated to endanger public health or welfare and to issue air quality criteria for them. These air quality criteria are to reflect the latest scientific information useful in indicating the kind and extents of all identifiable effects on public health or welfare that may be expected from the presence of a pollutant in the ambient air.

Section 109(a) (42 U.S.C. 7409) directs the Administrator to propose and promulgate "primary" and "secondary" NAAQS for pollutants identified under section 108. Section 109(b)(1) defines a primary standard as one the attainment and maintenance of which in the judgment of the Administrator, based on the criteria and allowing for an adequate margin of safety, is required to protect the public health. The secondary standard, as defined in section 109(b)(2), must specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on the criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of the pollutant in the ambient air. Welfare effects are defined in section 302(h) (42 U.S.C. 7602(h)) to include effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, climate, damage to and deterioration of property, hazards to transportation, and effects on economic values and on personal comfort and well-being.

The courts have held that the requirement for an adequate margin of

\*CASAC is a standing committee of scientific and engineers external to the Federal government established under section 109 of the Clean Air Act to advise the Administrator on the scientific basis for ambient air quality standards.



safety for primary standards was intended to address uncertainties associated with inconclusive scientific and technical information available at the time of standard setting. It was also intended to provide a reasonable degree of protection against hazards that research has not yet identified. *Lead Industries Association v. EPA*, 647 F.2d 1130, 1154 (D.C. Cir. 1980), cert. denied, 101 S. Ct. 621 (1980); *American Petroleum Institute v. Costle*, 665 F.2d 1176, 1177 (D.C. Cir. 1981), cert. denied, 102 S. Ct. 1737 (1982). These uncertainties in the available information and about unidentified human health effects are both components of the risk associated with pollution at levels below those at which human health effects can be said to occur with reasonable scientific certainty. Thus, in providing an adequate margin of safety, the Administrator is regulating not only to prevent pollution levels that have been demonstrated to be harmful, but also to prevent lower pollutant levels that he finds pose an unacceptable risk of harm, even if that risk is not precisely identified as to nature or degree. In weighing such risks for selecting a margin of safety, EPA has considered such factors as the nature and severity of the health effects involved, the size of the sensitive population(s) at risk, and the kind and degree of the uncertainties that must be addressed. Given that the "margin of safety" requirement by definition only comes into play where no conclusive showing of harm exists, such factors, which involve unknown or only partially quantified risks, have their inherent limits as guides to action. The selection of any particular approach to providing an adequate margin of safety is a policy choice left specifically to the Administrator's judgment. *Lead Industries Association v. EPA*, supra, 647 F.2d at 1161-62.

The courts, however, have set strict limits to the factors EPA may consider in establishing a margin of safety. Two recent judicial decisions state that the economic and technological feasibility of attaining ambient standards are not to be considered in setting them, even in the context of a margin of safety. *Lead Industries Association v. EPA*, supra, 647 F.2d at 1148-51; *American Petroleum Institute v. Costle*, supra, 665 F.2d at 1185, 1190. Such factors may, however, be considered to a degree in the development of State plans to implement the standards.

Section 109(d) of the Act (42 U.S.C. 7409(d)) requires periodic review and, if appropriate, revision of existing criteria and standards. The process by which

EPA has reviewed the original criteria and standards for particulate matter under section 109(d) is described in a later section of this notice.

#### Related Control Requirements

States are primarily responsible for assuring attainment and maintenance of ambient air quality standards, once EPA has established them. Under section 110 of the Act (42 U.S.C. 7410), States are to submit, for EPA approval, State Implementation Plans (SIPs) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. Other federal programs provide for nationwide reductions in emissions of these and other air pollutants through the Federal Motor Vehicle Control Program, which involves controls for automobile, truck, bus, motorcycle, and aircraft emissions under Title II of the Act (42 U.S.C. 7501 to 7534), and through the development of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for various categories of stationary sources under section 111 (42 U.S.C. 7411) and section 112 (42 U.S.C. 7412).

#### Particulate Matter and Existing Standards for TSP

"Particulate matter" is the generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) over a wide range of sizes. Particles originate from a variety of stationary and mobile sources. They may be emitted directly or formed in the atmosphere by transformations of gaseous emissions such as sulfur oxides, nitrogen oxides, and volatile organic substances. The major chemical and physical properties of particulate matter vary greatly with time, region, meteorology and source category, thus complicating the assessment of health and welfare effects as related to various indicators of particulate pollution. The characteristics, origins, concentrations and potential effects of particulate matter are discussed in more detail in the staff paper (SP; EPA, 1982a) and in the revised criteria document (CD; EPA, 1982b). The executive summary of the staff paper is reprinted in Addendum I to this notice.

On April 30, 1971, EPA promulgated primary and secondary NAAQS for particulate matter under section 109 of the Clean Air Act (36 FR 8186). The reference method for measuring attainment of these standards is the "high-volume" sampler (40 CFR Part 50, Appendix B), which effectively collects particulate matter up to a nominal size

of 25 to 45 micrometers ( $\mu\text{m}$ ) (so-called "total suspended particulate," or "TSP"). Thus, TSP is the current indicator for the particulate matter standards. The existing primary standards for particulate matter (measured as TSP) are  $260 \mu\text{g}/\text{m}^3$ , averaged over a period of 24 hours and not to be exceeded more than once per year, and  $75 \mu\text{g}/\text{m}^3$  annual geometric mean. The secondary standard (measured as TSP) is  $150 \mu\text{g}/\text{m}^3$ , averaged over a period of 24 hours, and not to be exceeded more than once per year. The scientific and technical bases for these standards are contained in the original criteria document, Air Quality Criteria for Particulate Matter (DHEW, 1969).

#### Development of Revised Air Quality Criteria for Particulate Matter

In 1976, as a result of internal agency review and the recommendations of a committee of EPA's Science Advisory Board, EPA decided to revise the existing criteria document for particulate matter. Because of competing priorities regarding revision of other criteria documents and the need to complete additional research on particulate matter, the process was scheduled to commence in 1979. With the endorsement of the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board, EPA decided to review and revise the criteria document for particulate matter concurrently with that for sulfur oxides and to produce a combined particulate matter/sulfur oxides (PM/SO<sub>x</sub>) criteria document.

On October 2, 1979 (44 FR 56731), EPA announced that it was in the process of revising the original criteria document for particulate matter and reviewing the existing air quality standards for possible revisions in accordance with section 109(d)(1) of the Clean Air Act.

In developing the revised criteria document, EPA has provided a number of opportunities for review and comment by organizations and individuals outside the Agency. Three drafts of the revised particulate matter/sulfur oxides criteria document, prepared by EPA's Environmental Criteria and Assessment Office (ECAO), have been made available for external review (45 FR 24913; 46 FR 9747; 46 FR 53210). EPA has received and considered numerous and often extensive comments on each of these drafts. CASAC has held three public meetings (August 20-22, 1980; July 7-9, 1981; November 16-18, 1981) to review successive drafts of the document. These meetings were open to the public and were attended by many individuals and representatives of



organizations who provided critical reviews and new information for consideration. Based on CASAC recommendations made after the first review meeting, five additional public meetings were held at which EPA, its consulting authors and reviewers, and other scientifically and technically qualified experts selected by EPA discussed the various chapters of the draft document and suggested ways of resolving outstanding issues (45 FR 74047; 45 FR 78224; 45 FR 76790; 45 FR 80350; 46 FR 1775).

The comments received on the successive drafts of the revised criteria document have been considered in the final document, issued simultaneously with this proposal. A summary of EPA's responses to the comments on the three external review drafts of the documents has been placed in the public docket (Docket No. A-82-37). Transcripts of the three CASAC meetings are also in the docket. In accordance with its established procedures, CASAC prepared a "closure" memorandum to the Administrator indicating its satisfaction with the final draft (December, 1981) of the criteria document and outlining key issues and recommendations. The closure memorandum, dated January 29, 1982, stated that the EPA office that prepared this document was "responsive to Committee advice as well as to comments provided by the general public." The closure memorandum further states that the criteria document "fulfills the requirements set forth in section 108 of the Clean Air Act, which requires that the criteria document 'shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare' from sulfur oxides and particulates in the ambient air." Following closure, minor technical and editorial refinements were made to the criteria document for printing (EPA, 1982b). The CASAC closure memorandum on the criteria document is reprinted in its entirety as Addendum II to this notice.

A number of scientific and technical issues were raised during the public review process. With respect to the particulate matter portions of the criteria document, the major issues included the relationship among various measures of particulate matter air quality, the implications of particle deposition and other studies for selecting a particulate matter indicator, and the development and application of criteria for deciding which epidemiological studies are most appropriate for use in revising air

quality standards. A summary of these and other major scientific issues, as well as CASAC's conclusions, is included in the closure memorandum on the criteria document (Addendum II).

#### Review of the Standards: Development of Staff Paper

In the Spring of 1981, EPA's Office of Air Quality Planning and Standards (OAQPS) prepared the first draft of a staff paper, Review of the National Ambient Air Quality Standards for Particulate Matter (see Addendum I). This draft staff paper evaluated and interpreted the available scientific and technical information most relevant to the review of the air quality standards for particulate matter and presented staff recommendations on alternative approaches to revising the standards, based on the then-existent draft of the revised criteria document. This and a second draft of the paper were reviewed at two CASAC meetings (July 7-9, 1981; November 16, 1981). Numerous written and oral comments were received on the drafts from CASAC, representatives of organizations, individual scientists and other interested members of the public. A summary of major revisions in response to comments on the first draft is contained in an October 31, 1981 letter to CASAC (Padgett, 1981). Following the second CASAC meeting, the staff made further revisions in response to comments and prepared an executive summary that was reviewed by CASAC members before preparation of the closure memorandum on the staff paper. In January, 1982, EPA released the final OAQPS staff paper (EPA, 1982a), which reflects the various suggestions made by CASAC and members of the public. The January 29, 1982, CASAC closure memorandum states that the staff paper "has been modified in accordance with recommendations made by CASAC," is consistent with the criteria document, and provides the Administrator "with the kind and amount of technical guidance that will be needed to make appropriate revisions to the standard."

A number of major issues were raised during the public review process. The more important issues are outlined below.

1. Substantial discussion concerned the maximum size of particles (or particle size fraction) to be used in measuring particulate matter for regulatory purposes. Some groups favored retaining TSP and others called for alternative size-specific standards with nominal "size cuts" (" $D_{50}$ ", see later discussion) of 15  $\mu\text{m}$ , 10  $\mu\text{m}$ , 5-7  $\mu\text{m}$ , and 2.5  $\mu\text{m}$ . After CASAC closure on the staff paper and criteria document, comments were received from one group

favoring a so-called " $D_{50}$ " of 10  $\mu\text{m}$  (approximately equivalent to a nominal size cut [ $D_{50}$ ] of 6  $\mu\text{m}$ ).

2. Much attention was focused on the development of numerical "ranges of interest" for selecting the level of alternative particulate matter standards and on which studies were most appropriate for use in standard setting. Significant criticisms were received on the major epidemiological studies of particulate matter exposures highlighting their limitations for use in standard setting. In a number of comments, specific suggestions for standards were made.

3. With respect to secondary standards, most attention focused on the basis for a fine (<2.5  $\mu\text{m}$ ) particle standard related to visibility protection.

These and other major issues are discussed more fully in the executive summary of the staff paper (Addendum I) and in later sections of this notice. CASAC's discussion of these issues and its recommendations are contained in the closure memorandum on the staff paper (Addendum III).

#### Rulemaking Docket

EPA established a standard review docket for the particulate matter standard revision in July, 1979. With this proposal, EPA is establishing a rulemaking docket (Docket No. A-82-37) as required by section 307(d) of the Clean Air Act. The most relevant portions of the standard review docket (Docket No. A-79-29) and of a separate docket established for criteria document revision (Docket No. ECAO-CD-79-1) have been incorporated in this rulemaking docket. The balance of the standard review and criteria revision dockets will continue to be available for public reference.

#### RATIONALE FOR THE PRIMARY STANDARDS

In selecting primary standards for particulate matter, the Administrator must specify: (1) The particle size fraction that should be used as an indicator of particulate pollution; (2) the appropriate averaging times and forms of the standards; and (3) the numerical level(s) for the standards. Based on the assessment of relevant scientific and technical information in the criteria document, the staff paper (hereafter "SP") outlines a number of key factors to be considered when making decisions in each of these areas (SP, Section VI). Evaluation of the margin of safety afforded by a given particulate matter standard should include consideration of these specifications collectively, rather than focusing on any one. Both



the staff and CASAC made recommendations to focus consideration on a discrete range of policy options in each of these areas. In most respects, the Administrator has adopted the recommendations and supporting reasons contained in the staff paper and the CASAC closure memorandum. Rather than reiterating those discussions at length, the following discussion of the proposed standards focuses primarily on those considerations that were most influential in the Administrator's selection of a particular option, or that differ in some respect from considerations that influenced the staff and/or CASAC recommendations.

Since CASAC closure on the criteria document and staff paper in January, 1982, a number of studies on the health effects of particulate matter have appeared in the scientific literature. Examples that have been placed in the rulemaking docket include Proctor and Swift, 1982; Ostro, 1983; Mazumdar and Sussman, 1983; Mazumdar et al., 1982; Vena, 1983; Perry et al., 1983; Baxter et al., 1983; Avol et al., 1983; and Dockery et al., 1982. Although none of these studies has been used as a basis for this proposal, some of them could be of importance in a final decision. The public is invited to comment on the implications of these or any other recent studies for the standards. After conclusion of the public comment period, but before preparation of the promulgation notice, the Agency will prepare a document identifying and discussing the significance of any such studies it considers useful for the final decision and submit the document for CASAC and public review.

#### Pollutant Indicator

The Administrator concurs with the staff conclusions that (1) a separate general particulate matter standard (as opposed to a combination standard for particulate matter and  $SO_2$ ) remains a reasonable public health policy choice, and (2) given current scientific knowledge and uncertainties, a size-specific (rather than chemical-specific) indicator should be used. The current indicator (TSP) is size-specific, but has been widely criticized because it directs control efforts toward larger particles that can dominate measured mass, but are of less concern to health than smaller particles. In assessing the information in the criteria document, the staff reached several conclusions summarized below (see SP, pp. 71-75):

(1) Health risks posed by inhaled particles are influenced both by the penetration and deposition of particles in the various regions of the respiratory

tract, and by the biological responses to these deposited materials.

(2) The risks of adverse health effects associated with deposition of ambient fine and coarse particles in the thorax (tracheobronchial and alveolar regions of the respiratory tract) are markedly greater than for deposition in the extrathoracic (head) region. Maximum particle penetration to the thoracic region occurs during oronasal or mouth breathing.

(3) The risks of adverse health effects from extrathoracic deposition of general ambient particulate matter are sufficiently low that particles depositing only in that region can safely be excluded from the standard indicator.

(4) The size-specific indicator for primary standards should represent those particles capable of penetrating to the thoracic region, including both the tracheobronchial and alveolar regions.

Considering these conclusions in light of data on air quality composition, respiratory tract deposition and health effects, the need to provide protection for sensitive individuals who may breathe by mouth and/or oronasally, and the similar convention on particles penetrating the thoracic region recently adopted by the International Standards Organization (ISO, 1981), the staff recommended that the size-specific indicator include particles less than or equal to a nominal  $10\ \mu m$  "cut point." This indicator ensures that the full range of particles penetrating to the sensitive alveolar region is included, and follows tracheobronchial penetration patterns in a somewhat conservative fashion. It places substantially greater emphasis on controlling smaller particles than does a TSP indicator, but does not completely exclude larger particles from all control. These and other factors considered in recommending a  $10\ \mu m$  cut point are outlined in the staff paper (SP, pp. 75-79).

The Administrator accepts the recommendations of the staff and CASAC and their underlying rationale and proposes to replace TSP as the particle indicator for the primary standards with a new indicator that includes only those particles less than a nominal  $10\ \mu m$ . This indicator is referred

to as "thoracic particles" (TP) in the staff paper. For more general use in defining the standards, the regulated pollutant has been termed  $PM_{10}$ .

In proposing a  $PM_{10}$  indicator, the Administrator also invites public comment on certain information published and submitted after CASAC closure on the criteria document and staff paper. The American Mining Congress (AMC) has sponsored and submitted a new analysis (AMC, 1982) of particle deposition in the respiratory tract. The analysis, which was recently published as a preliminary communication (Swift and Proctor, 1982), suggests that the data used to represent particle deposition in the criteria document and staff paper overstate particle penetration to the thoracic regions of the respiratory tract because the experiments used artificial interventions (mouthpieces and nose clips) that do not simulate natural oronasal breathing. Swift and Proctor also attempt to quantify the extent of the overestimation by developing simulated particle deposition curves for oronasal breathing. Based on these simulations, AMC has recommended a particle size indicator that collects no particles greater than  $10\ \mu m$  ( $D_{50} \approx 10\ \mu m$ ), with a cut point ( $D_{50}$ ) that EPA interprets as being approximately  $6\ \mu m$ .

The Swift and Proctor analysis is relevant to the final decision on a size indicator and should be considered during the public comment period. The Administrator is not, however, proposing the AMC recommendations, in part because the supporting analysis was only recently published as a preliminary communication and was not considered by CASAC, and in part because of reservations associated with the recommendations themselves. The likelihood that the data used to derive  $PM_{10}$  overstate thoracic deposition was recognized in a qualitative sense by CASAC (cf. July, 1981 transcript, p. 581) and presented as one reason for recommending  $10\ \mu m$  as an appropriately conservative particle indicator (cf. July, 1981 transcript, p. 584). Hence, the revised staff paper specifically reflected this argument with respect to mouthpiece results in its recommendations favoring  $10\ \mu m$  over  $15\ \mu m$  as the cutpoint (SP, pp. 76-77). The assumptions used by Swift and Proctor (1982), on the other hand, may result in underestimating thoracic particle deposition, at least in some cases; this would reduce any margin of safety associated with an indicator derived from these data. The Swift and Proctor analysis itself suggests that approximately 10 to 20% of  $10\ \mu m$

\* The more precise term is 50% cut point or 50% diameter ( $D_{50}$ ). This is the aerodynamic particle diameter for which the efficiency of particle collection is 50%. Larger particles are collected with substantially lower efficiency and smaller particles with greater (up to 100%) efficiency. In practical usage, acceptable ambient samplers with this cut point provide a reliable estimate of the total mass of suspended particulate matter of aerodynamic size less than or equal to  $10\ \mu m$ . See additional discussion regarding the proposed Federal Reference Method below and in the accompanying notice proposing revision of 40 CFR Part 53.



particles could penetrate to the thoracic region, rather than the 0% penetration implied by the AMC recommendation for a "D<sub>50</sub>" of 10  $\mu$ m. If the Swift and Proctor analysis were used in determining the cut-point for the final standard, this penetration would have to be taken into account.

An additional factor to be considered in the final decision is that a shift to an indicator other than PM<sub>10</sub> would necessitate an adjustment in the level of a given standard to account for the reduced amount of particles collected. If the AMC proposal were selected following public comment, the levels of the standards would probably be adjusted downward by a factor reflecting the best estimate of the ratio of the mass of particles less than 6  $\mu$ m to the mass less than 10  $\mu$ m. Based on available interpolations, that ratio is estimated to be approximately 0.8 (Pace, 1982).

While the Administrator proposes a PM<sub>10</sub> indicator at this time, the public is invited to comment on the appropriateness of using the AMC recommendations and supporting analysis to develop a different indicator for the primary standards and on the adjustment of the numerical level of the standard that would be appropriate if a different indicator were selected after consideration of comments on this issue.

#### Averaging Time and Form of the Standards

The Administrator concurs with staff and CASAC recommendations for retaining both 24-hour and annual primary standards for particulate matter. A single averaging time would not appear to provide adequate protection against potential effects from both long- and short-term exposures without being unduly restrictive. The form for both 24-hour and annual standards is discussed below.

1. In accordance with staff recommendations, the Administrator proposes that the 24-hour standard be stated in a statistical form, rather than the current deterministic form. When used with an appropriate standard level the statistical form can provide improved health protection that is less sensitive to changes in sampling frequency than the deterministic form and also can offer a more stable target for control programs. Recognition of the limitations of the deterministic form has led EPA to promulgate or propose statistical forms for the ozone and carbon monoxide standards (44 FR 8202; 45 FR 55066).

The proposed interpretation of the statistical form of the particulate matter standard is detailed in Appendix K of

the proposed regulation. As presented there, the standard would be attained when the expected number of exceedances of the 24-hour standard level is no more than one per year. Generally, the determination would be based on three consecutive years of data. A difficulty in applying the single exceedance statistical form to particulate matter arises from the current practice of limiting the sampling frequency for particulate matter (typically only one 24-hour sample is collected every six days). This leads to an increased chance of misclassifying areas as non-attainment. The proposed approach for addressing this issue is presented in the accompanying proposal for 40 CFR Part 58.

An alternative form of the standard considered during this review was to permit multiple expected exceedances of the standard level. Analyses of air quality data indicate that a multiple exceedance form can provide even greater stability for control programs and reduce the possibility of incorrectly classifying areas as attainment or nonattainment because of unusual or infrequent meteorological conditions. If a multiple exceedance form were to be used, the level of the standard would be established at a lower numerical value than for a single exceedance standard to ensure comparable health protection, in accordance with CASAC's recommendation. Conceptual approaches for considering the interaction between standard level and number of exceedances are outlined in the staff paper (SP, pp. 81-83). The staff paper analysis does not, however, provide a complete comparison of the relative health protection, stability, and stringency of control afforded by a single as compared to a multiple exceedance standard. A more comprehensive analysis of these factors is underway and will be placed in the docket when completed. Pending completion of this analysis, the greater control of peak values available through the single exceedance form is preferred.

While the Administrator does not propose a multiple exceedance form for the 24-hour particulate matter standard at this time, the public is invited to comment on the advisability of multiple expected exceedances for determining attainment of the 24-hour standard and on the adjustment of the numerical level of the standard that would be appropriate if a multiple exceedance form were adopted after consideration of comments on this issue.

2. The Administrator proposes to change the form of the annual standard from the current annual geometric mean to a statistical form expressed as an

expected annual arithmetic mean. The expected arithmetic mean form is more directly related to the available health effects information than is the current form of the standard. The change to an arithmetic mean was recommended by the staff and CASAC on this basis. The proposed interpretation of the statistical form of the standard is detailed in Appendix K to the proposed regulation.

Under the proposed statistical form, the standard would be expressed as an expected annual arithmetic average determined by averaging the annual arithmetic averages from three successive years of data. The current deterministic form of the standard does not adequately take into account the random nature of meteorological variations. In general, annual mean particulate matter concentrations will vary from one year to the next, even if emissions remain constant, due to the random nature of meteorological conditions that affect the formation and dispersion of particles in the atmosphere. This limitation means that compliance with the standard and, consequently, emission control requirements, may be determined on the basis of a year with unusually adverse weather conditions. The problem of year to year variability, is, however, much less significant for annual average concentration standards than for 24-hour standards.

In proposing the statistical form, EPA has considered the relative protection provided by a given standard level with this form as compared to the deterministic form, and has assessed the relationship between statistical and deterministic forms of an annual standard (Frank, 1982). Based on this analysis, the level of an annual statistical PM<sub>10</sub> standard that would, on average, provide protection equivalent to a standard with a deterministic form, would be a factor of approximately 0.9 times the level of that deterministic standard.

3. The proposed interpretation of the statistical forms for both 24-hour and annual standards in Appendix K is conceptually similar to that proposed in Appendix I of the Carbon Monoxide Standard (45 FR 55066). However, specific adjustments have been made to the computations necessary for analyzing particulate matter data to account for the different averaging periods of the proposed standards and for non-scheduled sampling days as during episode periods.

The proposed appendix also specifies criteria for determining attainment of the proposed standards when less than 3 years of representative data are



available. The proposed criteria specify: (1) That two years of data representative of "normal" conditions would be sufficient to perform the calculation in order to show attainment of the annual standard; (2) that two years of representative data would be sufficient to perform the calculations for the 24-hour standard if the monitor samples every day and achieves an annual average data capture of 50 percent; and (3) that one year of representative data will be sufficient for both annual and 24-hour standards if the monitor samples every day and achieves 75 percent capture. In proposing these criteria, the Agency sought to minimize the likelihood of misclassifying areas due to incomplete data. Although data not meeting the criteria could also be used, such exceptions would have to be approved by the Regional Administrator. Comments are specifically requested on these criteria.

Provisions to minimize the influence of unusual events and trends in the computation of exceedances are also proposed. These are directed at: (1) Rare and unusual events that cannot be controlled through the State Implementation Plan process; and (2) situations in which trends in emissions and air quality are evident. The Agency is currently developing additional guidance on data requirements and treatment of both trends and unusual events. When completed, these guidelines will be made available for public comment.

The computational formulas for the 24-hour standard do not account for any seasonal differences in data capture and pollutant concentrations. Although normally small, in some cases they could affect the calculation of expected exceedances. Therefore, EPA requests comments on whether computational formulas that would address this question should be added to Appendix K.

The proposed attainment test for the 24-hour standard would compute an estimate for the expected annual exceedance rate and then compare this estimate to the allowable exceedance rate of once per year. An alternative approach would recognize the statistical variability associated with the estimated annual exceedance rate and develop a tolerance interval so that a site would not be classified as non-attainment unless the estimated annual exceedance rate exceeds the allowable exceedance rate by more than this tolerance interval. The magnitude of this tolerance interval could be determined by developing a statistical model to account for the underlying variability of

the data and could incorporate factors such as autocorrelation. From a statistical viewpoint, this type of approach would have the advantage of controlling the "Type I" error, in this case the probability of misclassifying a site as non-attainment when it actually is attainment. However, by incorporating this tolerance interval fewer sites may, depending on the significance level chosen, be classified as non-attainment than with the attainment test proposed in this notice. The tolerance interval approach might also be applied in the other direction, so that a site would not be considered to have demonstrated attainment unless the estimated exceedance rate plus the tolerance limit is less than the allowable exceedance rate. Therefore, this alternative approach may, depending on the significance level chosen, make it more difficult for a site to be classified as either attainment or non-attainment. The concept of accounting for the underlying variability of the data is also applicable to the annual standard in which a tolerance interval could be determined for the annual mean. EPA solicits comments on such approaches for this and other ambient air quality standards, particularly with respect to the advisability of their use, the practical aspects of developing these tolerance intervals, an appropriate choice of a significance level used to develop the tolerance intervals, and how they might affect ongoing programs.

#### Level of the Standards

The staff paper and CASAC recommendations set forth a framework for considering the levels for the proposed particulate matter standards to ensure that they protect public health with an adequate margin of safety. The discussion that follows on the levels of the standard relies heavily on that framework and on the supporting material in the staff paper and closure memorandum. The essential steps in this framework are summarized below.

**1. Assessment of the more quantitative epidemiological studies of particulate matter.** The criteria document identifies a small number of community epidemiological studies that are useful in developing quantitative conclusions regarding concentrations at which particulate matter is likely to produce health effects. The staff used these "quantitative" studies to examine concentration-response relationships for the various effects observed in the sensitive populations studied and developed numerical "ranges of interest" for possible  $PM_{10}$  standards.

A number of uncertainties associated with use of these studies must be

considered in selecting an appropriate margin of safety. As discussed in the staff paper and the criteria document, epidemiological studies are generally subject to inherent difficulties involving confounding variables and somewhat limited sensitivity. Moreover, most of the quantitative studies were conducted in times and places where pollutant composition may have varied considerably from current U.S. atmospheres. Most also have used British Smoke\* or TSP as particle indicators. None of the published studies used the proposed  $PM_{10}$  indicator. Thus, assumptions must be used to express the various results in common ( $PM_{10}$ ) units (SP, pp. 96-100).

**2. Evaluation of additional margin of safety considerations.** The criteria document identifies a substantial body of scientific literature that, while not providing reliable concentration-response relationships for community exposure, does provide important qualitative insights into the health risks associated with human exposure to particles. The staff assessed this literature, including both quantitative and qualitative epidemiological studies, controlled human exposure experiments, and animal toxicological studies to identify additional factors and uncertainties that should be considered in selecting the most appropriate margin of safety (SP, pp. 100-101; 107-111).

**3. Selection of the levels that might be considered to provide an adequate margin of safety for the sensitive populations of concern.** The original intent of the margin of safety requirement was to direct the Administrator to set an air quality standard at some level below the pollution level at which adverse health effects have been found or might be anticipated to occur in sensitive groups. Experience with this requirement has shown that the scientific data are often so inconclusive that it is difficult to identify with confidence the lowest level at which an adverse effect is "likely" to occur. Even if such a level can be identified, available data may suggest that the effect is also "possible" at lower levels, or that other effects (not yet adequately studied) may occur at such levels. Thus, the Administrator must still decide how far below the "effects likely" level a standard must be set to provide a margin of safety that is "adequate."

\* British Smoke (BS) is a pseudo-mass indicator related to small particle (size less than a nominal 4.5  $\mu m$ ) darkness. This particulate matter indicator was widely used in British and other European studies. See the more detailed treatment of BS in the criteria document (CD, pp. 1-88 to 1-90 and 14-8 to 14-11).



Assessments of risks can help guide this decision, but in the end cannot substitute for informed judgment. For example, if the health effect detected at low pollution levels is severe, a greater margin of safety would be called for than if it were less troubling. However, given the basic fact that determining what constitutes an adequate margin of safety always come into play below the pollution levels at which there is conclusive evidence of health effects, decision-making will necessarily involve value judgments made under a substantial degree of uncertainty. That is particularly true in a case such as the present one, where the health evidence suggests that both the severity of any potential harm from particulate pollution and the probability that this harm will in fact occur, decrease steadily, but do not necessarily vanish, as we move to lower and lower pollution levels.

For these reasons, EPA staff, with CASAC concurrence, recommended a range of potential standards for the Administrator's consideration. Any standard selected from these ranges can

be said to provide some margin of safety. Because of the substantial uncertainties in the available effects information, the complex character of particulate matter exposures, and the importance of the decision, the Administrator wishes to solicit the fullest possible participation and comment by the public before deciding which standard levels should be adopted in the final standard. He is, therefore, proposing ranges from which the final standard is, in each case, to be selected. The rationales for the proposed ranges of levels for 24-hour and annual standards are discussed below.

#### 24-Hour Standard.

The staff assessment of the short-term epidemiological data is summarized in Table 1; particulate matter levels are expressed in both the original and  $PM_{10}$  units. Based on these more quantitative studies, the staff has distinguished between concentration ranges where, in its judgment, the likelihood of effects occurring in sensitive populations is high and levels where the data indicate that

such effects may be possible, but are less likely. Therefore, the "effects likely" row in Table 1 denotes concentration ranges derived from the criteria document at or above which there appears greatest certainty that the effects listed would occur. While these effects are much less likely to occur at levels below the lower end of the combined "effects likely" range, the data do not provide evidence of clear thresholds in exposed populations. Instead, they suggest a continuum of response for a given number of exposed individuals with both the likelihood (risk) of any effects occurring and the extent (incidence and severity) of any potential effect decreasing with concentration. Thus, effects may be "possible" at levels below those listed in the "effects likely" row, but, because the evidence is less clear, the nature and extent of risks at lower levels are much more uncertain. Following CASAC recommendations, the staff used the combined range listed in the "effects possible" row as a starting point for developing alternative standards.

TABLE 1.—STAFF ASSESSMENT OF SHORT-TERM EPIDEMIOLOGICAL STUDIES (AFTER TABLE 6-2, SP)

Effects/study	Measured British smoke levels as $\mu g/m^3$			Equivalent $PM_{10}$ Levels ( $\mu g/m^3$ )—Combined range <sup>2</sup>
	Daily mortality in London <sup>1</sup>	Aggravation of bronchitis <sup>1</sup>	Combined range	
Effects likely	500 to 1000	250* to 500*	250 to 500	350 to 600
Effects possible	150* to 500	250*	150 to 250	150 to 350

<sup>1</sup> Deviations in daily mortality from mean levels examined in 3 studies encompassing individual London winters of 1958-59 and 14 aggregate winters from 1958-72. Early winters were characterized by high smoke from coal combustion emissions and high  $SO_2$  with frequent fogs (Martin and Bradley, 1960; Ware et al., 1981; Mazumdar et al., 1981).

<sup>2</sup> Examination of symptoms reported by bronchitis in London. Studies conducted from the mid-1950's to the early 1970's (Lawther et al., 1970).

<sup>3</sup> Conversion assumes that for London smoke conditions,  $BS < PM_{10} < TSP$ . Precise conversions are not possible. The lower bound assumption ( $BS = PM_{10}$ ) incorporates some margin of safety and is used to estimate the lower bound in the effects possible range. The upper bound ( $PM_{10} = TSP = BS + 100 \mu g/m^3$ ) likely overestimates  $PM_{10}$  levels and is used to provide estimates of levels where effects are most likely.

\* Indicates levels used for upper or lower bound of range.

The "range of interest" derived from the staff analysis is, therefore, 150 to 350  $\mu g/m^3$  as  $PM_{10}$ , 24-hour average with no more than one expected exceedance per year. Under the conditions prevailing during the London studies, which were characterized by high  $SO_2$  levels and smoke from open coal fires,  $PM_{10}$  concentrations near 350  $\mu g/m^3$  represent levels at which effects are considered likely in the sensitive populations studied. CASAC concluded that, considering the uncertainties in translating these results to current U.S. conditions and the seriousness of the potential health effects, the upper end of the original range of interest in the staff paper contains little or no margin of safety and should not be considered as an appropriate standard.

As indicated in Table 1, the study of Lawther et al. (1970) provides the lowest particulate matter level at which health effects are judged to be likely by the criteria document. The effects observed

in this study (related to aggravation of bronchitis) are of concern both because of their immediate impact and because of the potential for inducing longer-term deterioration of health status in a significant sensitive group. There were approximately 6.5 million bronchitics in the U.S. in 1970 (DHEW, 1973). Based on the uncertain conversion between smoke and  $PM_{10}$  outlined in Table 1, the lowest "effects likely" level derived from the Lawther study (250  $\mu g/m^3$  as BS) should be in the range of 250 to 350  $\mu g/m^3$  in  $PM_{10}$  units.

Based on using this study alone, a  $PM_{10}$  standard of 250  $\mu g/m^3$  would contain some margin of safety, even for the sensitive bronchitics studied, because it incorporates the lower British Smoke/ $PM_{10}$  conversion factor and because of differences between exposure conditions in the British study and current U.S. air quality (SP, pp. 100-101). Because bronchitics are identified as a group particularly sensitive to

particulate pollution, a standard of 250  $\mu g/m^3$  (as  $PM_{10}$ ) also would provide a substantial margin of safety for other less sensitive groups in the population. This concentration is also a factor of two below the levels (500 to 750  $\mu g/m^3$  as BS) where the criteria document indicates excess mortality begins to be considered likely (CD, Table 14-7). The portions of the population at greatest risk of premature mortality associated with particulate matter exposures include the elderly and persons with pre-existing respiratory or cardiac disease. Although the extent of life shortening (days, weeks, or years) cannot be specified, the seriousness of this effect strongly justifies a margin of safety for it (below the "effects likely" levels) that is larger than that warranted for the effects on bronchitics.

Taken alone, then, this information would tend to support the choice of a standard level of 250  $\mu g/m^3$  as providing adequate health protection. Several



additional factors, however, suggest the need for considering a larger margin of safety than that provided by a standard with a level of 250  $\mu\text{g}/\text{m}^3$ . These include:

(1) The staff assessment of London mortality studies suggests risks of premature mortality to sensitive individuals at concentrations lower than those at which such effects are considered likely. Although the risks to individuals may be small at 250  $\mu\text{g}/\text{m}^3$  and below, the number of people exposed to lower concentrations is substantially larger than the number exposed to higher levels (e.g., Biller, 1983). The increased number of sensitive individuals exposed increases the risk that effects will occur in the total population exposed.

(2) Information from qualitative studies assessed in the staff paper (SP, pp. 101-103) suggests risks for sensitive groups (children and asthmatics) and of potential effects (morbidity in adults) not demonstrated in the more quantitative epidemiological literature. The qualitative studies do not provide clear information on effects levels, but do justify consideration for standard-setting purposes of these particulate matter effects that have not been sufficiently investigated.

(3) Differences in composition of particles and gases among U.S. cities and between conditions in the U.S. and those in London at the time quantitative studies were conducted add to the complexity of assessing the risk associated with particulate matter exposures in the U.S.

These factors suggest the need to consider alternative standard levels that might extend from 250  $\mu\text{g}/\text{m}^3$  down to the lower bound of the staff range of interest (150  $\mu\text{g}/\text{m}^3$  or even below. In evaluating them, the Administrator is mindful of the uncertain and largely qualitative nature of the effects information when applied to assessing health risks of particulate matter in contemporary U.S. atmospheres. Although the CASAC has concurred with EPA's assessments of the key studies conducted in London, several of the early British investigators have continued to express substantial

disagreement with the interpretations in the criteria document and staff paper (Lawther, 1982; Holland *et al.*, 1983). A diversity of opinion among scientists is to be expected when evaluating what constitutes an adequate margin of safety below consensus "likely" effects levels, but the range of uncertainty is particularly large in the case of particulate matter.

Because of the substantial uncertainties in the scientific and technical information available for use in assessing health risks below 250  $\mu\text{g}/\text{m}^3$ , the complexities associated with applying available effects information uniformly to a variety of exposure conditions in different geographical areas, and the narrow range of factors that apparently may be reviewed in making this important public policy decision, the Administrator finds it difficult to choose a single standard level from a range of 150 to 250  $\mu\text{g}/\text{m}^3$ . Given the relatively low health risks to individuals at levels below 250  $\mu\text{g}/\text{m}^3$ , the Administrator feels that if consideration could be given to geographic variability in such factors as the number of people exposed, the nature and composition of pollution exposures and the costs and difficulties in attaining the standards, different levels—spanning the entire range of 150  $\mu\text{g}/\text{m}^3$  to 250  $\mu\text{g}/\text{m}^3$ —might be considered appropriate for different areas. The present Act, however, appears to preclude consideration of costs and feasibility in setting NAAQS and focuses the basis for a decision on national public health protection on "worst case" exposure situations.

Given the precautionary nature of section 109 and the factors the Act permits him to consider, the Administrator is inclined to select a 24-hour standard from the lower portion of the above range. Because of the wide uncertainties and the significance of this decision, however, he believes it is important to air the issues and uncertainties fully and to encourage broad public participation and comment before choosing a specific level for the standard. Therefore, the Administrator proposes to select a final standard level

from a range of values between and including 150 to 250  $\mu\text{g}/\text{m}^3$ , and solicits public comment on the standard level that provides an adequate margin of safety given the risk of effects suggested by the available scientific information.

In proposing this range for the 24-hour standard, the Administrator also invites public comment on an EPA analysis, developed subsequent to CASAC closure on the criteria document and staff paper, that is of some relevance to the final decision on the level of that standard. The analysis (Morgenstern, 1982), which has been placed in the rulemaking docket, is a further evaluation of the London mortality data and examines the issue of whether clear effects thresholds can be identified. The analysis adds to the evidence that would suggest some possibility of effects even at levels below 75  $\mu\text{g}/\text{m}^3$  BS (75 to 175  $\mu\text{g}/\text{m}^3$  as PM<sub>10</sub>).

Although the analysis is relevant to the final decision on a standard level and should be considered during the public comment period, the Administrator did not consider it in developing the proposed standard range because it is an unpublished staff analysis that has not been considered by CASAC and because of possible limitations identified in initial public comment on it (Young, 1982). These comments have been placed in the rulemaking docket.

#### Annual Standard

The staff assessment of important long-term epidemiological data is summarized in Table 2. Long-term epidemiological studies are subject to additional confounding variables that reduce their sensitivity and make interpretation more difficult than for short-term studies. The "effects likely" levels are derived from the criteria document, but again, no clear thresholds can be identified in exposed populations for all indicators of health effects. Effects may occur at lower levels, but the evidence is inconclusive and effects are difficult to detect in the available epidemiological studies.

TABLE 2.—STAFF ASSESSMENT OF LONG-TERM EPIDEMIOLOGICAL STUDIES (AFTER TABLE 6-3, SP)

Effects/study	Measured BS levels (as $\mu\text{g}/\text{m}^3$ )—increased respiratory disease, reduced lung function in children <sup>1</sup>	Measured TSP levels ( $\mu\text{g}/\text{m}^3$ )		Combined ranged	Equivalent PM <sub>10</sub> levels ( $\mu\text{g}/\text{m}^3$ )—combined range <sup>4</sup>
		Increased respiratory disease symptoms, small reduction in lung function in adults <sup>2</sup>	Increased respiratory symptoms in adults <sup>3</sup>		
Effects likely	230 to 300 BS	180*		>180	90 to 110.
Effects possible	<230 BS	130 to 180*	60 to 150 (110*)	110 to 180	55 to 110.
No significant effects noted		90* to 130		80 to 110	40 to 55.

<sup>1</sup> Study conducted in 1963-65 in Sheffield, England (Lunn *et al.*, 1967). BS levels (as  $\mu\text{g}/\text{m}^3$ ) uncertain.

<sup>2</sup> Studies conducted in 1961-73 in Berlin, NH. Major source in community was pulp mill. Effects level (180  $\mu\text{g}/\text{m}^3$ ) based on 2-month average. Effects on lung function were relatively small (Ferris *et al.*, 1973, 1976).



\* Study conducted in 1973 (Bouhuys et al., 1978). Exposures reflect 1965-73 data in Ansonia, CT. Median value used as an indicator. Essentially negative study. No effects on lung function, but some suggestion of effects on respiratory symptoms.

\* Conversion based on estimated ratio of  $PM_{10}/TSP$  for current (1980-81) U.S. atmospheres. The ratio estimated for use in the staff paper ranged between about 0.5 to 0.6. These numbers were used as lower and upper bounds for estimating  $PM_{10}$  equivalents from TSP values. More recent analyses suggest the median ratio may be as low as 0.45 to 0.5 (Pace, 1983).

\* Indicates levels used for upper or lower bound of range.

Based on the staff assessment, the "range of interest" for examining potential  $PM_{10}$  standards was 55 to 110  $\mu g/m^3$ , annual arithmetic mean. Because the original studies measured TSP, some uncertainty exists in deriving precise  $PM_{10}$  levels associated with possible effects.\* Moreover, the upper end of this range overlaps the somewhat uncertain "effects levels" derived from these studies. CASAC felt that, due to these uncertainties, the upper end of the range (110  $\mu g/m^3$ ) may not include any margin of safety, and should not be considered as an appropriate standard alternative.

The lowest "effects likely" level identified in the assessment summarized in Table 2 is 90  $\mu g/m^3$  as  $PM_{10}$ , although effects are possible at lower concentrations. The effects of most concern relate to the possibility of long-term deterioration of the respiratory system in exposed populations, the potential for which is indicated by lung function (mechanical pulmonary) changes and increased incidence of respiratory disease. One set of studies (Ferris et al., 1973, 1976) provides some evidence for a "no observed effects" level at or below 60 to 85  $\mu g/m^3$  (130  $\mu g/m^3$  as TSP) while another, essentially negative study (Bouhuys et al., 1978), suggests some possibility of symptomatic responses at long-term median levels at or below about 50 to 55  $\mu g/m^3$  as  $PM_{10}$ . It is not clear whether these symptomatic responses, which were unaccompanied by lung function changes, represent adverse health effects.

A  $PM_{10}$  standard of 60 to 85  $\mu g/m^3$  would provide some margin of safety based on the studies of Ferris and co-workers, but would leave some small remaining risk of symptomatic responses. Because of associated uncertainties (SP, pp. 104-110) as well as the limited scope and number of these long-term quantitative studies, it is particularly important to examine the results of qualitative data from a number of epidemiological, animal, and air quality studies when evaluating what constitutes an adequate margin of safety

for an annual standard. These studies justify concern for serious effects not directly evaluated in the studies listed in Table 2. Such effects include damage to lung tissues contributing to chronic respiratory disease, cancer, and premature mortality (SP, pp. 109-111). Substantial segments of the population may be susceptible to one or more of these effects (SP, p. 46). The available scientific data do not suggest major risks for these effects categories at current ambient particle levels in most U.S. areas. Nevertheless, the risk that both fine and coarse particles may produce these responses supports the need to limit long-term levels of  $PM_{10}$  for a variety of ambient aerosol compositions.

Although the qualitative data do not provide evidence for major risks of these effects categories at current annual particulate matter levels in most U.S. cities, the Administrator believes that the weight of the evidence, the seriousness of the potential effects, the large population at risk, and the recent information on converting TSP values to  $PM_{10}$  levels warrant caution in setting the standard, and suggest consideration of standards in a range of 50 to 65  $\mu g/m^3$ . Given the precautionary nature of section 109 and the factors the Act permits him to consider, the Administrator favors a standard in the lower portion of this range. For reasons articulated in the discussion of the 24-hour standard, the Administrator has not selected a single level, but proposes that the level of the annual standard be selected from a range of 50 to 65  $\mu g/m^3$  (as  $PM_{10}$ ), expected annual arithmetic mean. Public comment is solicited on what standard within this range that provides an adequate margin of safety against the risk of effects suggested by the available scientific information.

## RATIONALE FOR THE SECONDARY STANDARDS

### Introduction

Where secondary standards are concerned, the question of considering the costs and difficulties of attainment stands on a somewhat different footing. The Clean Air Act's legislative history contains a number of statements emphasizing that health must be the exclusive basis for setting primary standards, but no parallel language concerning secondary standards. To set a secondary standard that literally eliminated all welfare effects from air

pollution could lead to very extreme control requirements. Indeed, since some regions are naturally dustier than others, and some have better natural visibility than others, a literal reading could compel those naturally dusty or low-visibility regions to clean up even beyond their natural background levels. Congress appeared to recognize some of these difficulties in that the Act allows the Administrator to use judgment in determining what constitutes an adverse welfare effect and the Act does not require the same stringent timetable for the secondary standards as for the primary standards.

If such a literal interpretation of the statute were truly intended, there would be no need for separate Clean Air Act programs to protect visibility or guard against significant deterioration. Yet Congress included these programs in the 1977 amendments to the Clean Air Act, and gave as one of its reasons that the secondary standards did not protect against all welfare effects, and that additional measures were therefore needed. See 1977 House Report pp. 204-05. Congress gave no indication that it expected revisions to the secondary standards that would change this situation.

Congress therefore seems to have assumed that the secondary standards would not literally protect against all welfare effects. But if the secondary standards are therefore not to be set based on a literal reading of the statute, that raises once again the question what factors may be considered in setting them.

In this regard, it is worth noting that striking anomalies arise in attempting to set welfare-based air quality standards according to some welfare effects but not others. For example, a tighter air quality standard might lead to a reduction in soiling and nuisance. However, such a standard could cause an increase in the price of electricity thus reducing the demand for air conditioning and increasing the discomfort factor. Both soiling and nuisance and personal well-being and comfort are welfare effects but in the case cited, a literal interpretation of the Act would allow one to be used but not the other in setting the secondary standards.

When the Agency first considered this issue in 1972, a staff memorandum (Schwartz, 1972) from the General Counsel's office argued that, though the

\* As noted in Table 2, the original staff paper assessment assumed a  $PM_{10}/TSP$  ratio of 0.5 to 0.6. The discussion that follows also takes into account the results of more recent analyses suggesting that the median ratio may be as low as 0.45 to 0.5 (Pace, 1983). Applying this more recent information, the lower bound of the range of interest is reduced to 50  $\mu g/m^3$ . Because this level represents a multi-year average in the original study, no adjustment is needed when considering this level as an expected annual mean.



better statutory reading was that costs and attainment problems could not be considered in setting secondary standards, the opposite conclusion could be supported by forceful arguments. As indicated previously, the D.C. Circuit has addressed the issue twice in the context of primary standards. *Lead Industries Association v. EPA*, supra, 647 F.2d at 1148-51; *American Petroleum Institute v. Costle*, supra, 665 F.2d at 1185, 1190. Neither case, however, involved a serious challenge to secondary standards on cost grounds. Although the opinions contain language that can be taken as hearing on the secondary standards issue, it is uncertain whether the court would have arrived at this conclusion in a case presenting issues of general welfare under secondary standards rather than public health under primary standards.

The Agency has not revised its position, based on the 1972 legal memorandum, that the better legal view is that attainment costs should not be considered in setting secondary standards. However, the Agency has not had occasion to face the issue directly since passage of the 1977 amendments. The issue remains a troubling one, worth further examination, particularly since this proposal sets forward a secondary standard that could have control impacts beyond those due to the primary standard. The Agency therefore invites comment on this issue.

The criteria document and staff paper examined the effects of particulate matter on such aspects of public welfare as visibility and climate, man-made materials, vegetation, and personal comfort and well-being. Each is discussed in some detail in the criteria document and staff paper. The following discussion of the rationale for the secondary standards focuses primarily on the considerations that were most influential in the Administrator's selection of a particular option, or that differ in some respects from or expand upon considerations that influenced the staff and/or CASAC recommendations.

#### Soiling and Nuisance

At high enough concentrations, both large and small particles may soil household and other surfaces, or otherwise become a nuisance. Both effects result in increased cost and decreased enjoyment of the environment (SP, p. 140). Efforts to control particulate matter in U.S. cities from 1970 to 1978 are estimated to have produced substantial economic benefits because of reduced soiling and nuisance (CD, p. 1-51). Based on these factors, the staff paper recommends consideration of soiling of materials and nuisance

generated by dust and other particles in deciding upon a secondary standard (SP, p. 141).

In considering secondary standard(s) for particulate matter, the Administrator first determined whether the pollutant indicator ( $PM_{10}$ ), averaging times and form, and range of levels of the proposed primary standards would provide adequate protection against the known or anticipated adverse welfare effects associated with soiling and nuisance. The decision with respect to each of these areas is discussed below.

#### Pollutant Indicator

Although both large and small particles can contribute to soiling and nuisance, the available scientific data do not provide quantitative information on the relative importance of various size fractions. The proposed indicator for the primary standards,  $PM_{10}$ , could also be considered as a useful indicator for a secondary standard based on soiling and nuisance because (1) small particles in the less than  $10\ \mu m$  size range are more likely to penetrate indoors and soil vertical surfaces (SP, pp. 136-137) and (2) due to the characteristic size distribution and origin of particles in the atmosphere (SP, pp. 14-19), control of particles less than  $10\ \mu m$  would also limit the concentration of large (coarse mode) particles, to some extent.

Nevertheless, the criteria document and everyday experience make it clear that particles larger than  $10\ \mu m$ , including visible dust and large soot, can soil horizontal and other surfaces outdoors and present a nuisance. A  $PM_{10}$  indicator would exclude the 50 percent or more of suspended particulate matter mass that is larger than  $10\ \mu m$ , and the ratio of  $PM_{10}$  to large particle levels can vary substantially from city to city. Therefore,  $PM_{10}$  would be an incomplete indicator for large particles and its use could result in a relatively large degree of variability in welfare protection among cities with differing  $PM_{10}$ /TSP ratios.

The current indicator for the secondary standard, TSP, incorporates a larger portion of the particles that can contribute to soiling and nuisance. Although TSP does not include some of the largest particles of concern nearest sources and the efficiency with which it collects such particles can vary with wind speed, control requirements for TSP would result in reductions in these larger particles as well. Most of the available information on such effects is related to TSP measurements, facilitating evaluation of alternative levels without the additional uncertainty

added by converting to a different indicator. Given the lack of data permitting a clear distinction among particle size ranges with respect to soiling and nuisance, the more inclusive nature of TSP, and the use of TSP in available effects studies, the Administrator proposes to retain TSP as the indicator for a secondary standard designed to protect against soiling and nuisance.

While proposing to retain a TSP secondary standard, the Administrator solicits public comment on another option that is under consideration, that of making the secondary standard equivalent in all respects to the proposed primary standards for  $PM_{10}$ . As discussed above, both TSP and  $PM_{10}$  could be useful indicators for those particles responsible for soiling and nuisance. Based on the available scientific data, the choice between the two is difficult. Depending on the exact levels of primary standards chosen, the combined requirements for meeting both 24-hour and annual primary standards for  $PM_{10}$  might be considered adequate to protect against possible adverse welfare effects related to soiling and nuisance from all relevant particle sizes. This approach would also simplify monitoring and reporting requirements because information and control strategies would be required for only one pollutant.

#### Averaging Time and Form

Soiling and nuisance may result from both short-term dust episodes and longer-term accumulations of particles (SP, pp. 136-138). Most studies that indicate a relationship between particulate matter and these effects, however, have been based on annual average levels (SP, pp. 138-139). Moreover, strategies to prevent longer-term impacts appear to be more effective for protecting public welfare than those attempting to control temporary localized problems, such as a few days of windblown dust or pollen. Based on these considerations, an annual averaging time would appear to be more appropriate than a 24-hour standard. Therefore, the Administrator proposes to replace the current 24-hour secondary TSP standard with an annual standard.

For reasons presented in the discussion of proposed annual primary standards and for consistency in averaging and reporting between primary and secondary standards, the Administrator proposes an arithmetic mean and statistical form for the annual secondary standard. The proposed interpretation of this form is identical to



that for the primary particulate matter standard and is detailed in Appendix K of the proposed regulation.

#### Level

The available data base provides compelling evidence that elevated levels of particulate matter can produce adverse welfare effects, but provides little quantitative information on concentration-effects relationships. Physical damage and economic studies tend to show no obvious welfare effects "thresholds" for soiling. With time, particulate matter may accumulate on surfaces even at low concentrations. At very low concentrations, the amounts of particulate matter may be virtually invisible to the human eye or be so slight as to be ignored by most people (Carey, 1959; Hancock et al., 1976). Up to a point, the buildup of particles on surfaces may not be generally regarded as a social problem because it is removed by rain or routine cleaning and maintenance before substantial accumulation can occur. Thus, the critical judgment for selecting a standard level is to determine a particulate matter concentration at which the soiling effect is significant enough that it should be regarded as an "adverse" effect under section 109(b)(2) of the Act.

The available information suggests that the public makes a distinction between concentrations at which particulate pollution is noticeable and higher levels at which it is considered a nuisance. A study of the response of a panel of human subjects to dust on surfaces concluded that the level of dustiness that is found to be objectionable is higher than the level that can be perceived or discriminated (Hancock et al., 1976). No unique adverse particulate matter levels were, however, derived from this study. A more direct study of perception of air pollution as a nuisance (CD, pp. 9-67) suggests that the subjects began to consider air pollution a nuisance in areas where annual levels were at or somewhat above the level of the current annual primary TSP standard. Opinions expressed by some CASAC members (November, 1981 transcript, pp. 63-66) supported this suggestion. The committee as a whole did not, however, make any recommendations regarding a range of interest for a secondary TSP standard.

Several studies of economic effects associated with soiling by particulate matter are discussed in the criteria document. These studies suggest the possibility of substantial economic benefits in moving from TSP concentrations equivalent to the current

primary annual standard to levels as low as the current annual guide for attaining the secondary standard (CD, pp. 10-54 to 10-69). The criteria document points out the tentative and largely qualitative nature of these studies, but uses them to provide a crude estimate of the magnitude and direction of benefits in reduced outdoor soiling associated with decreased TSP levels in U.S. cities. A 20 percent improvement in TSP from a starting point close to the current primary annual standard resulted in an estimated national economic benefit of \$0.2 to \$0.7 billion/yr in 1978 dollars (CD, p. 10-73). As discussed in the criteria document and the staff paper (SP, p. 139-140), the original studies are too uncertain to make this anything but a crude qualitative estimate.

The studies and information discussed above can be used to suggest a range for alternative annual secondary standards. Based on the study of perception and suggestions by individual CASAC members, a TSP standard at or near the current annual primary standard may protect public welfare against adverse effects related to soiling and nuisance by particles. Even though the available data are qualitative and uncertain, the weight of evidence would suggest that it is unwise to reverse the progress towards increasing benefits associated with implementing the current primary standard. Accounting for the change to arithmetic mean and statistical form, a level of 80 to 90  $\mu\text{g}/\text{m}^3$  expected annual arithmetic mean would be consistent with maintaining welfare protection equivalent or near to that provided by the present annual standard. These levels form the upper bound of the range of interest.

The rough economic estimates in the criteria document suggest the need to consider the possibility of more stringent standards, at levels approximately equivalent to the current annual guide for the secondary standard. Applying appropriate adjustments for form and averaging time, a standard of about 70  $\mu\text{g}/\text{m}^3$  annual arithmetic mean is approximately equivalent to the current annual guide. This level forms the lower bound for the range of interest.

The range of interest for the secondary standards developed above is thus 70 to 90  $\mu\text{g}/\text{m}^3$ , expected annual arithmetic mean. Because CASAC and the public have not reviewed or commented on this range and because of the uncertainties in the information, the Administrator is proposing to select the final standard from within this range and has not decided upon a single

standard level. Given the large uncertainties in the available information, the Administrator is inclined to continue the level of protection provided by the current annual TSP standard and select a level from the upper portion of the above range. The Administrator solicits public comment on the most appropriate level, and in particular seeks the guidance of knowledgeable State and local air pollution officials with respect to levels at which the public appears to consider particulate matter to be a nuisance.

#### Other Welfare Effects

The other welfare effects of particulate matter of principal interest include impairment of visibility, potential effects on climate, and contribution to acidic deposition. These potential effects are most strongly related to regional scale fine particle levels and any standards and controls would likely involve regional sulfur oxide emissions (SP, p. 147; Friedlander, 1982). The staff and CASAC pointed out the advantages of recognizing the interrelated aspects of the known and potential effects of fine particles on visibility and climate together with the acidic deposition phenomenon when considering a possible fine particle standard.

In view of these considerations, the Administrator has decided to defer a decision on a possible fine particle secondary standard until it is possible to link such a standard with a coherent, scientifically based strategy for these related regional air quality problems. EPA is continuing to evaluate alternative approaches to address acidic deposition. In parallel with this effort, the Agency is examining the implications of acidic deposition control strategies on visibility and other air quality values. The results of this examination together with other relevant information will be used in preparing an advance notice of proposed rulemaking soliciting public comment regarding a possible fine particle secondary standard.

The Administrator also concurs with the staff suggestions that a separate secondary particle standard is not needed to protect vegetation or to prevent adverse effects on personal comfort and well-being.

#### NEED FOR ADDITIONAL RESEARCH

A troublesome aspect of this standard decision is the large uncertainty in available scientific information. In this regard, CASAC transmitted to the Administrator its review of the scientific data base and assessment of research



needs for particulate matter as well as several other criteria pollutants (Lippmann, 1983). In this most recent assessment, the committee indicated that "the research needs for particulate matter (PM) are substantially greater than those for any of the other criteria pollutants discussed in this report" and that their "review also revealed a highly limited data base, particularly where quantitative studies were concerned, and a wide range of views about the effects of specific constituents of PM and the exposure levels at which adverse health or welfare effects are likely to, or may possibly, occur." While the report points out a number of specific areas where additional research is needed on both health and welfare effects, the main areas include:

1. The physicochemical properties of PM as they affect health;
2. The nature of health effects of PM and its major constituents;
3. Quantitative relationships between PM and health effects in sensitive population groups;
4. Effects on visibility; and
5. Soiling and nuisance effects.

The Agency is examining its research program in these areas and will, to the extent resources allow, incorporate the CASAC recommendations in its research planning process.

#### FEDERAL REFERENCE METHOD

##### Approach

The current appendices to 40 CFR Part 50 describe requirements for reference methods to be used for measuring each of the pollutants for which an NAAQS has been established. For each pollutant, a corresponding appendix specifies either (1) a complete, unique, manual reference method (e.g., TSP, SO<sub>2</sub>, Pb) or (2) a measurement principle and calibration procedure applicable to automated reference methods, which must also meet performance requirements specified in 40 CFR Part 53 (e.g., CO, O<sub>3</sub>, NO<sub>2</sub>).

Accordingly, a new Appendix J is proposed today to describe the requirements for reference methods for PM<sub>10</sub>. The proposed Appendix, however, would deviate somewhat from the established scheme in that the method described is considered a manual method even though the requirements resemble the measurement principle and performance requirements normally prescribed for automated methods. This approach would provide greater flexibility, allow the use of currently available particulate matter samplers and encourage continuing improvements and innovative sampler design.

Many of the concepts and approaches underlying the proposed PM<sub>10</sub> reference method requirements have been established on the basis of extensive consultation, assistance, and general consensus among numerous particulate matter monitoring experts both within and outside EPA. In particular, EPA sponsored two workshops (October 1979 and November 1980) that brought together many of these experts to help formulate size-specific monitoring requirements (Kashdan and Ranade, 1982).

The proposal of PM<sub>10</sub> as an indicator of particulate matter is discussed in an earlier section of this notice. The PM<sub>10</sub> indicator is, in effect, defined by the sampling requirements, which in turn were designed to approximate particle penetration to the thoracic region of the human respiratory tract (as developed from studies using mouthpieces). In practice, however, the mass collected by ambient samplers is more dependent on the cut point than on matching other parameters of respiratory tract penetration (Rodes et al., 1981). Thus, samples with a 50 percent cut point of 10  $\mu$ m that meet the size discrimination specifications in 40 CFR Part 53 will provide a reliable estimate of the total mass of suspended particulate matter less than or equal to 10  $\mu$ m in aerodynamic diameter. The proposed requirements specify a 50 percent cut point of  $10 \pm 1$   $\mu$ m and designate total mass collection tolerances for typical atmospheric particle distributions.

The proposed reference method for PM<sub>10</sub> is based on discrimination and selection of PM<sub>10</sub> particles by inertial separation in a specially shaped inlet, followed by conventional filtration of a measured volume of sampled air and determination of the net weight gain of the filter. The normal sampling period would be 24 hours. The size discrimination characteristics of the sampler (or sampler inlet) would be required to meet specifications and be tested according to explicit test procedures prescribed in 40 CFR Part 53. Methods for PM<sub>10</sub> that meet all requirements would be designated as PM<sub>10</sub> reference methods according to the method identification, which in most cases would probably be the manufacturer and model of the sampler.

Wherever feasible, the requirements in Appendix J are prescribed as functional or performance specifications rather than design specifications to allow maximum flexibility in designing or configuring PM<sub>10</sub> samplers. Sampler shape, inlet geometry, filter material and size, operational flow rate, degree of automation, and so forth are all

specified in terms of required function or performance.

The proposed reference method prescribes no specific flow-rate for PM<sub>10</sub> samplers. High flow-rate samplers, such as the existing high volume samplers equipped with a size-selective inlet, would be approved if they meet the other performance requirements. Medium- and low-flow samplers would also be allowed, provided enough mass is collected to meet the reproducibility specification. PM<sub>10</sub> samplers would be required to minimize measurement errors resulting from filter handling operations such as conditioning, weighing, and installation in and removal from samplers. The alkalinity specification would disallow the use of excessively alkaline media that could lead to possible measurement errors from artifact formation on the filter. Filters meeting this specification should show little or no sulfate artifact but may be subject to errors due to nitrate artifact. However, for most sampling locations, PM<sub>10</sub> mass concentration errors due to positive nitrate artifact or loss of nitrate by volatilization or chemical reaction are expected to be small.

The proposed filter medium specifications are intended to be minimum requirements when measurement of PM<sub>10</sub> mass concentration is of primary concern. Users would need to consider additional filter medium criteria if other sampling objectives were to be met.

Reference method samplers must have the capability of collecting valid samples at ambient concentration levels consistent with the proposed NAAQS. A filter's capability of withstanding high particle mass loadings under a variety of environmental conditions without overloading (clogging) is an important concern. Ideally, the pressure drop across the filter should be sufficiently low to minimize the potential for overloading. To further minimize this possibility, samplers should have the capability of maintaining normal flow rates over as wide a range of pressure drop as is practical.

Sampler manufacturers are encouraged to consider the potential for filter overloading in designing their samplers and in selecting their recommended filter media. Samplers that incorporate filter-changing mechanisms to automatically switch from a particle loaded filter to a fresh filter would be allowed, provided the reproducibility of the PM<sub>10</sub> measurement met the required specification.

Sampler manufacturers would be required to provide sampler purchasers



with an operation or instruction manual containing detailed procedures for calibration and operation of the sampler, as well as recommendations regarding appropriate filter media and type of analytical balance required for mass determinations. Such a manual would be required by 40 CFR Part 53, which would require submission of the manual as part of the manufacturer's application for a reference method determination.

#### Technical Change to Appendix G

The high-volume method described in Appendix B will continue to be used for the proposed secondary standard and in conjunction with Appendix G ("Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air") and for other purposes that may be specified. Accordingly, EPA proposes to delete reference 10 in Appendix G and to revise section 5.1.1 of the Appendix to read as follows: "High Volume Sampler. Use and calibrate the sampler as described in Appendix B to this Part." The Appendix would also be revised to specify more directly that the high-volume method described in Appendix B is to be used in conjunction with the reference method for lead.

#### PREVENTION OF SIGNIFICANT DETERIORATION

Pursuant to a settlement with petitioners in *Chemical Manufacturers Association v. EPA*, D.C. Cir. No. 79-1112, EPA agreed to propose revision to certain requirements for the prevention of significant deterioration of air quality (PSD), if appropriate, at the time it proposed revisions to the particulate matter standards. Section 163 of the Act lists numerical increments for "particulate matter" that limit increases in ambient concentrations of that pollutant over established baseline values. The Act, however, does not define "particulate matter." EPA has traditionally defined this pollutant in terms of TSP, because the air quality standards have used that indicator. In a major decision in 1979, the D.C. Circuit indicated—though it was not essential to the resolution of the issues then at hand—that EPA has discretion to define particulate matter differently, provided that the definition encompassed all particles having a substantial health or welfare effect and excluded only those having no such impact. *Alabama Power Company v. Costle* 636 F.2d 323, 370 n. 134. Implicit in this view is that the Agency may not change to a definition of particulate matter that would exclude particles that are known to have

adverse impacts on public health or welfare.

Various industries, especially the mining industry, have sought relief from the PSD increment based on TSP. In its litigation settlement with industry petitioners in *Chemical Manufacturers Ass'n v. EPA*, EPA agreed to propose certain regulatory changes, but only to the extent that they could be technically supported. In relevant part the settlement stated that "[w]hen EPA proposes a new size cutoff for purposes of the NAAQS, it shall also propose (a) a new size cutoff for PSD purposes that would remain in effect indefinitely (i.e., the 'permanent PSD cutoff') and (b) an interim size cutoff for PSD purposes that would remain in effect until EPA takes final action on the permanent PSD cutoff. The interim cutoff will exclude only those particles which clearly appear not to pose substantial health and welfare risks and therefore are highly likely to be excluded permanently."<sup>1</sup>

As discussed in the rationale for the primary and secondary standards, although the Agency's review of the data suggests that particles larger than ten micrometers might be safely excluded from the primary standard, such particles can contribute to soiling and nuisance and therefore may have substantial welfare effects. The Administrator is proposing to retain TSP as the indicator for the secondary standard in large part because it includes most of these large particles and may therefore be a better indicator of all particles that produce soiling and nuisance. Thus, by the terms of the CMA agreement itself, there appears to be no appropriate cutoff below that for TSP for PSD purposes, and the contemplated interim and permanent relief is not available. Therefore, EPA proposes not to change how "particulate matter" is defined for purposes of the PSD increments. EPA solicits comments on this proposal.

As discussed above, EPA in response to comments conceivably might adopt a size cutoff below that for TSP for purposes of the secondary standard. Even if it does that, there is considerable question as to whether EPA could then also adopt the same cutoff for purposes of the PSD increments. EPA therefore solicits comment on this possible change

<sup>1</sup> EPA also agreed to publish certain guidance regarding postponement of SIP revisions for correction of violations of PM increments and for issuance of basic State new source review permits (i.e., permits issued under State regulations meeting 40 CFR 51.18(a)-(i)) to sources that would cause a violation of a PM increment. That guidance was included in EPA's proposed rulemaking of August 25, 1983, 48 FR 38742.

to the increments and in particular on the merits of the position that EPA has some discretion to define particulate matter for PSD purposes.

EPA has established a separate docket for the review of the definition of particulate matter for purposes of the prevention of significant deterioration increments. Comments on this issue should be sent to this docket (Docket No. A-83-48) and not to the rulemaking dockets established for the proposed national ambient air quality standards.

#### REGULATORY AND ENVIRONMENTAL IMPACTS

##### Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is a "major" regulation for which a Regulatory Impact Analysis (RIA) is required. The Agency has judged the particulate matter NAAQS proposal to be a major action, and has prepared a draft RIA based on information developed by several EPA contractors (inter alia, Argonne, 1983; Mathtech, 1983). It includes estimates of costs, benefits, and net benefits associated with alternative standards. The draft analysis, entitled *Regulatory Impact Analysis of the National Ambient Air Quality Standards for Particulate Matter-Draft* (EPA, 1983), is available from the address given above (see Availability of Related Information section). A final RIA will be issued at the time of promulgation.

Neither the draft RIA nor the contractor reports have been considered in issuing this proposal. The Administrator has not seen these documents nor has he been briefed on their contents. As had been noted, several recent judicial decisions make clear that the economic and technological feasibility of attaining ambient standards are not to be considered in setting them, although such factors may be considered to a degree in the development of State plans to implement the standards. The Agency is currently considering the generic issue of the role, if any, of benefits analysis, or parts thereof, in setting ambient standards. If the Agency concludes that information from benefits analyses may be legally and technically relevant to standard setting, Agency staff will review the benefits information in the particulate matter RIA and contractor reports to determine whether or not any portions of it appear to be relevant in this rulemaking. Because the approaches used and the results have not been subject to extensive peer review, EPA would then submit the portions thought



to be relevant to CASAC and the public for comment on their scientific and technical adequacy and whether they should be considered in the final decision on the particulate matter standards.

The draft RIA has been submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. Any comments from OMB and any EPA responses to those comments are available for public inspection at EPA's Central Docket Section (Docket No. A-82-37), West Tower Lobby, Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C.

#### Impact on Reporting Requirements

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

#### Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the Agency must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b) this requirement may be waived if the Agency certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000. EPA has made an effort to assess the potential impacts on small entity groups as part of the economic impact analysis in Section V.F. of the RIA (EPA, 1983). The preliminary assessment based on selected industries does not suggest that the proposed revisions will significantly affect a substantial number of small entities for the group of potentially affected industries. For reasons outlined below, however, this analysis is limited and does not permit definitive findings with respect to all potentially affected small entities.

The major analytical difficulty results from the extremely large number of potentially affected industries (over 280 at the 4-digit SIC code level). This makes it impractical at present to gather and analyze all of the information on plant size and ownership that would be necessary to perform detailed economic impacts analyses on each small entity group. In an attempt to develop some of the information necessary for a regulatory flexibility analysis, a screening analysis was performed in Section V.D. of the RIA (EPA, 1983). This analysis selected 16 of the most affected industries (out of a total of 280

industries) for further examination. For the 16 industries as a group, the percentage of potentially affected plants (both large and small) was less than 20 percent, which would suggest that the percentage of small entities affected within the 280 industries would not be substantial (i.e., not greater than 20 percent). Nevertheless, this limited analysis does not permit a clear determination of whether significant impacts would be incurred by a substantial number of small entities.

Additionally, after promulgation of national ambient air quality standards, the control measures necessary to attain and maintain them are developed by the respective states as part of their state implementation plans. In selecting such measures, the states have considerable discretion so long as the mix of controls selected is adequate to attain and maintain the ambient standards. Whether a particular standard would have a significant effect on a substantial number of small entities then depends to some extent on how the states would choose to implement it. For these reasons, any assessment performed by EPA at this time is necessarily somewhat speculative. Moreover, although the proposed standards may impact some small entities when they are implemented by the states, it appears that this factor, like other economic and technological feasibility factors, cannot affect the Agency's decision.

#### OTHER REVIEWS

This proposed rule was submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB and any EPA responses to these comments are available for public inspection at EPA's Central Docket Section (Docket No. A-82-37), West Tower Lobby, Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C.

#### List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Ozone, Sulfur oxides, Particulate matter, Nitrogen dioxide, Lead.

Dated: March 8, 1984.

William D. Ruckelshaus,  
Administrator.

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# Addendum I—Executive Summary—Review of the National Ambient Air Quality Standards for Particulate Matter: Assessment of Scientific and Technical Information—OAQPS Staff Paper (EPA, 1982)

## EXECUTIVE SUMMARY

This paper evaluates and interprets the available scientific and technical information that the EPA staff believes is most relevant to the review of primary (health) and secondary (welfare) National Ambient Air Quality Standards (NAAQS) for particulate matter and presents staff recommendations on alternative approaches to revising the standards. Review of the NAAQS is a periodic process instituted to ensure the scientific adequacy of air quality standards and is required by Section 109 of the 1977 Clean Air Act Amendments. The assessment in this staff paper is intended to help bridge the gap between the scientific review contained in the EPA criteria document "Air Quality Criteria for Particulate Matter and Sulfur Oxides" and the judgments required of the Administrator in setting ambient standards for particulate matter. The staff paper is, therefore, an important element in the standards review process and provides an opportunity for public comment on proposed staff recommendations before they are presented to the Administrator.

Particulate matter represents a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) ranging in size from molecular clusters of about 0.005 micrometers ( $\mu\text{m}$ ) to coarse dusts on the order of 100  $\mu\text{m}$ . Particles originate from a variety of stationary and mobile sources and may be emitted directly or formed in the atmosphere by transformations of gaseous emissions such as SO<sub>2</sub>. The major chemical and physical properties of particulate matter vary greatly with time, region, meteorology and source category, complicating the assessment of health and welfare effects as related to various indicators of particulate pollution. Typical particle distributions reveal differences in origin and composition for fine particles (<2.5  $\mu\text{m}$ ) and coarse particles (>2.5  $\mu\text{m}$ ). The reference method for the current standards for particulate matter is the "hi volume" sampler which collects particulate matter of particle sizes up to 25-45  $\mu\text{m}$  (so called "Total Suspended Particulate" or TSP).

At elevated concentrations, particulate matter can adversely affect human health, visibility, climate, materials, economic values, personal



comfort and well-being, and vegetation. Components of particulate matter (e.g., sulfuric acid) also contribute to acid deposition. Typical long-term average levels of TSP range from 20–40  $\mu\text{g}/\text{m}^3$  in rural areas to over 150  $\mu\text{g}/\text{m}^3$  in the most polluted urban industrial areas. Maximum 24-hour TSP concentrations exceed 500  $\mu\text{g}/\text{m}^3$ . Long-term fine particle (<2.5  $\mu\text{m}$ ) levels range from 2 to 5  $\mu\text{g}/\text{m}^3$  in isolated arid western areas to 20–50  $\mu\text{g}/\text{m}^3$  in the rural East. The highest annual fine particle levels, on the order of 50  $\mu\text{g}/\text{m}^3$ , occur in the most polluted urban industrial areas.

#### Primary Standards

The staff has reviewed scientific and technical information on the known and potential health effects of particulate matter cited in the criteria document. The information includes studies of respiratory tract deposition of particles, studies of mechanisms of toxicity, effects of high exposures to various particulate substances in controlled human and animal studies, epidemiological studies, and air quality information. Based on this review, the staff derives the following conclusions.

(1) The mechanisms by which inhaled particles may pose health risks involve (a) penetration into and deposition of particles in the various regions of the respiratory tract, and (b) the biological responses to the deposited materials.

(2) The risks of adverse effects associated with deposition of ambient fine and coarse particles in the thorax (tracheobronchial and alveolar regions of the respiratory tract) are markedly greater than for deposition in the extrathoracic (head) region. Maximum particle penetration to the thoracic regions occurs during oronasal or mouth breathing.

(3) The major effects categories of concern associated with high exposures to particulate matter include: (a) Effects on respiratory mechanics and symptoms, (b) aggravation of existing respiratory and cardiovascular disease, (c) effects on clearance and other host defense mechanisms, (d) morphological alterations, (e) carcinogenesis, and (f) mortality.

(4) The major subgroups of the population that appear likely to be most

sensitive to the effects of particulate matter include: (a) Individuals with chronic obstructive pulmonary or cardiovascular disease, (b) individuals with influenza, (c) asthmatics, (d) the elderly, (e) children, (f) smokers, and (g) mouth or oronasal breathers.

(5) Although controlled animal and human studies, and qualitative epidemiological results can provide important insights into the health risks from particles, the most useful concentration-response information comes from a limited set of community epidemiological studies conducted over the last 25 years in Great Britain and the United States.

Based on the scientific and technical reviews as well as policy considerations, the staff makes the follows recommendations with respect to primary particulate matter standards.

(1) Despite the variability in the composition of ambient particles with time and space, the available data suggest that reductions in ambient particulate matter in Great Britain and the U.S. have benefited public health and reduced the need for separate control programs for many of the more innately toxic components of particulate matter. Elevated particulate matter exposures in current U.S. settings most frequently occur without concomitant high  $\text{SO}_2$  levels. Considering these observations, a separate general particulate matter standard remains a reasonable public health policy choice.

(2) The current TSP standard directs control efforts towards particles of lower risk to health because of its inclusion of larger particles which can dominate the measured mass concentration, but which are deposited only in the extrathoracic region. A new particle indicator representing those particles capable of penetrating the thoracic regions (thoracic particles, TP) is recommended. Protection of sensitive individuals breathing oronasally or by mouth, sampler reliability, and the convention recently adopted by the International Standards Organization (ISO) suggest that the particle size range include those particles less than a nominal 10  $\mu\text{m}$  ( $\text{D}_{50}$ ). Sampler performance criteria should be related to respiratory tract deposition data.

Prototype samplers meeting these criteria are being field tested; reliable commercially available models must await test results.

(3) Both short-term (24-hour) and annual arithmetic mean standards are recommended. The short-term standard should be expressed in statistical form with the decision on the allowable number of exceedances made in conjunction with establishing a level for the Standard.

(4) Selecting a level for a particulate standard with an adequate margin of safety will involve a number of uncertainties in addition to those involved in making judgments on health risks associated with specific substances such as  $\text{CO}$  or  $\text{SO}_2$ . Quantitative assessments must be based on limited epidemiological studies conducted in times and places where pollutant composition may have varied considerably from current U.S. atmospheres. Epidemiological studies are generally subject to a number of inherent difficulties involving confounding variables and somewhat limited sensitivity. Most studies have used British smoke (a pseudo mass indicator related to small particle (<4.5  $\mu\text{m}$ ) darkness) or TSP as particle indicators. None of the published studies have used the recommended TP (<10  $\mu\text{m}$ ) indicator. Thus, appropriate assumptions must be used to express available results in common units.

The staff assessment of short-term epidemiological data is summarized in Table 1; levels are expressed in both the original and TP units. The "effects likely" row denotes concentration ranges derived from the criteria document at or above which there appears greatest certainty that effects would occur. The data do not, however, show evidence of clear population thresholds but suggest a continuum of response with both the risk of effects occurring and the magnitude of any potential effect decreasing with concentration. Thus, effects may be possible at levels below those listed in the "effects likely" row, but the evidence and risks at lower levels are much less certain.

TABLE 1.—STAFF ASSESSMENT OF SHORT-TERM EPIDEMIOLOGICAL STUDIES

Effects/study	Measured British smoke levels (as $\mu\text{g}/\text{m}^3$ )			Equivalent TP (<10 $\mu\text{m}$ ) levels ( $\mu\text{g}/\text{m}^3$ )—Combined range <sup>a</sup>
	Daily mortality in London <sup>1</sup>	Aggravation of bronchitis <sup>2</sup>	Combined range	
Effects likely.....	500 to 1000.....	250* to 500*.....	250 to 500.....	350 to 600.....
Effects possible.....	150* to 500.....	<250*.....	150 to 250.....	150 to 350.....

<sup>1</sup> Deviations in daily mortality from mean levels examined in 3 studies encompassing individual London winters of 1958–59 and 14 aggregate winters from 1958–72. Early winters were dominated by high smoke dominated by coal combustion emissions and high  $\text{SO}_2$  with frequent fogs.



\* Examination of symptoms reported by bronchitis in London. Studies conducted from the mid-1950's to the early 1970's.  
 \* Conversion assumes that for London smoke conditions,  $BS < TP < TSP$ . Precise conversions are not possible. The lower bound assumption ( $BS = TP$ ) incorporates some margin of safety and is used to estimate the lower bound in the effects possible range. The upper bound ( $TP = TSP = BS + 100 \mu\text{g}/\text{m}^3$ ) likely overestimates TP levels and is used to provide estimates of levels where effects are most likely.

\* Indicates levels used for upper or lower bound of range.

Based on this staff assessment, the range of 24-hour TP levels of interest are 150 to 350  $\mu\text{g}/\text{m}^3$ . Under the conditions prevailing during the London studies, the upper end of the range represents levels at which effects are likely in the sensitive populations studied. Given the uncertainties in translating these results to U.S. conditions and the seriousness of the potential health effects, the upper end of the above range contains no identifiable margin of safety and should not be considered as an appropriate standard alternative. The uncertainties and the nature of the potential effects are important margin-of-safety considerations. Neither the studies summarized above nor more qualitative studies of effects in other sensitive population groups (e.g., asthmatics, children), or effects in controlled human

or animal studies provide scientific support for health risks of consequence below 150  $\mu\text{g}/\text{m}^3$ . These qualitative data as well as factors such as aerosol composition and exposure characteristics should also be considered in evaluating margins of safety associated with alternative standards in the range of 150  $\mu\text{g}/\text{m}^3$  to something below 350  $\mu\text{g}/\text{m}^3$ .

The staff assessment of important long-term epidemiological data is summarized in Table 2. Long-term epidemiological studies are subject to additional confounding variables that reduce their sensitivity and make interpretation more difficult. The "effects likely" levels are derived from the criteria document, but again, no clear population thresholds exist for all effects indicators. Some risk of effects

are possible at lower levels, but these are uncertain and difficult to detect in these studies.

Based on this staff assessment, the range of annual TP levels of interest are 55 to 110  $\mu\text{g}/\text{m}^3$ . The upper end of this range overlaps the somewhat uncertain "effects levels" derived from these studies. Due to these uncertainties, the upper end of the range (110  $\mu\text{g}/\text{m}^3$ ) may not include any margin of safety, and should not be considered as an appropriate standard alternative. The lower end (55  $\mu\text{g}/\text{m}^3$ ) represents a level where some risk of symptomatic effects might remain but no detectable differences in pulmonary function or marked increases in respiratory diseases are expected. Increases in symptomatic effects at the lower levels are uncertain and small in comparison to baseline rates.

TABLE 2.—STAFF ASSESSMENT OF LONG-TERM EPIDEMIOLOGICAL STUDIES

Effects/study	Measured BS levels (as $\mu\text{g}/\text{m}^3$ )—increased respiratory disease, reduced lung function in children <sup>1</sup>	Measured TSP levels		Combined range	Equivalent TP levels ( $\mu\text{g}/\text{m}^3$ ) combined range <sup>4</sup>
		Increased respiratory disease symptoms, small reduction in lung function in adults <sup>2</sup>	Increased respiratory symptoms in adults <sup>3</sup>		
Effects likely	230 to 300 BS	180*		> 180	90 to 110
Effects possible	< 230 BS	130 to 180*	60 to 150 (110*)	110 to 180	55 to 110
No significant effects noted		80* to 130		80 to 110	40 to 55

<sup>1</sup> Study conducted in 1963-65 in Sheffield, England. BS levels ( $\mu\text{g}/\text{m}^3$ ) uncertain.

<sup>2</sup> Studies conducted in 1961-73 in Berlin, NH. Major source in community was pulp mill. Effects level (180  $\mu\text{g}/\text{m}^3$ ) based on 2 month average. Effects on lung function were relatively small.

<sup>3</sup> Study conducted in 1973. Exposures reflect 1965-73 data in Ansonia, CT. Median value used as an indicator. Essentially negative study. No effects on lung function, but some suggestion of effects on respiratory symptoms.

<sup>4</sup> Conversion based on estimated ratio of TP/TSP for current (1980-81) U.S. atmospheres. The ratio ranges between about 0.5 to 0.6. These numbers are used as lower and upper bounds for estimating TP equivalents from TSP values.

\* Indicates levels used for upper or lower bound of range.

When evaluating margins of safety for an annual standard, it is particularly important to examine the results of qualitative data from a number of epidemiological, animal, and air quality studies. These suggest concern for effects not directly evaluated in the studies listed in Table 2. Such effects include damage to lung tissues contributing to chronic respiratory disease, cancer, and premature mortality. The available scientific data do not suggest major risks for these effects categories at current ambient particle levels in most U.S. areas. Nevertheless, the risk that both fine and coarse particles may produce these responses supports the need to limit long-term levels of TP for a variety of aerosol compositions.

Because of different form, averaging procedure and size range, precise comparisons between the above range of TP standards and the current primary

TSP standards are not possible.\* The lower bounds, taken together, result in standards roughly equivalent in stringency to the current standards. In general, the rest of the ranges represent increasing degrees of relaxation as compared with the current standards. At the lower concentrations in the ranges, much of the relaxation would result because only smaller particle sizes would be collected. Thus, a city where exceedance of the TSP standard was largely dominated by coarse mode dust (with substantial mass of particles greater than 10  $\mu\text{m}$ ) would be less likely to violate a comparable TP standard than would an area where exceedance

\* By applying observed TP/TSP ratios and other factors, crude comparisons can be made. The current annual TSP standard (75  $\mu\text{g}/\text{m}^3$  geometric mean) is roughly equivalent to an arithmetic mean of 50  $\mu\text{g}/\text{m}^3$  as TP. The numerical value of the 24 hr TSP standard (260  $\mu\text{g}/\text{m}^3$ ) is roughly equivalent to 140  $\mu\text{g}/\text{m}^3$  TP, but this does not account for differences between the deterministic (current standard) and recommended statistical form.

of the TSP standard was dominated by particles smaller than 10  $\mu\text{m}$ . At higher concentrations in the above ranges, standards would permit increased levels for TP as well as for larger particles.

#### Secondary Standards

The staff examined information in the criteria document relevant to the review of the secondary standards. Categories of welfare effects examined include visibility and climate, man-made materials, vegetation, and personal comfort and well-being. Major staff conclusions and recommendations are summarized below.

(1)(a) Impairment of visibility by fine particles over urban to multistate regions clearly affects public welfare. Fine particles or major constituents thereof also are implicated in climatic effects, materials damage, soiling, and acid deposition. Neither the current secondary TSP standard nor the recommended ranges of TP standards



will protect visibility in an effective manner. The staff, therefore, recommends consideration of a fine particle secondary standard, based primarily on the relatively well-defined quantitative relationships between fine mass and visibility.

(b) If a fine particle standard is selected, a seasonal (calendar quarter) averaging time could provide a statistically stable target and yet achieve most short or long-term visibility goals. Consideration should be given to specifying a spatial average of three or more monitors placed at distances on the order of 16-50 km.

(c) Despite the fact that the public is concerned about visibility and is willing to pay something for clean air, quantitative bases for evaluating visibility goals have not been established. Therefore, the level of any standard must be based on the judgment of the Administrator after consideration of aesthetics and transportation, as well as non-visibility related effects. The staff recommends that any national standards focus on welfare effects associated with multistate eastern regional (and western urban) haze. Such standards would not of themselves protect sensitive scenic areas of the West, but these areas are directly and indirectly addressed by other provisions of the Clean Air Act.

(d) Empirical ranges for standards can be derived from approximate estimates of eastern natural background and current summertime fine particle levels. The range thus derived is 8-25  $\mu\text{g}/\text{m}^3$ , seasonal and spatial average. The upper portion of the range would tend to maintain the *status quo* in the East. Current summertime visual range in much of the East is about 9-15 miles. Because the lower portion of the range approaches natural background levels, standards set at the lower levels would be, in all practicality, unattainable in most of the eastern U.S. Estimated summertime visibility under eastern natural background conditions is on the order of 3 to 5 times greater than under current conditions.

(e) Because regional fine particles in the East appear to be influenced most strongly by sulfates, adoption of a fine particle standard would trigger a substantial departure from current approaches to particle control strategies. The evidence suggests that multistate control of regional sulfur oxide emissions might be needed to reduce fine particle levels. Thus, fine particle/visibility-climate effects are linked to acid deposition, and these problems would likely be ameliorated by similar control strategies. Addressing these welfare effects with a common standard

or control strategy is likely to be more efficient than establishing separate control approaches for each. Appropriate scientifically based targets and control strategies for acid deposition are not yet available.

(2) Although potential effects on climate support the consideration of a fine particle standard, quantitative relationships are not well enough developed to provide the principal basis for selecting the level of the standard.

(3) Consideration should be given to soiling and nuisance effects in determining whether a secondary standard for TP or for TSP or some other large particle indicator is desirable to supplement the primary health and secondary fine particle standards. The available data base on such effects is, however, largely qualitative. Therefore, the basis for selecting a particular level for a secondary TP or TSP standard is a matter of judgment.

(4) While chemically active fine mode and hygroscopic coarse mode particles have been qualitatively associated with materials damage, the available data do not clearly suggest major effects of particles on materials for concentrations at or below the ranges recommended for the primary health and secondary visibility standards. Therefore, a secondary standard based solely on materials damage is not recommended.

(5) The staff concludes that a secondary particle standard is not needed to protect vegetation.

(6) The acid deposition issue will not be addressed directly in the review of the particulate matter standards.

#### Addendum II—Casac Review and Closure of the Criteria Document for Sulfur Oxides/Particulate Matter

January 29, 1982.

Subject: CASAC Review and Closure of the Criteria Document for Sulfur Oxides/Particulate Matter

From: Sheldon K. Friendlander, Chairman, Clean Air Scientific Advisory Committee (CASAC)

To: Anne M. Gorsuch, Administrator

On November 16, 1981, the Clean Air Scientific Advisory Committee of the Science Advisory Board completed its third review of the air quality criteria document for sulfur oxides/particulate matters ( $\text{SO}_x/\text{PM}$ ). The Committee notes with satisfaction the improvements made in the quality of the document during the course of previous CASAC reviews on August 20-22, 1980 and July 7-9, 1981. The staff of the Environmental Criteria and Assessment Office, directed by Dr. Lester Grant, have proven responsive to Committee advice as well as to comments provided by the general

public, and deserve to be commended for the high quality of the document.

The purpose in writing you is to summarize the Committee's major conclusions to assist you in reviewing the scientific data and associated studies relevant to the establishment of revised ambient air quality standards for sulfur dioxide and particulate matters as required by law. This letter further advises you of the Committee's conclusion that the criteria document fulfills the requirements set forth in Section 108 of the Clean Air Act as amended, which requires that the document "shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare" from sulfur oxides and particulates in the ambient air.

The Committee is preparing a separate letter to you summarizing the conclusions of its reviews of the Draft Staff Paper for Particulate Matter. In addition, CASAC will prepare a similar report on the Draft Staff Paper for Sulfur Oxides once that document becomes available and its review is completed.

#### MAJOR SCIENTIFIC ISSUES AND CASAC CONCLUSIONS IN THE $\text{SO}_x/\text{PM}$ CRITERIA DOCUMENT REVIEW

##### Chapter 1: Executive Summary

In general, the revised draft Executive Summary critically synthesizes the key points of information discussed at length in the individual chapters. Its conclusions and interpretations of scientific data, studies, and issues are consistent with those presented in each chapter. Relationships among individual chapters are clearly defined; redundancies that do appear are reasonable given the complexity of the subject.

The quality of the Executive Summary would be further improved if more specific statements and/or tables were added to clarify certain important interrelationships. These include the differences in chemical composition associated with each of the several significant size ranges of particulate matter; and the health effects associated with the respiratory tract deposition patterns of particulate matter in the several size ranges and different chemical compositions. Quantitative health effects information useful in defining specific concentrations or ranges of concentrations of size-specific and/or chemical specific PM associated with the occurrence of health effects should also be highlighted. In view of evidence that total thoracic (tracheobronchial and alveolar) particle



deposition is of public health concern, it would also be helpful to include a discussion of the likely equivalencies among British Smokeshade (BS), Total Suspended Particles (TSP), and size selective particle aerometric measurements that would sample or index atmospheric concentrations of those sized particles identified with tracheobronchial or alveolar deposition.

#### *Chapter 2: Physical and Chemical Properties of SO<sub>x</sub>/PM*

This chapter is well written and addresses the important issues relevant to a criteria document. It presents a good summary of current knowledge of the factors affecting the physics and chemistry of sulfur dioxide and the pathways and kinetics of its transformation into sulfuric acid. It also provides a good summary of particle characteristics, dynamics, and hygroscopic growth.

#### *Chapter 3: Techniques for the Collection and Analysis of SO<sub>x</sub>/PM*

The revised chapter provides an excellent summary of the measurement of sulfur oxides and particulates. Especially important is the discussion of the capabilities of the various measurement techniques and the profile of pollutants in the ambient air which these measurements yield. The chapter correctly notes that British Smoke (BS), Coefficient of Haze (COHS), and Total Suspended Particulate (TSP) measurements do not adequately reflect key physical or chemical properties of particulate matter in the contemporary ambient air. Precise interconversion among units of BS, COHS, and TSP is not possible. In the context of a particulate standard, British Smoke is applicable only to a "sooty" smoke aerosol. It may not be a valid health effects indicator for the aerosol compositions observed in recent summertime episodes in the United States and Europe. Thus, it is unlikely that BS can provide a sensitive index of hazard for today's air pollution.

#### *Chapter 4: Sources and Emissions*

Both natural and man-made sources emit sulfur dioxide and particulate matter into the ambient air. Given the limitations of our ability to derive reliable estimates from both types of sources, the criteria document presents an adequate discussion of current knowledge.

#### *Chapter 5: Environmental Concentrations and Exposure*

This chapter is largely acceptable in its present form. Most of the comments and suggestions which were made for

previous drafts have been effectively incorporated. The most important omission from the chapter is information related to chemical composition with respect to particle size. Abundant information of this type is available for sulfates and some trace metals. Given the strong dependence of deposition rates and light scattering on particle size, it might have been worthwhile to refer to this literature in Chapter 5 or to direct attention to other document chapters (e.g., Chapter 2) where such relationships are discussed.

#### *Chapter 6: Atmospheric Transport, Transformation and Deposition*

This chapter is concise, well-written, and effective in communicating information related to the current status of mathematical models for air pollution. The utility of various models is clearly discussed, and the inadequacy of current models for quantitative extrapolation is pointed out. Topics which had been omitted from the previous draft of this chapter have been added to other chapters with overlapping content. The chapter is now acceptable as written.

#### *Chapter 7: Acidic Deposition*

The Committee has recognized the desirability of incorporating existing information on acidic deposition in the present criteria document. Chapter 7 provides an abbreviated but adequate summary of the contribution of sulfur oxides and particulates to the formation, transport, and effects of acidic deposition. The Committee has concluded that Chapter 7 is a scientifically adequate summary with the conditional understanding that EPA is preparing a Critical Assessment Document for Acidic Deposition for its review that recognizes and incorporates information on causes, effects, and data bases for all of the various pollutants relevant to acidic deposition. CASAC has been briefed several times by Agency officials regarding the status of this document. The Committee looks forward to the submission of this integrated assessment for its critical review.

#### *Chapter 8: Effects on Vegetation*

In response to CASAC recommendations and public comments, this chapter on vegetation effects has been greatly improved compared to earlier drafts reviewed by the Committee. It now includes a more concise and interpretive critical evaluation of those few key studies yielding quantitative dose-effect or dose-response information of most use for criteria development and standard-

setting purposes. It also reasonably includes tables in the appendices which summarize studies of particulates and sulfur dioxide related vegetation effects that are of less utility for criteria development and standard setting.

The Committee concurs with Chapter 8 evaluations which point to the lack of dose-response data to establish quantitative evidence of deleterious effects on vegetation from particulates at presently encountered U.S. ambient air concentrations. In contrast to particulates, much clearer evidence exists by which to define quantitative exposure-effect relationships for sulfur dioxide effects on vegetation. Laboratory experiments in particular have demonstrated the greater relative toxicity to vegetation from high short-term exposures of sulfur dioxide. This is especially important in view of the fact that ambient air concentrations of sulfur dioxide from point sources often fluctuate widely and result in high intermittent short-term exposures of plants to sulfur dioxide concentrations against a background of longer-term but much lower annual average sulfur dioxide levels. Also of much importance are differences in the relative sensitivity of various plant species to sulfur dioxide exposures. The degree of sensitivity depends in part on factors such as phase of growth at time of exposure, ambient temperature and humidity levels, and plant water content. Among studies judged to be most useful for quantitative criteria development and standard setting are those of Dreisinger (1965, 1967) and Dreisinger and McGovern (1970) which demonstrate visible injury to white pine (a commercially important species in some U.S. areas) when natural stands of the tree in southern Canada were exposed for 4 hours to 0.30 ppm or for 8 hours to 0.25 ppm sulfur dioxide emitted from a nearby smelter. Roughly similar exposure-effect relationships were observed in studies reported by Jones et al. (1974) and McLaughlin (1981) on the effects of sulfur dioxide from a southeastern U.S. power plant on a wide variety of natural species in the vicinity of the point source. In these studies some crop and garden species showed visible injury effects with 3 hours exposures to 0.6-0.8 ppm sulfur dioxide, while certain other crop species (potato, cotton, corn, peach) did not show visible injury at levels below 0.8 ppm. In contrast, a chamber study by Hill et al. (1974) suggests that plants common to the southwestern U.S., with markedly lower moisture content and under generally lower ambient air humidity levels, may be able to withstand much higher



ambient sulfur dioxide concentrations (up to 11 ppm for two hours) without visible injury.

#### *Chapter 9: Effects on Visibility and Climate*

The technical aspects of this difficult problem are well characterized. The chapter does a good job of discussing the physics and public awareness of visibility. The relationship between fine particle mass concentrations and visibility has been well established. The criteria document thus provides an excellent technical basis for Agency decision-making on these issues.

This chapter adequately discusses the currently available scientific information concerning the effects of particulate matter and sulfur oxides on man-made materials. This includes critical assessments of available data concerning pertinent materials damage functions, uncertainties associated with existing characterizations of such functions, and limitations regarding estimation of monetary costs and/or benefits associated with the occurrence or control of such damage.

#### *Chapter 11: Respiratory Deposition and Biological Fate of Inhaled Aerosols and Sulfur Dioxide*

This chapter is very much improved compared to earlier drafts reviewed by CASAC and is now a comprehensive and more informative summary of existing knowledge relevant to a criteria document. The existing knowledge in this area is, in many cases, incomplete. For example, a potentially very important factor is the influence of the integrity of lung epithelial barriers (both airway and alveolar) on deposition and clearance. To enhance the chapter's comprehensiveness, this issue should be discussed more sufficiently in the criteria document, despite the paucity of available data.

#### *Chapter 12: Toxicological Studies*

This chapter is quite comprehensive as it describes essentially all toxicological studies relevant to a criteria document on sulfur oxides and particulates. Also, it provides commentary on many studies and the significance of their findings to potential human health effects. In addition, the presentation of the information is more polished than the previous draft because of improved editing.

#### *Chapter 13: Controlled Human Studies*

This is a chapter which thoroughly discusses the published material on controlled human experiments. The scientific criteria for good studies discussed at the beginning of the

chapter cannot be overemphasized. While not all studies meet these criteria, the Committee recognizes that EPA must take account of the available literature and believes the studies cited in the chapter have been appropriately selected and discussed. Overall the chapter is well-written and directed toward addressing those questions to which answers are needed. One of the most important criteria for good human clinical studies is that they be double-blind. Unfortunately, most of the studies in the literature were not so performed. This factor is especially significant when sensitive population groups, such as asthmatics, are under study.

The chapter is also improved by the discussion of exposures administered through the nose and mouth during controlled studies. It appropriately notes that caution should be used in any attempted extrapolation of observed quantitative exposure/effects resulting from such protocols, particularly when compared to results that might be expected under ambient exposure conditions. The chapter identifies additional research results from studies using either face mask or open chamber oronasal breathing that would better resolve this issue, and it discusses existing studies in a balanced and thorough fashion.

#### *Chapter 14: Epidemiological Studies*

The current draft of this chapter represents considerable change and improvement over previous drafts reviewed by CASAC. Following discussion with the Committee, EPA has applied a set of guidelines for deciding with epidemiological studies are most appropriate for use in revising ambient air quality standards.

More specific comments on the chapter include the following: (1) The integration of Chapter 14 with Chapter 3 has advanced the "real world" understanding concerning the application of epidemiological methods; (2) the epidemiological studies providing the most useful quantitative concentration/response information for revising the 24-hour ambient particulate standard include: Lawther et al, 1958 and 1970; Martin and Bradley 1960; Martin 1964; Ware et al, 1981; and Mazumdar et al, 1981; (3) the epidemiological studies providing the most useful quantitative concentration/response information for revising the annual ambient particulate standard include: Ferris and Anderson 1962; Lunn et al, 1967; Ferris et al, 1971 and 1976; and Bouhuys et al, 1978; and (4) the studies by Lave and Seskin, 1970, and Mendelsohn and Orcutt, 1979 suggest an association between chronic exposure

to high concentrations of sulfates and increases in the level of mortality, but they do not indicate any threshold or safe level from such exposures, and they are not refined enough to provide estimates of the quantitative effect of sulfate concentrations on mortality.

#### *SUMMARY*

The Committee made numerous comments of an editorial nature. These remarks, as well as a more detailed discussion of the recommendations and review provided above, are included in the transcripts of the three CASAC meetings held to review this document. With the understanding that the advised changes will be incorporated in the final criteria document, the Committee is satisfied that the air quality criteria document for sulfur oxides/particulate matter is scientifically adequate for use in standard setting.

#### **Addendum III—CASAC Review and Closure of the OAQPS Staff Paper for Particulate Matter**

January 29, 1982.

Subject: CASAC Review and Closure of the OAQPS Staff Paper for Particulate Matter

From: Sheldon K. Friedlander, Chairman, Clean Air Scientific Advisory Committee

To: Anne M. Gorsuch, Administrator

The Clean Air Scientific Advisory Committee (CASAC) recently completed its second and final review of the document entitled *Review of the National Ambient Air Quality Standards for Particulate Matter: Assessment of Scientific and Technical Information, OAQPS Staff Paper*. The Committee notes with satisfaction the improvements made in the scientific quality and the completeness of the staff paper. It has been modified in accordance with the recommendations made by CASAC in July and November 1981. This document is also consistent in all significant respects with the scientific evidence presented and interpreted in the combined criteria document for sulfur oxides and particulate matter. It has organized the data relevant to the establishment of particulate primary and secondary ambient air quality standards in a logical and compelling way, and the Committee believes that it provides you with the kind and amount of technical guidance that will be needed to make appropriate revisions to the standards.

CASAC has prepared this closure memorandum to inform you more specifically of its major findings and conclusions concerning the various scientific issues and studies discussed in



the staff paper. In addition, the Committee's review of the scientific evidence leading to the particulate standard revision leads to a discussion of its own role in the process for setting the standard.

*CASAC Conclusions and Recommendations on Major Scientific Issues and Studies Associated With the Development of Revised NAAQS for Particulates*

1. Based upon the review of available scientific evidence, a separate general particulate standard remains a reasonable public health policy choice.

2. CASAC reaffirms its initial recommendation on July 1981 to establish a 10 micrometer cut point for a revised primary particulate standard. This recommendation is based upon a recognition of the periodic, and sometimes frequent, tendency of both healthy and sensitive populations to breathe through their mouths and/or oronasally. This practice increases the amount of particulate matter that can penetrate into the thorax because the larger particles are not filtered in the oronasal passages. Deposition of particulates into this region is of special concern to those individuals with pre-existing respiratory problems and children. In addition, the collection of particles of less than 10 micrometer diameter size more closely resembles particles passing into the thoracic region of the human body than the collection of larger sized particles. Furthermore, monitors equipped for a 10 micrometer cut are less wind dependent and can provide a more accurate profile of the contemporary ambient air than samplers which measure total suspended particles.

CASAC's recommended size cut is also similar to proposals of other scientific associations. For example, 88% of the national members of the Air Quality Committee of the International Standards Organization recently voted for a particulate cut point at 10 micrometers for sampling particles which can deposit in the lungs.

The CASAC recommendation is based upon available scientific data. Other individuals and groups have discussed the possibility of establishing a revised particulate standard at a size cut considerably less than 10 micrometers. However, for the current revision of the standard, the scientific data more readily support a 10 micrometer size cut.

3. CASAC reached several major conclusions concerning the revision of the 24-hour and annual particulate standards. At the upper bound of the proposed ranges of 150-350  $\mu\text{g}/\text{m}^3$  for the 24-hour and 55-110  $\mu\text{g}/\text{m}^3$  for the

annual averages, detectable health effects occur in the populations evaluated in the epidemiological studies. Since the upper end of these ranges contain little or no margin of safety, it would be appropriate to consider lower values for revising the 24-hour and annual standards. In addition, the stated ranges are based solely on quantitative evidence reported in epidemiological studies. A final decision on a revised standard should also incorporate information generated through controlled human, animal toxicology, and from other less quantitative epidemiological studies discussed in the criteria document.

There is an absence of a clearly definable exposure-response relationship for particles, as amply discussed in the criteria document and the staff paper. In addition, because airborne particles are heterogeneous in composition, the potential toxic effects of individual constituents should be considered in setting the standard. Thus, compared to margins of safety set for pollutants such as ozone and carbon monoxide, where exposure-response relationships are better established and small margins of safety are more justifiable, CASAC believes you should consider a revised standard with a wider margin of safety.

4. The Committee reached general agreement that the annual particulate standard should consist of an arithmetic mean. It is recommended that the 24-hour standard include a statistical form and that the number of exceedances is set in relation to the revised standard level.

5. During the past decade, the link between visibility and fine particle mass concentrations has been convincingly documented. Visibility is a sensitive indicator of accumulated man-made pollutants in the ambient air. The public cares about visibility and is willing to pay something for clean air. However, the quantitative basis for establishing a psychological, economic, transportation or any other welfare cost associated with visibility impairment has not been established. In addition, controls required to achieve a given visibility standard are not known due to the complexities of pollutant transport and transformation.

Defining acceptable levels of visibility is a social/policy judgment as well as a scientific decision, but science can provide some guidance. The upper end of the 8-25  $\mu\text{g}/\text{m}^3$  range for fine particles (those particles with a diameter size of less than 2.5 micrometers) would tend to maintain the status quo for the eastern United States and some western urban areas, but would permit air quality

degradation for large areas in the west including national parks. Also, it is highly uncertain that the recommended thoracic particle ranges for the primary standard will protect visibility. The 8-25  $\mu\text{g}/\text{m}^3$  range for fine particles suggested for visibility protection is a seasonal and spatial average, unlike peak values which will be recommended for the primary standard.

The strongest case for a visibility related standard is one that links emissions of nitrogen oxides and sulfur dioxide with the interrelated aspects of acidic deposition, possible climatological effects, and visibility. Each of these three air quality issues is related to the fine particles which originate both as primary particulate emissions and as secondary aerosols from atmospheric conversions of sulfur dioxide and nitrogen oxides emitted as vapors. In terms of a control strategy to protect public welfare, it may be more efficient to consider a common standard linked to fine particles than to establish a separate set of controls for each of these problems and pollutants.

6. The Committee's evaluation of scientific data and studies in the criteria document and the staff paper lead it to conclude that there is no scientific justification for the establishment of a particulate standard for the specific protection of vegetation.

7. The Committee discussed what effect elimination of a Total Suspended Particulate (TSP) standard would have on the environment. The soiling and nuisance aspects of TSP are essentially local air quality problems because such coarse particles are not transported great distances. This contrasts with visibility or oxidant related problems which are distinctly issues of long range pollution transport. Individuals who serve on the Committee made various recommendations regarding retention or elimination of a secondary standard for TSP, but no clear consensus evolved.

*The Process for Setting the Ambient Particulate Standard*

In its report of September 21, 1981, CASAC made several major recommendations relating to the process for setting ambient air standards. The Committee is aware that your staff is analyzing its report and is awaiting a response.

A major underlying assumption of the Committee's recommendations was the need to make more explicit the relationship between the scientific evidence in the criteria document and the staff paper and the eventual selection of a numerical level for individual standards. The Committee



strongly believes in the need to clarify the standard setting process by identifying the key studies that will shape the determination of a standard. Intensive evaluation of such studies by CASAC and the public will considerably increase your ability to set a scientifically supportable standard.

The Committee is greatly encouraged by your decision to improve the format and content of OAQPS scientific issue staff papers. In the Draft Staff Paper for Particulate Matter key studies are identified and their implications for setting primary and secondary standards are discussed. More importantly, the inclusion of numerical ranges and their supporting rationale enabled the Committee and the public to critically examine the staff's proposed use of the studies. This led to a marked improvement in the quality of the public dialogue concerning the scientific basis for revising the standard. CASAC commends your effort and recommends that all staff papers developed for ambient air standards contain numerical ranges.

CASAC recognizes that your statutory responsibility to set standards requires public health policy judgments in addition to determinations of a strictly scientific nature. While the Committee is willing to further advise you on the particulate standard, we see no need, in view of the already extensive comments provided, to review the proposed particulate standards prior to their publication in the *Federal Register*. In this instance, the public comment period will provide sufficient opportunity for the Committee to provide any additional comment or review that may be necessary.

## PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

For reasons set forth in the preamble, EPA proposes to amend Part 50, Chapter 1 of Title 40 of the *Code of Federal Regulations* as follows:

1. The table of contents for Part 50 is amended by adding new entries for Appendix J and Appendix K as follows:

Appendix J—Reference Method for the Determination of Particulate Matter as  $PM_{10}$  in the Atmosphere

Appendix K—Interpretation of the National Ambient Air Quality Standards for Particulate Matter

2. Section 50.6 is revised to read as follows:

### § 50.6 National primary ambient air quality standards for particulate matter.

(a) The level of the national primary 24-hour ambient air quality standard for particulate matter is [value to be selected from range of 150 to 250] micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), 24-hour average concentration. The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above the standard level is equal to or less than one, as determined by Appendix K.

(b) The level of the national primary annual standard for particulate matter is [value to be selected from range of 50 to 65] micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), annual arithmetic mean. The standard is attained when the expected annual arithmetic mean concentration is less than or equal to the standard level, as determined by Appendix K.

(c) For purposes of the primary standards, particulate matter shall be measured in the ambient air as  $PM_{10}$  (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by:

(1) A reference method based on Appendix J and designated in accordance with Part 53 of this chapter, or

(2) An equivalent method designated in accordance with Part 53 of this chapter.

3. Section 50.7 is revised to read as follows:

### § 50.7 National secondary ambient air quality standard for particulate matter.

(a) The level of the national secondary standard for particulate matter is [value to be selected from range of 70 to 90] micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), annual arithmetic mean. The standard is attained when the expected annual arithmetic mean concentration is less than or equal to the standard level, as determined by Appendix K.

(b) For purposes of the secondary standard, particulate matter shall be measured in the ambient air by the method described in Appendix B of Part 50 of this Chapter.

4. In Appendix G, reference 10 is removed and section 5.1.1 is revised to read as follows:

5.1.1 *High-Volume Sampler.* Use and calibrate the sampler as described in Appendix B to this part.

5. Appendix J is added as follows:

### Appendix J—Reference Method for the Determination of Particulate Matter as $PM_{10}$ In The Atmosphere

#### 1.0 Applicability.

This method provides for the measurement of the mass concentration of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers ( $PM_{10}$ ) in ambient air over a 24-hour period for purposes of determining attainment and maintenance of the primary national ambient air quality standards for particulate matter specified in § 50.6 of this chapter. The measurement process is nondestructive, and the  $PM_{10}$  sample can be subjected to subsequent physical and chemical analyses. Quality assurance procedures and guidance are provided in Part 58, Appendices A and B, of this chapter and in References (1) and (2).

#### 2.0 Principle.

2.1 An air sampler draws a measured quantity of ambient air at a constant flow rate into a specially shaped inlet where the suspended particulate matter is inertially separated into one or more size fractions within the  $PM_{10}$  size range. Each size fraction in the  $PM_{10}$  size range is then collected on a separated filter over the specified sampling period. The particle size discrimination characteristics (sampling effectiveness and 50 percent cutpoint) of the sampler inlet over the  $PM_{10}$  size range are functional specifications described in Part 53 of this chapter.

2.2 Each filter is weighed (after moisture equilibration) before and after use to determine the net weight (mass) gain due to collected  $PM_{10}$ . The total volume of air sampled, corrected to EPA reference conditions (25°C, 101.3 kPa), is determined from the measured volumetric flow rate and the sampling time. The concentration of  $PM_{10}$  in the ambient air is computed as the total mass of collected particles in the  $PM_{10}$  size range divided by the volume of air sampled, corrected to reference conditions, and is expressed in micrograms per standard cubic meter ( $\mu\text{g}/\text{std m}^3$ ). For samples collected at temperatures and pressures significantly different from EPA reference conditions, these corrected concentrations sometimes differ substantially from actual concentrations (in micrograms per actual cubic meter), particularly at high elevations. Although not required, the actual  $PM_{10}$  concentration can be calculated from the corrected concentration, using the actual temperature and pressure during the sampling period.

2.3 A method based on this principle will be considered a reference method only if (a) the associated sampler meets the requirements specified in this appendix and those in Part 53 of this chapter and, (b) the method has been designated as a reference method in accordance with Part 53 of this chapter.

#### 3.0 Range.

The lower limit of the mass concentration range is limited by the repeatability of filter tare weights, assuming the nominal air sample volume for the sampler. The upper limit of the concentration range cannot be specified. For samplers having a filter-changing mechanism, there may be no upper limit. For samplers that do not have a filter-changing mechanism, the upper limit is determined by the point at which the sampler no longer maintains the specified operating flow rate due to increased pressure drop



across the loaded filter(s). This limit cannot be specified because it is a complex and undetermined function of particle size distribution and type, humidity, filter type, and perhaps other factors.

#### 4.0 Precision.

The reproducibility of  $PM_{10}$  samplers must be 15 percent or better as required by Part 53 of this chapter, which prescribes a reproducibility test procedure that determines the variation in the  $PM_{10}$  concentration measurements of identical samplers under typical sampling conditions. Other specifications are provided in Part 53 for the particle size discrimination characteristics and the flow rate stability of the sampler. Continual assessment of the precision via collocated samplers is required by Part 58 of this chapter for  $PM_{10}$  samplers used in certain monitoring networks.

#### 5.0 Accuracy.

Because the sizes of the particles making up ambient particulate matter vary over a wide range and the concentration of particles varies with particle size, it is difficult to define the absolute accuracy of  $PM_{10}$  samplers. Part 53 of this chapter provides a specification for the sampling effectiveness of  $PM_{10}$  samplers. This sampling effectiveness specification requires that the expected mass concentration measurement calculated for a candidate  $PM_{10}$  sampler, when sampling a specified typical ambient particle distribution, be within  $\pm 10$  percent of that calculated for an ideal sampler whose sampling effectiveness is explicitly specified. Also, the particle size for 50 percent sampling effectiveness is required to be  $10 \pm 1$  micrometers ( $\mu m$ ). Other specifications related to accuracy apply to flow measurement and calibration, filter media, analytical (weighing) procedures, loss of volatiles, and artifact and nonsampled particulate matter. The flow rate accuracy of  $PM_{10}$  samplers used in certain monitoring networks is required by Part 58 of this chapter to be assessed periodically via flow rate audits.

#### 6.0 Potential Sources of Error.

6.1 *Loss of Volatile Particles.* Volatile particles collected on filters are often lost during shipment and/or storage of the filters prior to the postsampling weighing (3). Although shipment and storage of loaded filters are sometimes unavoidable, filters should be reweighed as soon as practical to minimize these losses.

6.2 *Artifact Particulate Matter.* Positive errors in particle mass measurements may result from retention of gaseous species on filters (4, 5). Such errors include the retention of sulfur dioxide and nitric acid. Retention of sulfur dioxide on filters, followed by oxidation to sulfate is referred to as artifact particulate sulfate formation, a phenomenon which increases with increasing filter alkalinity (6). Artifact particulate nitrate, resulting primarily from retention of nitric acid, occurs to varying degrees on many filter types, including glass fiber, cellulose ester, and many quartz fiber filters, (5, 7, 8, 9, 10). Filters that meet the alkalinity specification (section 7.2.4) should show little or no artifact sulfate. Negative artifact is the loss of collected particulate matter during sampling by volatilization or chemical reaction (11).

Loss of true atmospheric particulate nitrate has been observed on Teflon® filters (8) and inferred for quartz fiber filters (11). The significance of this problem for  $PM_{10}$  mass measurements will vary with location and ambient temperature. However, for most sampling locations,  $PM_{10}$  mass concentration errors due to nitrate artifact are expected to be small.

6.3 *Nonsampled Particulate Matter.* Particulate matter is sometimes deposited on filters during periods when the sampler is inoperative (12). Timely installation and retrieval of filters prior to and following the sampling period should help to minimize this problem.

6.4 *Humidity.* The effects of ambient humidity on the sample are unavoidable. The moisture conditioning procedure in section 9.0 is designed to minimize the effects of moisture on the filter medium.

6.5 *Filter Handling.* Careful handling of filters between presampling and postsampling weighing is necessary to avoid errors due to damaged filters or loss of particles from the filters. Use of a filter cartridge or cassette may reduce the magnitude of these errors.

6.6 *Flow Rate Variation.* Variations in the sampler's operating flow rate may alter the particle size discrimination characteristics of the sampler inlet. The magnitude of this error will depend on the sensitivity of the inlet to variations in flow rate and on the particle distribution in the atmosphere during the sampling period. The use of an automatic flow controller (section 7.1.4) is required to minimize this error.

6.7 *Air Volume Determination.* Errors in the air volume determination can result from errors in the flow rate and/or sampling time measurements. The automatic flow controller also serves to minimize errors in the average flow rate determination. The use of an elapsed time meter (section 7.1.5) is required to minimize the error in sampling time.

#### 7.0 Apparatus.

##### 7.1 $PM_{10}$ Sampler.

- 7.1.1 The sampler shall be designed to:
  - a. Draw the air sample, via reduced internal pressure, into the sampler inlet and through the filter(s) at a uniform face velocity.
  - b. Hold and seal the filter(s) in a horizontal position so that sample air is drawn downward through the filter(s).
  - c. Allow the filter(s) to be installed and removed conveniently.
  - d. Protect the filter(s) and sampler from precipitation and prevent insects and other debris from being sampled.
  - e. Minimize leaks that would cause error in the measurement of the air volume passing through the filter(s).
  - f. Discharge exhaust air at a sufficient distance from the sampler inlet to minimize the sampling of exhaust air.
  - g. Minimize the collection of dust from the supporting surface.

7.1.2 The sampler shall operate at a controlled flow rate specified by its designer or manufacturer, and it shall have an inlet system that provides particle size discrimination characteristics meeting all of the applicable performance specifications prescribed in Part 53 of this chapter. The sampler inlet shall show no significant wind

direction dependence. This requirement can generally be satisfied by an inlet shape that is circularly symmetrical about a vertical axis.

7.1.3 The sampler shall provide a means to measure the total flow rate during the sampling period. A continuous flow recorder is recommended. The sampler may be equipped with additional flow measurement devices if it is designed to collect more than one particle size fraction.

7.1.4 The sampler shall have an automatic flow control device capable of adjusting and maintaining the sample flow rate within the limits specified for the sampler inlet over normal variations in line voltage and filter pressure drop. A convenient means must be provided to temporarily disable the automatic flow control device to allow calibration of the sampler's flow measurement device.

7.1.5 A timing/control device capable of starting and stopping the sampler shall be used to obtain an elapsed run-time of  $24 \pm 1$  hr ( $1,440 \pm 60$  min). An elapsed time meter, accurate to within 15 minutes, shall be used to measure sampling time. This meter is optional for samplers with continuous flow recorders if the sampling time measurement obtained by means of the recorder meets the  $\pm 15$  minute accuracy specification.

7.1.6 The sampler shall have an associated operation or instruction manual as required by § 53.4 of this chapter and which includes either the text or a reproduction of this appendix.

#### 7.2 Filters

7.2.1 *Filter Medium.* No commercially available filter medium is ideal in all respects for all samplers. The user's goals in sampling determine the relative importance of various filter evaluation criteria (e.g., cost, ease of handling, physical and chemical characteristics, etc.) and, consequently, determine the choice among acceptable filters. Furthermore, certain types of filters may not be suitable for use with some samplers, particularly under heavy loading conditions (high mass concentrations), because of high or rapid increase in the filter flow resistance that would exceed the capability of the sampler's automatic flow controller. However, samplers equipped with automatic filter-changing mechanisms may allow use of these types of filters. The specifications given below are minimum requirements to insure acceptability of the filter medium for measurement of  $PM_{10}$  mass concentrations. Other filter evaluation criteria should be considered to meet individual sampling and analysis objectives.

7.2.2 *Collection Efficiency.*  $>99$  percent as measured by DOP test (ASTM-2986) with  $0.3 \mu m$  particles at the sampler's operating face velocity.

7.2.3 *Integrity.*  $\pm 5 \mu g/m^3$  (assuming sampler's nominal 24-hour air sample volume), measured as the concentration equivalent corresponding to the difference between the initial and final weights of the filter when weighed and handled under simulated sampling conditions (equilibration, initial weighing, placement on inoperative sampler, removal from sampler, re-equilibration, and final weighing).



7.2.4 **Alkalinity.** <0.005 milliequivalents/gram of filter as measured by ASTM-D202 following at least two months storage at ambient temperature and relative humidity.

### 7.3 Flow Rate Transfer Standard

7.3.1 A flow rate transfer standard, suitable for the flow rate of the sampler and calibrated against a primary standard that is traceable to NBS, must be used to calibrate the sampler's flow measurement device.

7.3.2 The reproducibility and resolution of the transfer standard must be 2 percent or less of the sampler's operating flow rate.

7.3.3 The flow rate transfer standard must include a means to vary the sampler flow rate during calibration of the sampler's flow measurement device.

### 7.4 Filter Conditioning Environment

7.4.1 Temperature range: 15 to 30° C.

7.4.2 Temperature control:  $\pm 3^\circ$  C.

7.4.3 Humidity:  $45 \pm 5$  percent relative humidity.

### 7.5 Analytical Balance

7.5.1 The analytical balance must be suitable for weighing the type and size of filters required by the sampler. The range and sensitivity required will depend on the filter tare weight and mass loading. Typically, an analytical balance with a sensitivity of 0.1 mg is required for high volume samplers (flow rates  $> 0.5 \text{ m}^3/\text{min}$ ). Lower volume samplers (flow rates  $< 0.5 \text{ m}^3/\text{min}$ ) will require a more sensitive balance.

## 8.0 CALIBRATION.

### 8.1 General Requirements

8.1.1 Calibration of the sampler's flow measurement device is required to establish traceability of the flow measurement to a primary standard. A flow rate transfer standard calibrated against a primary flow or volume standard shall be used to calibrate the sampler's flow measurement device at the field site.

8.1.2 The particle size separation characteristics of  $\text{PM}_{10}$  samplers usually require that specific air velocities be maintained in the separation system. Therefore, the sampler must be set to operate at and maintain the specified volumetric flow rate, measured under the actual ambient conditions of use ( $Q_a$ ). In contrast, the mass concentration of  $\text{PM}_{10}$  must be computed using the flow rate based on the standard volume at EPA reference conditions ( $Q_{std}$ ).

### 8.2 Flow Rate Calibration Procedures

8.2.1 The calibration procedure given here is based on flow rates at ambient conditions ( $Q_a$ ) and serves to illustrate the steps involved in the calibration process. Alternative procedures based on other measures of flow rate (e.g.,  $Q_{std}$ ) may be used provided the requirements of section 8.1 are met. Consult the sampler manufacturer's instruction manual for specific guidance on calibration. Reference (13) provides additional information on the use of the commonly used measures of flow rate and their interrelationships.

8.2.2 Calibrate the flow rate transfer standard against a primary flow or volume standard traceable to NBS. Establish a calibration relationship (e.g., an equation or family of curves) such that traceability to the primary standard is accurate over the expected range of ambient conditions (i.e., temperatures and pressures) under which the

transfer standard will be used. Recalibrate the transfer standard periodically (minimum of once per year).

8.2.3 Disable the sampler's flow controller during calibration of the sampler's flow measurement device.

8.2.4 Install a clean filter (or filters) in the sampler. Remove the sampler inlet and connect the transfer standard to the sampler such that the transfer standard accurately measures the sampler's flow rate. Make sure there are no leaks between the transfer standard and the sampler.

8.2.5 Choose three flow rates evenly spaced over a range of  $\pm 10$  percent of the sampler's specified operating flow rate (actual  $\text{m}^3/\text{min}$ ), and by suitable adjustment of the sampler flow rate, obtain a calibration curve of flow rate (actual  $\text{m}^3/\text{min}$ ) versus the sampler's flow indicator reading. Record the barometric pressure and ambient temperature. Daily or seasonal temperature and daily or average pressure corrections for subsequent flow indicator readings may be required for certain types of flow measurement devices (see Note following step 9.6).

8.2.6 Re-enable the flow controller, adjust the flow rate (actual  $\text{m}^3/\text{min}$ ) to the manufacturer's specified operating set point, and use the transfer standard to verify that the flow rate is correct with a clean filter (or filters) in place.

8.2.7 Replace the sampler inlet.

### 9.0 Procedure.

9.1 The sampler shall be operated in accordance with the general instructions given here and with the specific instructions provided in the sampler manufacturer's instruction manual. **Note.**—This procedure assumes that the sampler's flow rate calibration was performed using flow rates at ambient conditions ( $Q_a$ ).

9.2 Inspect each filter for pinholes, particles, and other imperfections; establish a filter information record and assign an identification number to each filter.

9.3 Equilibrate each filter in the conditioning environment for at least 24-hours.

9.4 Following equilibration, weigh each filter, and record the presampling weight with the filter identification number.

9.5 Install a preweighed filter (or filters) in the sampler following the instructions provided in the sampler manufacturer's instructional manual.

9.6 Turn on the sampler and adjust (if necessary) the automatic flow controller to the manufacturer's specified operating set point. Run the sampler for at least 5 minutes to establish run-temperature conditions. Record the flow indicator reading and, if needed, the barometric pressure and ambient temperature. Determine the sampler flow rate (in actual  $\text{m}^3/\text{min}$ ) using the sampler's flow rate calibration curve.

**Note.**—No onsite pressure or temperature measurements are necessary if the sampler flow indicator does not require pressure or temperature corrections or if average barometric pressure and seasonal average temperature for the site are incorporated into the sampler calibration (see step 8.2.5). For individual pressure and temperature corrections, the ambient pressure and

temperature can be obtained by onsite measurements or from a nearby weather station. Barometric pressure readings obtained from airports must be station pressure, not corrected to sea level, and may need to be corrected for differences in elevation between the sampler site and the airport.

9.7 If the sampler flow rate (actual  $\text{m}^3/\text{min}$ ) is outside the acceptable range specified by the sampler manufacturer, check the sampler for leaks and, if necessary, adjust the automatic flow controller set point. Stop the sampler.

9.8 For samplers without continuous flow recorders, record the initial flow rate (in actual  $\text{m}^3/\text{min}$ ) as  $Q_{a(\text{init})}$ .

9.9 Set the timer to start and stop the sampler at appropriate times. Set the elapsed time meter to zero.

9.10 Record the sample information (filter identification number(s), site location or identification number, sample date, and starting time).

9.11 Sample for  $24 \pm 1$  hours.

9.12 For samplers without continuous flow recorders, as soon as practical following the sampling period, run the sampler for 5 minutes to again establish run-temperature conditions. Record the flow indicator reading and, if needed, the barometric pressure and ambient temperature. Stop the sampler. Determine the final flow rate (in actual  $\text{m}^3/\text{min}$ ) using the sampler's flow rate calibration curve and record as  $Q_{a(\text{final})}$  (see Note following step 9.6). If  $Q_{a(\text{final})}$  is outside the sampler manufacturer's specified operating range, the sample must be invalidated. For valid samples, calculate the average flow rate (in actual  $\text{m}^3/\text{min}$ ), and record as  $Q_a$ .

9.13 For samplers with continuous flow recorders, examine the flow record. If  $Q_a$  is outside the sampler manufacturer's specified operating range for more than 6 hours of the 24-hour sampling period, the sample must be invalidated. For valid samples, record the average flow recorder reading during the sampling period. If needed, estimate the average temperature and pressure at the site during the sampling period from weather bureau or other available data. Determine the average flow rate (in actual  $\text{m}^3/\text{min}$ ) using the sampler's flow rate calibration curve and record as  $Q_a$  (see NOTE following step 9.6).

9.14 Carefully remove the filter (or filters) from the sampler following the sampler manufacturer's instructions. Touch only the outer edges of the filter.

9.15 Place the filter(s) in a protective holder or container (e.g., petri dish, glassine envelope, or manila folder).

9.16 Record the elapsed time on the filter information record and any other factors, such as meteorological conditions, construction activity, fires or dust storms, etc., that might be pertinent to the measurement. If the sample is known to be defective, void it at this time.

9.17 Transport the exposed sample filter (or filters) to the filter conditioning environment as soon as possible for equilibration and subsequent weighing.

9.18 Equilibrate the exposed filter(s) in the conditioning environment for 24-hours.



9.19 Immediately after equilibration, reweigh the filter(s) and record the weight(s) with the filter identification number(s).

#### 10.0 Calculations.

10.1 Calculate the average flow rate over the sampling period corrected to EPA reference conditions as  $\bar{Q}_{std}$ . When the sampler's flow rate calibration and operation is based on flow rates at ambient conditions,  $\bar{Q}_{std}$  is calculated as:

$$\bar{Q}_{std} = \bar{Q}_a \times \frac{P_b}{P_a} \times \frac{T_{std}}{T_a}$$

where:

$\bar{Q}_{std}$  = average flow rate at EPA reference conditions, std m<sup>3</sup>/min;

$\bar{Q}_a$  = average flow rate at ambient conditions, m<sup>3</sup>/min;

$P_b$  = average barometric pressure for the site or average barometric pressure during the sampling period, kPa;

$T_a$  = seasonal average ambient temperature for the site or average ambient temperature during the sampling period, K;

$P_{std}$  = standard pressure, defined as 101.3 kPa;

$T_{std}$  = standard temperature, defined as 298 K.

10.2 Calculate the total volume of air sampled as:

$$V = \bar{Q}_{std} \times t$$

where:

$V$  = total air sampled in standard volume units, std m<sup>3</sup>;

$t$  = sampling time, min.

10.3 Calculate the PM<sub>10</sub> concentration as:

$$PM_{10} = \frac{\sum (W_f - W_i) \times 10^6}{V}$$

where:

$PM_{10}$  = mass concentration of PM<sub>10</sub>, µg/std m<sup>3</sup>;

$W_f, W_i$  = final and initial weights of filter(s) collecting PM<sub>10</sub> particles, g;

$10^6$  = conversion of g to µg.

#### 11.0 References.

(1) Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I, Principles. EPA-600/9-76-005, U.S. Environmental Protection Agency, Research Triangle Park North Carolina 27711, 1976.

(2) Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods. EPA-600/4-77-027a, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, 1977.

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(13) Smith, F., P. S. Wohlschlegel, R. S. C. Rogers, and D. J. Mulligan. Investigation of Flow Rate Calibration Procedures Associated with the High Volume Method for Determination of Suspended Particulates. EPA-600/4-78-047, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, 1978.

#### 6. Appendix K is added as follows:

#### Appendix K—Interpretation of the National Ambient Air Quality Standards for Particulate Matter

##### 1.0 General.

This appendix explains the computations necessary for analyzing particulate matter data to determine attainment of the 24-hour and annual standards specified in 40 CFR §§ 50.6 and 50.7. For the primary standards, particulate matter is measured in the ambient air as PM<sub>10</sub> (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by a reference method based on Appendix J of this part and designated in accordance with Part 53 of this chapter or an equivalent method designated in accordance with Part 53 of this chapter. For the secondary standard, particulate matter is measured in the ambient air by the method described in Appendix B of this part, hereafter referred to as Total Suspended Particulate Matter (TSP).

Several terms used throughout the appendix must be defined. A "daily value" for PM<sub>10</sub> refers to the 24-hour concentration of PM<sub>10</sub> calculated or measured from midnight to midnight (local time). The term "exceedance" means a daily value that is above the level of the 24-hour standard after rounding to the nearest 10 µg/m<sup>3</sup> (i.e., values ending in or greater than 5 are to be rounded up). The term "average" refers to an arithmetic mean. All particulate matter standards are expressed in terms of expected annual values: expected number of exceedances per year for the 24-hour standard and expected annual arithmetic mean for the annual standards. The

"expected annual value" is the number approached when the annual values from an increasing number of years are averaged, assuming no long-term trends in emissions or meteorological conditions.

Although the discussion in this appendix focuses on monitored data, the same principles apply to modeling data.

##### 2.0 Attainment Determinations.

##### 2.1 24-Hour Primary Standard.

Under 40 CFR § 50.6(a) the 24-hour primary standard is attained when the expected number of exceedances per year is less than or equal to one. In the simplest situation, this determination is to be made by recording the number of exceedances at a monitoring site for each calendar year and then averaging them over the past 3 calendar years, to determine whether the average is less than or equal to one. Situations in which 3 years of data are not available and possible adjustments for unusual events or trends are discussed in Sections 2.4 and 2.5. Moreover, because of the potential for incomplete data during a year, it may also be necessary first to compute an estimated number of exceedances for a given year by adjusting the observed number of exceedances. This is described in Section 3. The expected number of exceedances is then estimated on the basis of the average of the individual annual estimates for the past 3 years.

The comparison with the allowable expected exceedance rate of one per year is made in terms of a number rounded to the nearest tenth (fractional values equal to or greater than 0.05 are to be rounded up; e.g., an exceedance rate of 1.05 would be rounded to 1.1, which is the lowest rate for nonattainment).

##### 2.2 Annual Primary Standard.

Under 40 CFR 50.6(b) the annual primary standard is attained when the expected annual arithmetic mean PM<sub>10</sub> concentration is less than or equal to the level of the standard. In the simplest case, the arithmetic annual mean PM<sub>10</sub> concentration for each calendar year would be averaged over the past 3 calendar years to estimate whether this value is less than or equal to the level of the annual primary standard. Due to the potential for incomplete data and the possible seasonality in the PM<sub>10</sub> concentrations, the annual mean shall be calculated in terms of the four quarterly means of PM<sub>10</sub> concentrations within the calendar year. The formulas for calculating the annual arithmetic mean are given in Section 4. The expected annual arithmetic means shall be estimated as the arithmetic mean of the individual annual arithmetic means for the past 3 years. Situations in which 3 years of data are not available and other possible adjustments for unusual events or trends are discussed in Sections 2.4 and 2.5. Comparisons with the level of the annual primary standard are made in terms of integers (fractional values equal to or greater than 0.5 are to be rounded up).

##### 2.3 Annual Secondary Standard.

Under 40 CFR 50.7(a), the annual secondary standard is attained when the expected annual arithmetic mean TSP concentration is less than or equal to the level of the standard. In the simplest case, the arithmetic annual



mean TSP concentrations for each calendar year would be averaged over the past 3 calendar years to estimate whether this value is less than or equal to the level of the annual secondary standard. Due to the potential for incomplete data and the possible seasonality in the TSP concentrations, the annual arithmetic mean shall be calculated in terms of the four quarterly arithmetic means of TSP concentrations within each calendar year. The formulas for calculating the annual arithmetic mean are given in Section 4. The expected annual arithmetic mean shall be estimated as the arithmetic means of these individual annual arithmetic means for the past 3 years. Situations in which 3 years of data are not available and other possible adjustments for unusual events or trends are discussed in Sections 2.4 and 2.5. Comparisons with the level of the standard are made in terms of integers (fractional values equal to or greater than 0.5 are to be rounded up).

#### 2.4 Data Requirements.

40 CFR 58.13 specifies the required minimum frequency of sampling for  $PM_{10}$  and TSP. For the purposes of making comparisons with the particulate matter standards, all National Air Monitoring Stations (NAMS) and State and Local Air Monitoring Stations (SLAMS) data submitted to EPA in accordance with the Part 58 requirements must be used and in minimum of 12 TSP or  $PM_{10}$  samples per quarter are required. For a one in six-day sampling schedule, this requirement corresponds to a 75 percent data capture.

To demonstrate attainment of either the annual or 24-hour primary standard or the annual secondary standard at a particular location, the monitoring site must provide sufficient data in order to perform the required calculations of Sections 3 and 4. The amount of data required varies with the sampling frequency, data capture and the number of years of record. In all cases, 3 years of monitoring data that meet the minimum data completeness criterion of the previous paragraph and are representative of "normal" conditions (defined below) would suffice. In the event that 3 years of monitoring data are not available, then 2 years of representative data will be sufficient to perform the calculations in order to show attainment of annual standards and 2 years of representative data will also be sufficient to perform the calculations for the 24-hour standard if the monitor samples every day and achieves an annual average data capture of 50 percent. If only 1 year of representative data is available, then 1 year of data will be sufficient for both annual and 24-hour standards if the monitor samples every day and achieves a 75 percent data capture. Furthermore, the calculations for estimated exceedances will not be necessary if the monitor samples every day and achieves a 75 percent data capture for the first year of monitoring; in other words, no more than one observed exceedance would demonstrate attainment under this condition. Data not meeting these criteria may also suffice to show attainment; however, such exceptions will have to be approved by the Regional Administrator in accordance with established guidelines (currently under development).

There are less stringent data requirements for showing that a monitor has failed an attainment test and thus has recorded a violation of the particulate matter standards. A single observed exceedance from 1 year of representative data may be sufficient to demonstrate nonattainment of the 24-hour standard as illustrated in example 1 of Section 3.1 and an annual mean from an individual representative year may be sufficient to demonstrate nonattainment of the annual standards. Although it is necessary to meet the minimum data completeness requirement of 12 TSP or  $PM_{10}$  samples per quarter to use the computational formulas described in Sections 3 and 4, this criterion does not apply when there are obvious nonattainment situations. For example, when a site fails to meet the completeness criteria, nonattainment of the 24-hour primary standard can still be established on the basis of the observed annual number of exceedances. Nonattainment of the annual standards can be demonstrated on the basis of quarterly mean concentrations developed from observed data combined with zeros substituted for missing values.

Normal conditions, associated with representative air quality data, are defined as usual emission levels and typical meteorology and are conditions which would be expected to continue to occur in the future. Departures from normal conditions would have to be substantiated on the basis of historical emissions or meteorological data and may require treatment as described in Section 2.5. The designation of air quality data as representative, for judging attainment or non-attainment, is subject to the review of the Regional Administrator.

#### 2.5 Considerations for Unusual Events and Trends.

In some cases it is possible for a rare or unusual event to result in a  $PM_{10}$  or TSP measurement which either is not expected to occur in the future or cannot be controlled through the State Implementation Plan process. Inclusion of such a value in the computation of exceedances or averages could result in inappropriate estimates of their respective expected annual values. To reduce the effect of unusual events, more than 3 years of data may be used if these data are representative of normal conditions. If 3 or more years of data are not available to minimize the influence of such events, other techniques, such as the use of statistical models or the use of historical data could be considered. For example the use of historical meteorological data may be used to establish the frequency of occurrence of an unusual event, so that the event may be discounted or weighted according to the likelihood it will reoccur, subject to the approval of the Regional Administrator in accordance with established guidelines (currently under development).

In cases where long-term trends in emissions and air quality are evident, mathematical techniques should be applied to account for the trends to ensure that the expected annual values are not inappropriately biased by data that are not representative of normal conditions. In the simplest case, if 3 years of data are available

under stable emission conditions, this data should be used. In the event of a trend or shift in emission patterns, either the most current representative year(s) could be used or statistical techniques or models could be used in conjunction with previous years of data to adjust for trends, subject to the approval of the Regional Administrator in accordance with established guidelines (currently under development).

#### 3.0 Computation Formulas for the 24-Hour Standard.

##### 3.1 Estimating Exceedances for a Year.

Because of practical considerations, a  $PM_{10}$  value may not be available for each day of the year. To account for the possible effect of incomplete data, an adjustment must be made to the data collected at a particular monitoring location to estimate the number of exceedances in a calendar year. In this adjustment, the assumption is made that the fraction of missing values that would have exceeded the standard level is identical to the fraction of measured values above this level. This computation is to be made for all NAMS, SLAMS, and all other sites that are scheduled to monitor consistently throughout the entire year and meet the minimum data requirements of Section 2.4. Because of possible seasonal imbalance, this adjustment is not intended for short-term monitoring. The estimate of the expected number of exceedances for the year is equal to the observed number of exceedances plus an increment associated with the missing data.

The following formula must be used for these computations:

[Formula 1]

$$e = v + [(v/n) \times (N-n)] = v \times N/n$$

where

$e$  = the estimated number of exceedances for

the year,

$v$  = the observed number of exceedances,

$N$  = the number of days in the year, and

$n$  = the number of days with  $PM_{10}$  data.

This adjustment for incomplete data will not be necessary for monitoring or modeling data which results in a complete record, i.e., 365 days per year. Other exceptions of the adjustment for incomplete data are discussed in Section 2.4.

If the sampling schedule changes within a calendar year, formula [1] may be applied quarterly and the annual number of exceedances may be estimated as the sum of the quarterly estimates.

The estimated number of exceedances for a single year must be rounded to one decimal place (fractional values equal to or greater than 0.05 are to be rounded up).

##### Example 1

During the most recent calendar year, 61 out of a possible 365 samples were recorded, with one observed exceedance of the applicable 24-hour standard. Using formula [1], the estimated number of exceedances for the year is

$$e = 1 \times 365/61 = 6.0$$

If the estimated exceedances for the two previous years were both 0.0 then the expected number of exceedances is estimated by  $(1/3) \times (6.0 + 0 + 0) = 2.0$ . Since 2.0 is greater than the allowable



number of expected exceedances, this monitoring site would fail the attainment test.

#### Example 2

The sampling frequency at this monitoring site is once every two days. In the most recent year, 183 days were sampled and one exceedance was recorded. Using formula [1], the estimated number of exceedances is

$$e = 1 \times 365 / 183 = 2.0$$

In each of the two previous years the estimated number of exceedances was 0.0. Therefore, the expected number of exceedances is estimated by  $(1/3) \times (2.0 + 0 + 0) = 0.7$ . Since 0.7 is less than the allowable number of expected exceedances, this monitoring site would pass the attainment test.

#### 3.2 Adjustments for Non-Scheduled Sampling Days.

If a systematic sampling schedule is used and sampling is performed on days in addition to the days specified by the systematic sampling schedule, e.g., episode conditions, then an adjustment must be made in the formula for the estimation of exceedances. This is intended to eliminate any bias in the estimate of the annual number of exceedances, which could occur if the chance of an exceedance is different between scheduled and non-scheduled days, as would be the case with episode sampling.

This approach effectively treats the systematic sampling schedules as a stratified sampling plan. If the period from one scheduled sample until the day preceding the next scheduled sample is defined as a sampling stratum, then there is one stratum for each scheduled sampling day. An average number of observed exceedances is computed for each of these sampling strata, allowing for differences in exceedance rates that may exist during periods of unscheduled samples, such as episode conditions. With nonscheduled sampling days, the estimated number of exceedances is defined as

[Formula 2]

$$e = (N/m) \times \sum_{j=1}^m (v_j/k_j)$$

where

$e$  = the estimated number of exceedances for the year,

$N$  = the number of days in the year,

$m$  = the number of strata with samples during the year,

$v_j$  = the number of observed exceedances in stratum  $j$ , and

$k_j$  = the number of actual samples in stratum  $j$ . Note that if only one sample value is recorded in each stratum, then formula [2] reduces to formula [1].

#### Example 3

A monitoring site samples according to a systematic sampling schedule of once every 6 days for a total of 61 samples in a year.

During one 6-day period, potential episode levels of  $PM_{10}$  were suspected, so 3 additional samples were taken. Five of the regularly scheduled samples were not recorded, so a total of 59 samples in 56 sampling strata were measured. The one 6-day sampling stratum with 4 samples recorded 2 exceedances. The remainder of the year with one sample per stratum recorded a single exceedance. Using formula [2], the estimated number of exceedances for the year is

$$e = (365/56) \times (2/4 + 1) = 9.8$$

If formula [1] were used instead of the revised formula [2], then the estimated number of exceedances for the year would have been

$$e = 3 \times 365/59 = 18.6$$

This computation would have produced an estimate for exceedances that is roughly twice as high as that produced by the revised formula.

#### 4.0 Computational Formula for Annual Standards.

##### 4.1 Calculation of the Annual Arithmetic Mean.

The annual arithmetic means for  $PM_{10}$  and TSP shall be based on the average of the quarterly means for each calendar quarter for the most recent representative calendar years of data at a particular monitoring site. The following formula is to be used for calculation of mean for a calendar quarter:

[Formula 3]

$$\bar{x}_q = (1/n_q) \times \sum_{i=1}^{n_q} x_i$$

where

$\bar{x}_q$  = the quarterly mean concentration for quarter  $q$ ,  $q = 1, 2, 3$ , or  $4$ ,

$n_q$  = the number of samples in the quarter, and

$x_i$  = the  $i$ th concentration value recorded in the quarter.

The average of quarterly means must be rounded to the nearest integer (fractional values of 0.5 should be rounded up). The annual mean is calculated by using the following formula:

[Formula 4]

$$\bar{x} = (1/4) \times \sum_{q=1}^4 \bar{x}_q$$

where

$\bar{x}$  = the annual mean, and

$\bar{x}_q$  = the mean for calendar quarter  $q$ .

The use of quarterly averages to compute the annual average will not be necessary for monitoring or modeling data which results in a complete record, i.e., 365 days per year.

#### Example 4

Using formula [3], the quarterly means are calculated for each calendar quarter. If the

quarterly means are 52.4, 75.3, 82.1, and 63.2  $\mu g/m^3$ , then the annual mean is

$$\bar{x} = (1/4) \times (52.4 + 75.3 + 82.1 + 63.2) = 68.3 \text{ or } 68$$

#### 4.2 Adjustments for Non-Scheduled Sampling Days.

An adjustment in the calculation of the annual mean is needed if sampling is performed on days in addition to the days specified by the systematic sampling schedule. Using the notation and rationale described for estimated exceedances (Section 3.2), the quarterly averages would be calculated by using the following formula: [Formula 5]

$$\bar{x}_q = (1/m_q) \times \sum_{j=1}^{m_q} \sum_{i=1}^{k_j} (x_{ij}/k_j)$$

where

$\bar{x}_q$  = the quarterly mean concentration for quarter  $q$ ,  $q = 1, 2, 3$ , or  $4$ ,

$x_{ij}$  = the  $i$ th concentration value recorded in stratum  $j$ ,

$k_j$  = the number of actual samples in stratum  $j$ , and

$m_q$  = the number of strata with data in the quarter.

If one sample value is recorded in each stratum, formula [5] reduces to a simple arithmetic average of the observed values as described by formula [3].

#### Example 5

During one calendar quarter, 9 observations were recorded. These samples were distributed among 7 sampling strata, with 3 observations in one stratum. The concentrations of the 3 observations in the single stratum were 202, 242, and 180  $\mu g/m^3$ . The remaining 6 observed concentrations were 55, 68, 73, 92, 120, and 155  $\mu g/m^3$ . Applying the weighting factors specified in formula [5], the quarterly mean is

$$\bar{x}_q = (1/7) \times [(1/3) \times (202 + 242 + 180) + 55 + 68 + 73 + 92 + 120 + 155]$$

$$= 110.1$$

Although 24-hour measurements are rounded to the nearest 10  $\mu g/m^3$  for determinations of exceedances of the 24-hour standard, note that these values are treated as integers for the calculation of means.

(42 U.S.C. 7408 and 7409)

[FR Doc. 84-6860 Filed 3-19-84; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 58

[AD-FRL 2491-6]

#### Ambient Air Quality Surveillance for Particulate Matter

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.



**SUMMARY:** EPA proposes to amend provisions of Part 58 of Chapter I of Title 40 of the *Code of Federal Regulations* (CFR) to account for revisions to the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM) that are being proposed elsewhere in today's *Federal Register*. Under the proposed revisions to the primary ambient standard, particulate matter would be measured in the ambient air as PM<sub>10</sub> (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers). Under the proposed revision to the secondary ambient standard, particulate matter would continue to be measured in the ambient air by the method described in Appendix B (40 CFR Part 50) hereinafter referred to as Total Suspended Particulate Matter (TSP). This necessitates proposed revisions to Part 58 that would establish ambient air quality monitoring requirements for PM<sub>10</sub> as measured by a new reference method being proposed as Appendix J (40 CFR Part 50) elsewhere in today's *Federal Register* or an equivalent method. In addition new network design and monitoring siting requirements are being proposed for the secondary TSP standard. The proposed requirements are comparable to those already established for the other pollutants (criteria pollutants) for which NAAQS have been set. These include requirements for reporting and assuring the quality of ambient PM<sub>10</sub> data, for the design of monitoring networks and the siting of samplers for both TSP and PM<sub>10</sub>. Also proposed are revisions to the lead (Pb) and sulfur dioxide (SO<sub>2</sub>) lower limits for precision estimates contained in Section 4.2 of Appendix A. Finally several clarifying changes are proposed in each of the appendices. Proposed revisions to EPA's regulations concerning Requirements for Preparation, Adoption, and Submittal of Implementation Plans (40 CFR Part 51) with associated guidelines, will be published later. Following the publication of these notices, the Agency will announce a supplementary review period for the limited purpose of taking comments on the implications of the proposed Part 51 implementation requirements and guidelines on the Part 58 regulations proposed today.

**DATES:** Comments must be submitted on or before June 18, 1984, for the proposals herein.

**ADDRESSES:** In conjunction with the monitoring requirements for PM<sub>10</sub>, two draft guideline documents have been prepared and are included in Docket No. A-83-13 for public comment. These two draft documents are entitled:

- Guideline for Particulate Episode Monitoring Methods.
- Optimum Network Design and Site Exposure Criteria for Particulate Matter.

These documents are available for inspection and copying at:

- The Central Docket Section.
- State Air Programs Branch, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203.
- Air Programs Branch, U.S. EPA, Region II, 26 Federal Plaza, New York, NY 10278.
- Air Programs and Energy Branch, U.S. EPA Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106.
- Air Management Branch, U.S. EPA, Region IV, 345 Courtland Street, NE, Atlanta, GA 30365.
- Air Programs Branch, U.S. EPA, Region V, 230 S. Dearborn Street, Chicago, IL 60604.
- Air Programs Branch, U.S. Region VI, First International Building, 1201 Elm Street, Dallas, TX 75270.
- Air Programs Branch, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, MO 64106.
- Air Programs Branch, U.S. EPA, Region VIII, 1860 Lincoln Street, Denver, CO 80295.
- Air Programs Branch, U.S. EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105.
- Air Programs Branch, U.S. EPA, Region X, 1200 6th Avenue, Seattle, WA 98101.

Submit comments (duplicate copies are preferred) to: Central Docket Section, U.S. Environmental Protection Agency, Attn: Docket No. A-83-13, 401 M Street, S.W., Washington, DC 20460. Docket No. A-83-13 is located in the Central Docket Section of the Environmental Protection Agency, West Tower Lobby Gallery I, 401 M St., S.W. Washington, D.C. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on week days and a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Neil Berg or Stanley Sleva, Monitoring and Data Analysis Division (MD-14), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711, phone: 919-541-5651 or (FTS) 629-5651.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Elsewhere in today's *Federal Register* 40 CFR Part 50, EPA is proposing revised national ambient air quality standards (NAAQS) for particulate matter and a new reference method for the determination of ambient concentrations

of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). Corresponding revisions are also being proposed elsewhere in today's *Federal Register* to the regulations in 40 CFR Part 53, Ambient Air Monitoring Reference and Equivalent Methods. The method discussed in Appendix B of 40 CFR Part 50 will continue to be used to measure particulate matter in the ambient air for purposes of determining attainment of the proposed revisions to the secondary standard hereinafter referred to as Total Suspended Particulate Matter (TSP). The Appendix B method will also be used in conjunction with Appendix G of Part 50 (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air) as well as for other purposes as specified in the proposed revisions to this Part. Additional information on these proposed actions can be found in the respective notices and comments on them should be sent to the addressees provided therein.

Section 110(a)(2)(C) of the Clean Air Act requires ambient air quality monitoring for purposes of the State Implementation Plans (SIPs) and for reporting air quality data to EPA. Criteria to be followed when measuring air quality and provisions for daily air pollution index reporting are required by Section 319 of the Act. To satisfy these requirements, on May 10, 1979 (44 FR 27558), EPA established 40 CFR Part 58 which provided detailed requirements for air quality monitoring, data reporting, and surveillance for all of the pollutants for which ambient air quality standards have been established (criteria pollutants) except lead. On September 3, 1981 (44 FR 27558), similar rules were promulgated for lead. The regulations in this notice deal with the ambient air quality monitoring, data reporting, and surveillance requirements associated with today's proposed revisions of the particulate matter standards. Comments sent to Docket No. A-83-13, therefore, should concern only the regulations being proposed in this notice, and the two previously mentioned guideline documents, Guideline for Particulate Episode Monitoring Methods, and Optimum Network Design and Site Exposure Criteria for Particulate Matter.

#### **Proposed Revisions to Part 58—Ambient Air Quality Surveillance**

##### *Section 58.1, Definitions.*

The revisions proposed today would add definitions of the terms "TSP" (total



suspended particulates), "Pb" (lead), and "PM<sub>10</sub>" (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers). The definition for Pb is added at this time because it was inadvertently left out in the promulgation of the Pb monitoring regulations.

#### Section 58.13, Operating Schedules

The current monitoring regulations specify that, "for manual methods, at least one 24-hour sample (is required) every 6 days except during periods or seasons exempted by the Regional Administrator." The revision proposed for this section would require the States to conduct more frequent sampling for PM<sub>10</sub> by manual methods in order to provide for more accurate SIP design values and more correct attainment/nonattainment determinations. These revisions will apply only to the site with expected maximum concentration in each monitoring area. It is recognized that the probability of detecting exceedances of the 24-hour standard is dependent upon the frequency of monitoring, therefore, more frequent sampling is required to overcome the deficiency of the current monitoring requirements in detecting exceedances of the 24-hour standard. While every sixth day monitoring is adequate for estimating annual average concentrations, more frequent monitoring is considered necessary to assess status with respect to the 24-hour standard.

The operating schedule proposed for the measurement of PM<sub>10</sub> will consist of a short-term and long-term monitoring plan. The short-term monitoring schedule will be based on a probability assigned to areas characterizing the likelihood that they are not attaining the PM<sub>10</sub> standards. The use of PM<sub>10</sub> nonattainment probabilities is necessary since most areas of the country do not have PM<sub>10</sub> ambient monitoring data. These probabilities will be developed according to "Procedures for Estimating Probability of Nonattainment of a PM<sub>10</sub> NAAQS Using Total Suspended Particulate or Inhalable Particulate Data," OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, N.C. February 1984. These probabilities will be classified into three categories: low (<20 percent), medium (>20 to <95 percent) and high (>95 percent). A low probability, defined as a probability less than 20 percent, was chosen as a reasonable cutpoint in order to identify areas which are unlikely to be nonattainment. Such areas would have less than a one-in-five chance of being nonattainment. A medium probability, defined as a probability

greater than or equal to 20 but less than 95 percent was chosen to identify areas which are more likely to be nonattainment and includes areas which would be expected to be near the standards. A high probability, defined as a probability greater than or equal to 95 percent was chosen as a reasonable cutpoint to identify areas which are most likely to be nonattainment; such areas would have a less than one-in-twenty chance of being attainment.

Data collection requirements for the first year of monitoring (short term) shall be based on the estimated probabilities of not attaining the PM<sub>10</sub> standards and the associated importance of additional PM<sub>10</sub> ambient data. For the areas with a low probability of not attaining the PM<sub>10</sub> standards, the value of collecting more than a minimum of PM<sub>10</sub> data is relatively low. Such areas are likely to be attainment, and intensified PM<sub>10</sub> data collection is not warranted. Due to the small chance for being nonattainment, however, a minimum sampling program is still required. Accordingly, a minimum sampling schedule of one in 6 days would be required.

Areas with a medium probability of not attaining the PM<sub>10</sub> standards are likely to either be near or in exceedance of the level of the standard. For such areas, the chance of misclassifying current attainment status is high, especially with respect to the 24-hour standard. Moreover, the value of additional PM<sub>10</sub> information is important if it is found that a State Implementation Plan (SIP) must be prepared. Consequently, a more intensified sampling schedule of once in 2 days would be required.

For areas with a high probability of not attaining the PM<sub>10</sub> standards, the value of a first year intensified PM<sub>10</sub> data collection is most important. This is because these areas are most likely to be required to develop a SIP. Consequently, everyday sampling for a minimum of 1 year is being proposed for these areas in order to confirm a probable nonattainment status, as well as the degree. Although the specific details of EPA policy for PM<sub>10</sub> control strategy development will be proposed at a later date with revisions to Part 51 "Requirements for Preparation, Adoption, and Submittal of Implementation Plans" and associated guidelines, this monitoring requirement will facilitate the determination of correct air quality status so that appropriate action can be made in a timely fashion. The short-term strategy also contains provisions for monitoring to be intensified to everyday at the site of expected maximum concentration in

medium and low probability areas, if exceedances of the 24-hour standard are measured during the first year of monitoring.

The long-term selective sampling schedule is based on an analysis of the ratio of measured PM<sub>10</sub> concentrations to the controlling PM<sub>10</sub> standard. Depending upon the ratio, the sampling frequency could be either everyday, every other day, or every sixth day. The long-term monitoring strategy is designed to optimize monitoring resources and maximize information concerning attainment status. Similar to the short-term strategy, the increased sampling frequency provisions only apply to the site with expected maximum concentration in each monitoring area.

For those areas wherein the annual standard is controlling, 1 in 6 day monitoring would be required; this frequency is adequate for assessing status with respect to this standard. For those areas wherein the 24-hour standard is controlling, the required minimum sampling frequency, for the calendar year, will vary according to the relative level of the most current maximum concentration site to the level of the standard. In other words, the sampling requirement applies to the site which drives attainment/nonattainment status for the monitoring area. The least frequent monitoring (1 in 6 days) would be required for those areas wherein the maximum concentration site is clearly above the standard (>40% above) or clearly below the standard (<20% below). For such sites a minimum amount of data collection would be adequate to verify correct attainment/nonattainment status. As the area approaches the standard, the monitoring frequency for the maximum concentration site would increase so that the misclassification of correct attainment/nonattainment status can be minimized. If the area is either 10-20 percent below or 20-40 percent above the 24-hour standard, 1 in 2 day monitoring would be required. When the area is close to the standard, i.e. 10 percent below to 20 percent above, everyday sampling would be required in order to maximize the stability of the attainment/nonattainment classification. Modification to the sampling schedule will be based on the SLAMS network annual data review, in which the most recent calendar year of air quality data would generally be used to determine current air quality status. Although the most recent year of measured data would be considered first in determining which site would operate at the more frequent sampling schedule, other



factors should also be considered. For example, the most recent three years of data might be used to provide stability to the network. In addition, an appropriate adjustment for trends could be made when a change in air quality status is shown to correspond to a commensurate change in underlying particulate matter emissions. Finally, major changes in sources of PM<sub>10</sub> emissions or in sampling site characteristics could possibly influence the location of the expected maximum concentration area PM<sub>10</sub> site. If the location of expected maximum concentration varies annually, EPA suggests that the recommended monitoring schedule be used at more than one site.

The annual operating costs associated with the sampling schedules of this proposed regulation are approximately 5 million dollars for the most stringent standard described in Part 50. This is comparable to the operating costs for the other criteria pollutants. The costs for the other sampling options considered are presented in "PM<sub>10</sub> Monitoring Costs for Three Sampling Options," (October 26, 1983). A more detailed discussion of the rationale for the selected sampling options is currently being developed and will be available for public comment as a paper entitled, "Revising the NAAQS for Particulate Matter—A Selective Sampling Monitoring Strategy."

#### *Section 58.20, Air Quality Surveillance: Plan Content*

The revisions proposed today would require the States to have their revised air quality network descriptions for TSP and their new air quality network descriptions for PM<sub>10</sub> available for submission to the appropriate Regional Administrators by 6 months after promulgation. Since most PM<sub>10</sub> monitoring stations are expected to be chosen from existing TSP or Pb monitoring stations, EPA believes it is reasonable to require States to submit their PM<sub>10</sub> State and local air monitoring station (SLAMS) network descriptions within 6 months of promulgation of these regulations. Although some TSP monitors may need to be relocated to fulfill the micro/middle scale TSP secondary requirements, the 6 month deadline also applies to SLAMS TSP network descriptions since the new TSP SLAMS network will, in most cases, be a modification of the existing TSP SLAMS network.

As described in the proposed revisions to section 2.2 of Appendix C, EPA would allow the continued use of TSP high volume samplers in PM<sub>10</sub> SLAMS as a substitute for PM<sub>10</sub>

samplers as long as measured 24-hour TSP concentrations and annual TSP levels remain below the PM<sub>10</sub> standards. Such substitute TSP samplers would have to be identified and included in the initial SLAMS PM<sub>10</sub> network descriptions. Should a TSP sampler record TSP levels that exceed the PM<sub>10</sub> NAAQS, the substitute TSP sampler would be considered for replacement by a PM<sub>10</sub> sampler during the annual SLAMS network review required by § 58.20(d).

#### *Section 58.23, Monitoring Network Completion*

Two dates, 1 year and 2 years after promulgation are proposed for completion of the PM<sub>10</sub> SLAMS network. By 1 year after promulgation, each area within the approved SLAMS network for which a probability of PM<sub>10</sub> NAAQS nonattainment is greater than or equal to twenty percent, must have at least one PM<sub>10</sub> sampler which is located in the area of expected maximum concentration in operation, be sited in accordance with Appendix E, be located as described on the station's SAROAD identification form and meet all of the quality assurance requirements pertinent to PM<sub>10</sub> contained in Appendix A. The remaining PM<sub>10</sub> samplers have until 2 years after promulgation to be fully operational and to meet the siting and quality assurance requirements. This latter date would also be applicable to the relocated TSP samplers required by the secondary NAAQS monitoring requirements.

The SLAMS network design and probe requirements being proposed today (as revisions to Appendices D and E respectively) would be similar to those required for TSP in the current Appendices D and E; the major difference would be the addition of a microscale to the applicable spatial scale for monitoring TSP and PM<sub>10</sub>. (Definitions of monitoring scales of representativeness and SLAMS monitoring objectives and spatial scale are found in section 1 of Appendix D.) Since the expected size of the revised TSP SLAMS network and the PM<sub>10</sub> SLAMS network would be approximately the same or smaller than the current TSP SLAMS network, complying with the revised requirements of Appendices A, D and E should not pose unmanageable resource burdens. Although the Agency does not anticipate any major problem in SLAMS network design, siting, or quality assurance, it does recognize that because of the potential lack of sufficient commercially available PM<sub>10</sub> reference or equivalent samplers the States may have difficulties in completing their entire

planned SLAMS PM<sub>10</sub> network. Because of this situation, and based on the time required to complete SLAMS for the other criteria pollutants, the Agency proposes to allow a two year time period for SLAMS TSP and a two year phased approach for PM<sub>10</sub> network completion.

#### *Section 58.26, Annual SLAMS Summary Report, and § 58.27, Compliance Data for Air Quality Data Reporting*

These sections, which remain unchanged, specify when the SLAMS annual reporting procedures were to begin. Under these procedures the data from each particulate matter SLAMS are currently summarized and submitted in the annual report as TSP data. After the new NAAQS are promulgated, there would be a requirement to report PM<sub>10</sub> data in the annual report. However, as discussed more fully in a later part of this preamble, the revision proposed to Appendix C of Part 58 would allow high volume samplers to be used under certain circumstances as substitute samplers for PM<sub>10</sub> samplers, and the revisions being proposed to Appendix F would provide for reporting of both TSP and PM<sub>10</sub> data. Accordingly, EPA would expect States to continue reporting TSP data from each TSP slams until that station is taken out of service. Also, as each PM<sub>10</sub> SLAMS is put into operation, the PM<sub>10</sub> data would be included in the annual report as required by § 58.26. There would, therefore, be a gradual transition in the data reporting process and no revision is needed to § 58.26 or § 58.27 to establish an initial reporting date for PM<sub>10</sub> annual summary data.

#### *Section 58.30, NAMS Network Establishment*

The revision proposed today would designate 6 months after promulgation as the date by which the National Air Monitoring Station (NAMS) network portion of each State's SLAMS network must be fully described and documented in a submittal to the Administrator (through the appropriate Regional Office). Since the number of PM<sub>10</sub> NAMS required would be less than the number of existing TSP NAMS, EPA believes that the design of the PM<sub>10</sub> NAMS network can reasonably be accomplished and submitted within six months after the promulgation of these regulations. Also, since the new TSP secondary NAAQS NAMS network will likely be smaller than the existing TSP primary NAAQS NAMS Network, six months is a reasonable time to design and submit a description of the new TSP network as well.



### Section 58.34, NAMS Network Completion

The revision proposed today would designate 1 year after promulgation as the date by which the State must have all  $PM_{10}$  and TSP NAMS in operation. Specifically, each  $PM_{10}$  and TSP NAMS would have to be sited in accordance with the criteria in Appendix E, be located as described in the station's SAROAD site identification form and be operating under the quality assurance requirements of Appendix A. The Agency believes this shorter period for completion of the NAMS portion of the SLAMS network is reasonable in view of the smaller number of TSP and  $PM_{10}$  NAMS versus the entire TSP and  $PM_{10}$  SLAMS network. EPA also anticipates that an adequate number of  $PM_{10}$  reference or equivalent samplers will be available within 12 months after promulgation of these regulations.

### Section 58.35, NAMS Data Submittal

Today's proposed revisions would designate 90 days after the first quarter of operation as the date by which data collected during the first quarterly period after  $PM_{10}$  NAMS network completion must be reported. The purpose of this revision would be to establish a date for the submission of the initial quarterly report of data from  $PM_{10}$  NAMS and the relocated or newly established TSP NAMS. States having  $PM_{10}$  NAMS operating according to all Part 58 criteria prior to 1 year after promulgation would be encouraged to submit data from those stations in the earliest NAMS report possible.

### Revisions to Appendix A

Appendix A sets forth quality assurance and quality assessment requirements for ambient air monitoring data. Revisions to various sections are proposed to include appropriate data quality assessment procedures for  $PM_{10}$  monitoring. The proposed accuracy and precision assessment procedures for  $PM_{10}$  would be very similar to the current requirements for TSP. Accuracy would be assessed with rotating flow audits each quarter, and precision would be assessed with collocated samplers.

A minor change in section 4.2.1(a) would eliminate, from the precision calculations, paired measurements from collocated samplers where either measurements is below a specified lower limit. This would avoid exaggerated estimates of precision that often result from very low measurements. The specified lower limit for  $PM_{10}$  would be  $20 \mu\text{g}/\text{m}^3$ , and the lower limits for  $\text{SO}_2$  and Pb would be

changed slightly to provide more meaningful precision estimates:  $\text{SO}_2$  from 40 to  $45 \mu\text{g}/\text{m}^3$ , and Pb from 0.15 to  $0.25 \mu\text{g}/\text{m}^3$ .

The data assessment report form (Form 1, Figure 1, Back) would be revised to add data blocks from  $PM_{10}$  data, and the instructions for the form in Appendix A, Section 5.3 would be revised accordingly.

### Revisions to Appendix B

Appendix B contains quality assurance requirements for PSD monitoring. Appropriate amendments to extend the data quality assessment requirements explicitly to  $PM_{10}$  monitoring are proposed. As in Appendix A, a new provision for excluding from the precision calculation any paired measurements from collocated samplers below specified limits would be added to apply to TSP, Pb, and  $PM_{10}$ .

### Revisions to Appendix C

Because TSP high volume samplers measure a larger particle size fraction of suspended particulate matter than  $PM_{10}$  samplers, EPA believes that after this promulgation there would be no need to require the high volume sampler to be replaced with  $PM_{10}$  sampler in the SLAMS network in stations where measured TSP ambient concentration levels are below the  $PM_{10}$  ambient standards. State or local agencies would be allowed to continue to operate the high volume sampler to demonstrate compliance with ambient  $PM_{10}$  standards as long as measured TSP levels remain below those standards. As soon as a TSP sampler measures a single value which is higher than the  $PM_{10}$  24-hour standard or has an annual average greater than the  $PM_{10}$  annual standard, it would be necessary to replace the high volume samplers designated as substitute  $PM_{10}$  samplers with  $PM_{10}$  samplers. This is because the  $PM_{10}$  portion of TSP varies from area to area and could possibly be close to 100 percent of the TSP during air stagnation periods in some areas. This correction must be reflected in the SLAMS annual network review.

This proposed revision to Appendix C would be added as section 2.2, and the existing material in section 2.2 would be deleted because it involves requirements that are now out of date.

In addition to allowing the continued use of the high volume (TSP) method as a substitute for a  $PM_{10}$  sampler in certain areas, EPA believes that there is a strong need to require a limited amount of TSP and  $PM_{10}$  air quality sampling (at least one year of collocated sampling) at those existing TSP NAMS

which will be designated as  $PM_{10}$  NAMS. This requirement would provide supporting data to determine possible relationships between TSP and  $PM_{10}$  air quality data so that historical trends and patterns for ambient particulate matter can be continued. Because the TSP/ $PM_{10}$  relationships may vary geographically and seasonally, the proposed rule would require that States continue to operate a TSP sampler for one year at all  $PM_{10}$  NAMS that were previously TSP NAMS. The year would begin for each station at the time the  $PM_{10}$  sampler in the  $PM_{10}$  NAMS is put into operation.

The requirements in section 4.0 for episode monitoring would be revised to replace "TSP" with " $PM_{10}$ " and all references to the high volume method would be changed to reflect the new reference method for  $PM_{10}$  since episodes would be based upon  $PM_{10}$  rather than TSP.

Also, the reference in section 5.0 pertaining to selecting TSP episode monitoring methods would be replaced with a reference to the document, Guideline for Particulate Episode Monitoring Methods, which provides guidance on selecting  $PM_{10}$  episode monitoring methods. EPA solicits comments on this guideline document.

### Revisions to Appendix D

The revisions to Appendix D proposed today would revise sections 2.2 and 3.1 to incorporate changes necessitated by the revised TSP secondary NAAQS, add new sections 2.8 and 3.7 dealing with considerations necessary in the design of  $PM_{10}$  SLAMS and NAMS networks and revise section 3.2 to delete references to TSP in the  $\text{SO}_2$  section. Also added are references to guidelines to be used in siting  $PM_{10}$  stations and references for calculating  $PM_{10}$  NAAQS nonattainment probability.

The revisions to section 2.2 would allow micro scale TSP SLAMS to be used to monitor for compliance with the revised TSP secondary NAAQS.

The revisions to section 3.1 would revise the range for the number of TSP NAMS required in urban areas.

Section 2.8 is a new section that describes the criteria that would be used in designing the SLAMS network and specifies situations where the  $PM_{10}$  monitoring requirements could be met by TSP samplers (in accordance with the proposed revision to Appendix C). This section also includes descriptions of applicable  $PM_{10}$  spatial scales.

Section 3.2 specifies  $\text{SO}_2$  design criteria for NAMS and makes comparisons to TSP monitoring. Because of the proposed revisions to the TSP monitoring criteria it is appropriate to



eliminate comparisons to TSP in the SO<sub>2</sub> section at this time.

Section 3.7 is a new section. It would establish design criteria for determining the number of NAMS based on PM<sub>10</sub> NAAQS nonattainment probability, source types, and urban area population. Consistent with design criteria for other pollutants, one of the NAMS would be a category (a) maximum concentration station, and the other a category (b) population exposure station. For PM<sub>10</sub>, category (a) stations would be micro or middle scale and category (b) stations would be neighborhood scale. As noted in Appendix C, all PM<sub>10</sub> NAMS that were previously designated as TSP NAMS would be required to collect both ambient TSP and PM<sub>10</sub> data for a one-year period starting at the time the PM<sub>10</sub> sampler in the PM<sub>10</sub> NAMS is put into operations.

#### Revisions to Appendix E

Today's proposed revisions to Appendix E would revise section 2 to include revised TSP siting requirements, and add a new section 8 to cover the specific PM<sub>10</sub> sampler siting requirements.

The proposed changes consist of siting parameters that would specify spacing distances from roadways and minimum separation distances from buildings, trees and other obstructions. Vertical and horizontal sampler distances are also proposed so that sampling can be conducted representative of the breathing zone while preventing vandalism to the sampler.

For microscale sites, a height of 2-7 meters is proposed while for larger scale sites, a height of 2-15 meters is proposed. A horizontal roadway setback distance of 5-15 meters is proposed for a microscale roadway site, and a range of distances is proposed for larger scales. EPA welcomes further comments on this subject, as well as comments on the guideline document, Optimum Network Design and Site Exposure Criteria for Particulate Matter, mentioned earlier under the heading, AVAILABILITY OF RELATED INFORMATION. The other siting provisions being proposed are consistent with those currently required for the other criteria pollutants.

#### Revisions to Appendix F

As a result of the revisions proposed for the particulate matter standards, revisions would be necessary to the data reporting requirements of Appendix F. A new section 2.7 is proposed to be added to Appendix F that would specify the ambient PM<sub>10</sub> information that would be required in the annual air quality data report. As discussed under Appendix C, States

could operate high volume samplers in their PM<sub>10</sub> SLAMS network where measured TSP levels were below the PM<sub>10</sub> ambient standards. This TSP data would be reported as such in the annual SLAMS report. The annual TSP arithmetic mean is required in order to estimate PM<sub>10</sub> levels in those cases where TSP is measured as a substitute for PM<sub>10</sub>. Also, the annual TSP arithmetic mean is required in order to determine compliance with the proposed secondary TSP standard. Section 2.2, therefore, would be retained to address TSP reporting but modified to be consistent with Section 2.7.

New concentration ranges related to the proposed PM standards are proposed in section 2.7 for compiling PM<sub>10</sub> data. For consistency, in section 2.2, compatible ranges are also proposed for compiling TSP data. Also, the TSP annual mean would be changed from a geometric mean to an arithmetic mean. In order to calculate the expected number of exceedances of the 24-hour PM<sub>10</sub> ambient standard (40 CFR Part 50, Appendix K, section 2.2), all exceedances of the standard would be reported as well as the sampling frequency. The proposal, therefore, contains the requirement to report all 24-hour values exceeding the 24-hour PM<sub>10</sub> ambient standard, their dates of occurrence, and the sampling schedule.

According to the procedures of Appendix K, Part 50, the calculations to determine attainment/nonattainment of the PM<sub>10</sub> ambient standards also must take into account episode statistics. If episode occurrences are not taken into account, an overestimate of the number of exceedances, as well as the level of the annual arithmetic mean could result.

In section 2.2.2, only the ten highest TSP values above the PM<sub>10</sub> standards are proposed to be reported. Since only TSP data would be available until PM<sub>10</sub> samplers are installed, the ten highest values would be sufficient for statistical purposes.

#### Revisions to Appendix G

The proposed requirements in Appendix G for air quality index reporting are to eliminate provisions related to TSP or TSP x SO<sub>2</sub> and to add provisions for PM<sub>10</sub>. A number of proposed revisions involve removing TSP provisions (including the example calculation) in section 7.2, and replacing them with PM<sub>10</sub>. The pollutant standard index (PSI) function in Figure 2 and the second column in Table 1 are proposed to be renamed "PM<sub>10</sub>" and revised to reflect breakpoints which coincide with the proposed episode and significant harm levels for PM<sub>10</sub>. This is consistent with the provisions for other pollutants.

The proposed action also includes removing the breakpoints and PSI function figure for TSP x SO<sub>2</sub>.

A minor proposed change involves a typographical error in the fifth column of Table 1. The correct term for the column is mg/m<sup>3</sup> instead of umg/m<sup>3</sup>.

#### Impact on Small Entities

The Regulator Flexibility Act requires that all federal agencies consider the impacts of final regulations on small entities, which are defined to be small business, small organizations, and small governmental jurisdictions (5 U.S.C. 601 *et seq.*). EPA's consideration pursuant to this Act indicates that no small entity group would be significantly affected in an adverse way by the proposal. Therefore, pursuant to 5 U.S.C. 605(b), the Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

#### Other Reviews

The regulatory impact of the proposed revisions to Part 58 is addressed within the Regulatory Impact Analysis (RIA) referenced under the Proposed Revisions to the National Ambient Air Quality Standards for Particulate Matter Published elsewhere in today's Federal Register.

The proposed revisions to Part 58 were submitted to the Office of Management and Budget (OMB) for review (under Executive Order 12291). This is not a "major" rule under E.O. 12291 because it does not meet any of the criteria defined in the Executive Order.

The reporting and recordkeeping provisions addressed in this notice, however, have been submitted separately for review by OMB under section 3504(b) of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Any OMB comments and EPA responses to those comments are available for public inspection at EPA's Central Docket Section (Docket No. A-83-13), West Tower Lobby, Gallery, I, Waterside Mall, 401 M Street SW., Washington, D.C.

#### List of Subjects in 40 CFR Part 58

Air Pollution Control, Intergovernmental relations, Reporting and recordkeeping requirements, Pollutant standard index, Ambient air quality monitoring network. (Secs. 110, 301(a) and 319, Clean Air Act, 42 USC 7410, 7601(a), 7619)



Dated: March 8, 1984.  
William D. Ruckelshaus,  
Administrator.

## PART 58—AMBIENT AIR QUALITY SURVEILLANCE

For the reasons set out in the preamble, Part 58 of Chapter I of Title 40 of the *Code of Federal Regulations* is proposed to be amended as follows:

1. Section 58.1 is amended by adding new paragraphs (t), (u), and (v) as follows:

### § 58.1 Definitions.

(t) "TSP" (total suspended particulates) means particulate matter as measured by the method described in Appendix B of Part 50 of this chapter.

(u) "PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of Part 50 of this chapter and designated in accordance with Part 53 of this chapter or by an equivalent method designated in accordance with Part 53 of this chapter.

(v) "Pb" means lead.

2. Section 58.13 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

### § 58.13 Operating Schedule.

(b) For manual methods (excluding PM<sub>10</sub> samplers)—at least one 24-hour sample every six days except during periods or seasons exempted by the Regional Administrator.

(c) For PM<sub>10</sub> samplers—a 24-hour sample must be taken from midnight to midnight (local time) to ensure national consistency. The sampling shall be conducted on the following schedules which are based on either the first year of PM<sub>10</sub> monitoring or a long-term selective PM<sub>10</sub> monitoring plan:

(1) First year PM<sub>10</sub> monitoring. The sampling frequency for the first year (12 consecutive months) of ambient PM<sub>10</sub> monitoring shall be based on a described area's probability of nonattainment of the PM<sub>10</sub> NAAQS using total suspended particulate data. Procedures to develop these probabilities are found in Frank, N. and T. Pace, "Procedures for Estimating Probability of Nonattainment of a PM<sub>10</sub> NAAQS Using Total Suspended Particulate or Inhalable Particulate Data," OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, N.C. September 1983. The most recent 3 calendar years of air quality data must be used in this determination.

The probabilities are divided into three categories: (i) High—greater than or equal to 95 percent probability; (ii) medium—greater than or equal to 20 percent to less than 95 percent probability, and (iii) low—less than 20 percent probability. A described area could be: An urbanized area; a city or town and; a rural area. The starting date for this first year of PM<sub>10</sub> monitoring may begin prior to the effective date (promulgation date) of this regulation.

(i) For high probability areas, everyday PM<sub>10</sub> sampling is required for at least one PM<sub>10</sub> site which must be located in the area of expected maximum concentration. The remainder require every sixth day sampling.

(ii) For medium probability areas, every other day sampling is required for at least one PM<sub>10</sub> site which must be located in the area of expected maximum concentration. The remainder require every sixth day sampling.

(iii) For low probability areas, a minimum of one in six day sampling is required.

If a monitoring site in a medium or low probability area later records levels exceeding the short term (24-hour) PM<sub>10</sub>

NAAQS, as described in Part 50 Appendix K, and the monitoring frequency was less than everyday, then everyday sampling must be initiated in the area of expected maximum concentration no later than 90 days following the end of the calendar quarter in which the exceedance occurred and continue for the subsequent four calendar quarters.

(2) Long term monitoring selective sampling. After one year of PM<sub>10</sub> monitoring has been obtained, the minimum monitoring schedule for the site in the area of expected maximum concentration shall be based on the relative level of that monitoring site concentration with respect to the level of the controlling standard. For those areas in which the short-term (24-hour) standard is controlling i.e., has the highest ratio, the selective sampling requirements are illustrated in Figure 1. The minimum sampling schedule for all other sites in the area would be once every six days. For those areas in which the annual standard is the controlling standard, the minimum sampling schedule for all monitors in the area would be once every six days.

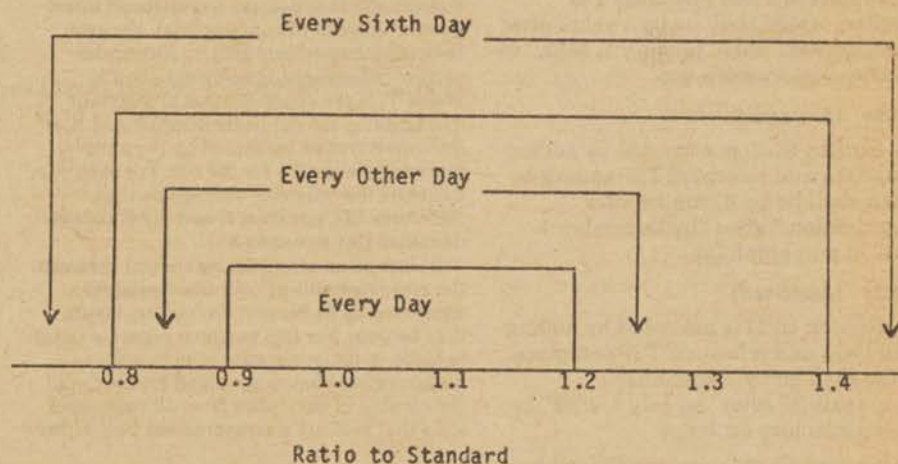


Figure 1. Selective Sampling Requirements

During the annual review of the SLAMS network, the most recent year of data must be considered to estimate the air quality status for the controlling air quality standard (24-hour or annual). Statistical models such as analysis of concentration frequency distributions as described in "Guideline for the Interpretation of Ozone Air Quality Standards," EPA-450/479-003, U.S. Environmental Protection Agency, Research Triangle Park, N.C., January 1979, should be used. Adjustments to the

monitoring schedule must be made on the basis of the annual review. The site having the concentration in the most current year must be given first consideration when selecting the site for more frequent sampling schedule. Other factors such as major change in sources of PM<sub>10</sub> emissions or in sampling site characteristics could influence the location of the expected maximum concentration site. Also, the use of the most recent three years of data might in some cases, be justified in order to



provide a more representative data base from which to estimate current air quality status and to provide stability to the network. If the maximum concentration site based on the most current year is not selected for the more frequent operating schedule, documentation of the justification for selection of an alternate site must be submitted to the Regional Office for approval during the annual review process. It should be noted that minimum data completeness criteria, number of years of data and sampling frequency for judging attainment of the NAAQS are discussed in Appendix K of Part 50.

#### § 58.20 [Amended]

3. Paragraph (e) of § 58.20 is amended by adding "and for PM<sub>10</sub> and relocated TSP monitors which must be available by 6 months after promulgation" after "by December 1, 1981."

#### § 58.23 [Amended]

4. Section 58.23 is amended by adding "with the exception of PM<sub>10</sub> samplers whose probability of nonattainment of the PM<sub>10</sub> ambient standard is greater than or equal to 20 percent which shall be by 1 year after promulgation and the remaining PM<sub>10</sub> and relocated TSP samplers which shall be by 2 years after promulgation" after "January 1, 1983," in the introductory sentence.

#### § 58.30 [Amended]

5. Section 58.30 is amended by adding "and PM<sub>10</sub> and relocated TSP samplers, which shall be by 6 months after promulgation," after "by December 1, 1981" in paragraph (a).

#### § 58.34 [Amended]

6. Section 58.34 is amended by adding "and PM<sub>10</sub> and relocated TSP samplers, which shall be by 1 year after promulgation" after "by July 1, 1982" in the introductory sentence.

7. Section 58.35 is amended by adding a new sentence after the last sentence in paragraph (d) as follows:

#### § 58.35 NAMS data submittal.

(d) \* \* \*. For PM<sub>10</sub> and relocated or newly established TSP samplers, the first quarterly report will be due 90 days after the first quarter of operation.

#### Appendix A—[Amended]

8. In Appendix A, sections 3, 4, and 5 are amended as follows:

a. The fourth sentence in section 3.2.1 is changed by replacing the phrase "high volume" with the phrase "high volume and PM<sub>10</sub>."

b. Section 3.2.2 is amended by replacing the phrase "For TSP" with the phrase "For TSP and PM<sub>10</sub>," in the second sentence and by adding paragraph (e) to read as follows:

(e) *PM<sub>10</sub> Methods.* Each calendar quarter, audit the flow rate of at least 25 percent of the PM<sub>10</sub> samplers such that each sampler is audited at least once per year. If there are fewer than four PM<sub>10</sub> samplers within a reporting organization, reaudit one or more randomly selected samplers so that one sampler is audited each calendar quarter.

Audit the flow rate of the sampler at its specified operating flow rate, using a certified flow transfer standard (see reference 2). The flow transfer standard used for the audit must not be the same one used to calibrate the flow of the sampler being audited, although both transfer standards may be referenced to the same primary flow of volume standard. The difference between the audit flow measurement and the flow indicated by the sampler's flow indicator is used to calculate accuracy, as described in section 4.2.2.

c. In section 4.2.1, paragraph (a) is revised to read as follows:

(a) *Single Instrument Precision.* For the paired measured obtained as described in section 3.2.1, select all pairs in which both measurements are above the concentrations given at the end of paragraph (a). For each selected measurement pair, calculate the percent difference (d<sub>i</sub>) using equation 1, where Y<sub>i</sub> is the concentration of pollutant measured by the duplicate sampler and X<sub>i</sub> is the concentration measured by the sampler reporting air quality for the site. For each site, calculate the quarterly average percent difference (d<sub>q</sub>), equation 2, and the standard deviation (S<sub>q</sub>), equation 3.

At low concentrations, agreement between the measurements of collocated samples, expressed as 95 Percent Probability Limits, may be poor. For this reason a separate count is made of the occurrence of pollutant measurements below specified levels. Count the number of data pairs from all collocated sites that indicate a measurement from either

of the collocated samplers (see section 3.2.1) below the following limits:

TSP: 20 µg/m<sup>3</sup>,  
SO<sub>2</sub>: 45 µg/m<sup>3</sup>,  
NO<sub>2</sub>: 30 µg/m<sup>3</sup>,  
Pb: 0.25 µg/m<sup>3</sup>, and  
PM<sub>10</sub>: 20 µg/m<sup>3</sup>.

Report the counts in columns 20–23 of Form 12 (Back).

d. In section 4.2.2, paragraphs (a) and (b) are revised to read as follows:

(a) *Single Sampler Accuracy (TSP and PM<sub>10</sub>).* For the flow rate audit described in sections 3.2.2(a) and 3.2.2(e), let X<sub>i</sub> represent the known flow rate and Y<sub>i</sub> represent the indicated flow rate. Calculate the percent difference (d<sub>i</sub>) for each audit, using equation 1.

(b) *Accuracy for Reporting Organization (TSP and PM<sub>10</sub>).* Using equation 8, calculate the averages (D) of the individual percent differences for all TSP or PM<sub>10</sub> samplers audited during the calendar quarter. Compute the standard deviation (S<sub>q</sub>) of all the percent differences for all of the samplers audited during the calendar quarter, using equation 9.

Calculate the 95 Percent Probability Limit for the accuracy of a reporting organization, using equations 6 and 7, and record these limits on the back of Form 1 under blocks 46–51. Note that since the audit is conducted at only one level, blocks 40–45 and 52–57 are not used. For reporting organizations having four or fewer TSP or PM<sub>10</sub> samplers, only one audit is required each quarter. For such reporting organizations, the audit results of two consecutive quarters are required to calculate an average and a standard deviation, using equations 8 and 9. Therefore, semi-annual (instead of quarterly) reporting of probability limits is required.

e. In the introduction to section 5, "Environmental Monitoring and Support Laboratory" is changed to "Environmental Monitoring Systems Laboratory."

f. In section 5.1, delete the phrase "with a copy to EMSL/RTP".

g. In section 5.3, the instructions for Form 1, Back, are revised as follows:

#### 5.3 Instructions for Form 1.

Block No.	Description
9–14.....	Manual Methods (Form 1, Back)
15–17.....	Pollutant Identifiers: (Pre-coded).
18–19.....	Number of Samplers: Count only those samplers for each pollutant that are associated with an approved method and from which monitoring data are reported as part of a SLAMS network.
20–23.....	Number of Collocated Sites: Number of sites having collocated samplers. The minimum number is 2.
24–26.....	Number of Collocated Data Pairs Below the Limit: Count the number of data pairs from the collocated sites where a measurement from either of the collocated samplers (see section 3.2.1) is below the following limits: TSP: 20 µg TSP/m <sup>3</sup> SO <sub>2</sub> : 45 µg SO <sub>2</sub> /m <sup>3</sup> NO <sub>2</sub> : 30 µg NO <sub>2</sub> /m <sup>3</sup> Pb: 0.25 µg Pb/m <sup>3</sup> PM <sub>10</sub> : 20 µg PM <sub>10</sub> /m <sup>3</sup>
27–29.....	Lower Probability Limit, Precision: Block 24 is either "+" or "-". Blocks 25–26 contain the percentage obtained from equation 11.



Block No.	Description
27-29.....	<i>Upper Probability Limit, Precision:</i> Block 27 is either "+" or "-". Blocks 28-29 contain the percentage obtained from equation 10. Note: If precision limits exceed two digits, e.g., 103% report as 99.
30-35.....	<i>Pollutant Identifiers:</i> (Precoded).
36.....	Not used.
37-39.....	<i>Number of Audits:</i> Count the total number of audits performed on the entire network for the pollutants. A single audit may consist of several audit level checks, but count only once for each audit. For example, although an audit conducted for NO <sub>x</sub> or SO <sub>x</sub> consists of checks at three different concentration levels, count this as one audit, not three.
40-57.....	<i>Probability Limits, Accuracy:</i> The lower and upper probability limits for each level of the accuracy audits are entered in blocks 40-57. Audit levels, their corresponding flow or concentration ranges and the appropriate blocks for this information are given in the following table:

Blocks	Audit level	Flow audit			Analytical audit	
		TSP	Pb	PM <sub>10</sub>	Pb µg/strip <sup>1</sup>	SO <sub>x</sub> , NO <sub>x</sub> µg/ml
40-45.....	1				100 to 300.....	0.2 to 0.3.
46-51.....	2	Normal sampler flow.		Normal sampler flow.	600 to 1,000.....	0.5 to 0.6.
52-57.....	3		Normal sampler flow <sup>2</sup> .			0.8 to 0.9.

<sup>1</sup> Audit ranges apply only to the Pb reference method. Audit ranges for an equivalent Pb method must be compatible with the specific requirements of the equivalent method.

<sup>2</sup> Applies to Pb equivalent methods which do not use the high volume sampler.

Block	Description
40-42, 46-48, 52-54.....	<i>Lower Probability Limits, Accuracy:</i> Blocks 40, 46, and 52 are either "+" or "-". Blocks 41-42, 47-48 and 53-54 contain the percentage obtained from equation 7.
43-45, 49-51, 55-57.....	<i>Upper Probability Limits, Accuracy:</i> Blocks 43, 49 and 55 are either "+" or "-". Blocks 44-45, 50-51 and 56-57 contain the percentage obtained from equation 6. Note: If accuracy limits exceed two digits, e.g., 103%, report as 99. Report, as required, all pollutants (TSP, Pb, PM <sub>10</sub> , SO <sub>x</sub> , and NO <sub>x</sub> ) determined by manual methods. Note that only blocks 46-51 are used for TSP and PM <sub>10</sub> . NOTE: If only one audit is performed during a given quarter for a given pollutant, it is not possible to calculate probability limits for that quarter. In that case, blocks 40-57 are left blank for the first such quarter and the number 001 is reported in blocks 37-39. Probability limits are then computed and reported on a semi-annual basis (i.e., after the next quarter) from the audit data obtained during the two consecutive quarters.
58-60.....	<i>Number of Valid Collocated Data Pairs:</i> Enter the total number of data pairs from all the collocated sites.

h. The Data Assessment Report Form (back), Figure 1, is revised to read as follows:



## DATA ASSESSMENT REPORT

MANUAL METHODS

OMB No. 2000-0003

Expires 10-31-88

REPORTING  
STATE ORGANIZATION

YEAR

QUARTER

SEND COMPLETED FORM  
TO REGIONAL OFFICE

1 2 3 4 5

6 7

8

NAME OF REPORTING ORGANIZATION

DATE SUBMITTED

ORIGINAL

REVISION

## PRECISION

	NO OF COLLOCATED SAMPLERS	NO OF COLLOCATED SITES	NO OF COLLOCATED SAMPLES < LIMIT	PROBABILITY LIMITS	LIMITS APPLICABLE TO BLOCKS 20-23	NO OF VALID COLLOCATED DATA PAIRS	
	9-14	15-17	18-19	20-23	24-29	58-60	
A TSP	1 1 1 1 0 1				LOWER UPPER	TSP: 20 µg TSP/m³	
B SO₂	1 4 2 4 0 1				LOWER UPPER	SO₂: 45 µg SO₂/m³	
C NO₂	1 4 2 6 0 2				LOWER UPPER	NO₂: 30 µg NO₂/m³	
D Pb	1 1 2 1 2 8				LOWER UPPER	Pb: 0.25 µg Pb/m³	
E PM₁₀	1 8 1 1 0 2				LOWER UPPER	PM₁₀: 20 µg PM₁₀/m³	

## ACCURACY

	NO OF AUDITS	PROBABILITY LIMITS					
		LEVEL 1	LEVEL 2	LEVEL 3			
		LOWER UPPER	LOWER UPPER	LOWER UPPER			
A TSP	1 1 1 1 0 1	30-35	36	37-39	40-45	46-51	52-57
B SO₂	1 4 2 4 0 1	30-35	36	37-39	40-45	46-51	52-57
C NO₂	1 4 2 6 0 2	30-35	36	37-39	40-45	46-51	52-57
D Pb	1 1 2 1 2 8	30-35	36	37-39	40-45	46-51	52-57
E PM₁₀	1 8 1 1 0 2	30-35	36	37-39	40-45	46-51	52-57

\* COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS

FIGURE 1 FORM 1 (BACK)

## Appendix B—[Amended]

9. Appendix B is amended as follows:

a. The heading of paragraph 3.3.1 is revised to read as follows:

3.3.1 TSP and PM₁₀ Methods. \* \* \*

b. The first paragraph of 3.4.1 is revised to read as follows:

3.4.1 TSP and PM₁₀ Methods. Each sampling quarter, audit the flow rate of each sampler at least once. Audit the flow at the normal flow rate, using a certified flow transfer standard (see reference 2). The flow transfer standard used for the audit must not be the same one used to calibrate the flow of the sampler being audited, although both transfer standards may be referenced to the same primary flow or volume standard. The difference between the audit flow

measurement and the flow indicated by the sampler's flow indicator is used to calculate accuracy, as described in paragraph 5.2.

\* \* \* \* \*

c. Section 5.1 is revised to read as follows:

5.1 Single Instrument Precision for TSP, Pb and PM₁₀. Estimates of precision for ambient air quality particulate measurements are calculated from results obtained from



collocated samplers as described in section 3.3. At the end of each sampling quarter, calculate and report a precision probability interval, using weekly results from the collocated samplers. Directions for calculations are given below, and directions for reporting are given in section 6.

For the paired measurements obtained as described in section 3.3.1 and 3.3.2, select all pairs in which both measurements are above  $20 \mu\text{g}/\text{m}^3$  for TSP,  $0.25 \mu\text{g}/\text{m}^3$  for Pb, or  $20 \mu\text{g}/\text{m}^3$  for  $\text{PM}_{10}$ . For each selected pair, calculate the percent difference ( $d_j$ ) using equation 1, where  $Y_i$  is the concentration of pollutant measured by the duplicate sampler, and  $X_i$  is the concentration measured by the sampler reporting air quality for the site. Calculate the quarterly average percent difference ( $d_j$ ), equation 2; standard deviation ( $S_j$ ), equation 3; and upper and lower 95 percent probability limits for precision, equations 6 and 7.

Upper 95 Percent Probability

$$\text{Limit} = d_j + 1.96 S_j \quad (6)$$

Lower 95 Percent Probability

$$\text{Limit} = d_j - 1.96 S_j \quad (7)$$

d. In paragraph 5.2, revise the heading to read "Single Instrument Accuracy for TSP and  $\text{PM}_{10}$ ," and replace the phrase "each high volume sampler" with the phrase "each high-volume or  $\text{PM}_{10}$  sampler."

#### Appendix C—[Amended]

10. In Appendix C, sections 2.0, 4.0, and 5.0 are amended as follows:

a. In section 2.0, paragraphs 2.2.1 and 2.2.2 are removed and paragraph 2.2 is revised to read as follows:

2.2 For purposes of showing compliance with the NAAQS for particulate matter, the high volume sampler described in Appendix B of Part 50 of this chapter may be used in a SLAMS as long as the ambient concentration of particles measured by the high volume sampler is below the  $\text{PM}_{10}$  NAAQS.

As soon as the TSP sampler measures a single value which is higher than the  $\text{PM}_{10}$  24-hour standard or has an annual average greater than the  $\text{PM}_{10}$  annual standard, it would be necessary to replace the high volume sampler designated as a substitute  $\text{PM}_{10}$  sampler with a  $\text{PM}_{10}$  sampler.

In order to maintain historical continuity of ambient particulate matter trends and patterns, for  $\text{PM}_{10}$  NAMS that were previously TSP NAMS, the TSP high volume sampler must be concurrently operated with the  $\text{PM}_{10}$  sampler for a one-year period beginning with the  $\text{PM}_{10}$  NAMS start up date.

B. Section 4.0 is revised to read as follows:

4.1 For short-term measurements of  $\text{PM}_{10}$  during air pollution episodes (see § 51.152 of this chapter) the measurement method must be:

4.1.1 Either the "Staggered  $\text{PM}_{10}$ " method or the " $\text{PM}_{10}$  Sampling Over Short Sampling Times" method, both of which are based on the reference method for  $\text{PM}_{10}$  and are described in reference 1: or

4.1.2 Any other method for measuring  $\text{PM}_{10}$ :

4.1.2.1 Which has a measurement range or ranges appropriate to accurately measure air pollution episode concentration of  $\text{PM}_{10}$ .

4.1.2.2 Which has a sample period appropriate for short-term  $\text{PM}_{10}$  measurements, and

4.1.2.3. For which a quantitative relationship to a reference or equivalent method for  $\text{PM}_{10}$  has been established at the use site. Procedures for establishing a quantitative site-specific relationship are contained in reference 1.

4.2 Quality Assurance.  $\text{PM}_{10}$  methods other than the reference method are not covered under the quality assessment requirements of Appendix A. Therefore, States must develop and implement their own quality assessment procedures for those methods allowed under this section 4. These quality assessment procedures should be similar or analogous to those described in section 3 of Appendix A for the  $\text{PM}_{10}$  reference method.

c. Section 5.1 is revised to read as follows:

5.1 Pelton, D.J. Guideline for Particulate Episode Monitoring Methods, GEOMET Technologies, Inc., Rockville, MD. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA Contract No. 68-02-3584. (February 1983 Draft.)

#### Appendix D—[Amended]

11. Appendix D is amended as follows:

a. In the Table of Contents, sections 2.8 and 3.7 are added in the appropriate places as follows:

2.8  $\text{PM}_{10}$  Design Criteria for SLAMS

3.7  $\text{PM}_{10}$  Design Criteria for NAMS

b. In section 2, in the second paragraph of section 2.2 in the second sentence, the words "one of four scales" are revised to read "one of five scales", and the word "micro" is inserted in the parenthetical expression immediately before the word "middle." In the third paragraph, the word "four" is replaced by the word "five." Following the third paragraph and before the discussion of "middle scale" the following is inserted:

"• *Microscale*"—This scale would typify areas such as downtown street canyons, traffic corridors, unpaved roads, haul roads, track out dirt from construction sites, dust from storage piles and fugitive emissions. Because of the very steep ambient TSP gradients resulting from these sources, the dimensions of the microscale for TSP generally would not extend beyond 15 meters. In the case of roadway sources, the microscale could continue the length of the roadway, which may be several kilometers. Microscale TSP sites should

be located near inhabited buildings where property can be expected to be exposed to high ambient particulate concentrations. Emissions from stationary sources such as primary and secondary smelters, power plants, steel mills and other large industrial processes may, under certain plume conditions, likewise result in high ground level concentrations at the microscale. In the latter case, the microscale would represent an area impacted by the plume with dimensions extending up to approximately 100 meters. Data collected at microscale stations provide information for evaluating and developing "hot spot" control measures.

The first 3 sentences of the "• *middlescale*"—discussion are deleted and replaced by "the previously mentioned sources also have an impact at the middlescale level."

In the "• *neighborhood scale*"—discussion, the remainder of the 4th sentence after the word "conditions" is deleted and replaced by "to which a large part of the city is subjected."

c. In section 2, a new section 2.8 is added as follows:

2. SLAMS Network Design Procedure

2.8  $\text{PM}_{10}$  Design criteria for SLAMS.

As with other pollutants measured in the SLAMS network, the first step in designing the  $\text{PM}_{10}$  network is to collect the necessary background information. Various studies 11, 12, 13, 14, 15 have documented the major source categories of particulate matter and their contribution to ambient levels in various locations throughout the country. Because the sources for  $\text{PM}_{10}$  are similar to those for TSP, the procedures for collecting the necessary background information for  $\text{PM}_{10}$  are similar to those described in section 2.2 for Total Suspended Particulates. After completing the first step, existing TSP SLAMS or other particulate matter stations should be evaluated to determine their potential as candidates for SLAMS designation. Stations meeting one or more of the four basic monitoring objectives described in section 1 of this Appendix must be classified into one of the five scales of representativeness (micro, middle, neighborhood, urban and regional) if the stations are to become SLAMS. In siting and classifying  $\text{PM}_{10}$  stations, the procedures described in reference 16 should be used.

If existing TSP samplers meet the quality assurance requirements of Appendix A, the siting requirements of Appendix E, and are located in areas of suspected maximum concentrations as described in section 3 of Appendix D, and if the TSP Levels are below the ambient  $\text{PM}_{10}$  standards, TSP samplers may continue to be used as substitutes for  $\text{PM}_{10}$  SLAMS samplers under the provisions of Section 2.2 of Appendix C.



The most important spatial scales to effectively characterize the emissions of  $PM_{10}$  from both mobile and stationary sources are the micro, middle and neighborhood scales. For purposes of establishing monitoring stations to represent large homogenous areas other than the above scales of representativeness, urban or regional scale stations would also be needed.

**Microscale**—This scale would typify areas such as downtown street canyons and traffic corridors where the general public would be exposed to maximum concentrations from mobile sources. Because of the very steep ambient  $PM_{10}$  gradients resulting from mobile sources, the dimensions of the microscale for  $PM_{10}$  generally would not extend beyond 15 meters from the roadway, but could continue the length of the roadway which could be several kilometers. Microscale  $PM_{10}$  sites should be located near inhabited buildings or locations where the general public can be expected to be exposed to the concentration measured. Emissions from stationary sources such as primary and secondary smelters, power plants, and other large industrial processes may, under certain plume conditions, likewise result in high ground level concentrations at the microscale. In the latter case, the microscale would represent an area impacted by the plume with dimensions extending up to approximately 100 meters. Data collected at microscale stations provide information for evaluating and developing "hotspot" control measures.

**Middle Scale**—Much of the measurement of short-term public exposure to  $PM_{10}$  is on this scale. People moving through downtown areas, or living near major roadways, encounter particles that would be adequately characterized by measurements of this spatial scale. Thus, measurements of this type would be appropriate for the evaluation of possible short-term public health effects of particulate matter pollution. This scale also includes the characteristic concentrations for other areas with dimensions of a few hundred meters such as the parking lot and feeder streets associated with shopping centers, stadia, and office buildings. In the case of  $PM_{10}$ , unpaved or seldom swept parking lots associated with these sources could be an important source in addition to the vehicular emissions themselves.

**Neighborhood Scale**—Measurements in this category would represent conditions throughout some reasonably homogeneous urban subregion with dimensions of a few kilometers and of generally more regular shape than the middle scale. Homogeneity refers to the  $PM_{10}$  concentrations, as well as the land use and land surface characteristics. In some cases, a location carefully chosen to provide neighborhood scale data would represent not only the immediate neighborhood but also neighborhoods of the same type in other parts of the city. Stations of this kind provide good information about trends and compliance with standards because they often represent conditions in areas where people commonly live and work for period comparable to those specified in the NAAQS. This category also includes industrial and commercial neighborhoods, as well as residential.

Neighborhood scale data could provide valuable information for developing, testing, and revising models that describe the larger-scale concentration patterns, especially those

models relying on spatially smoothed emissions fields for inputs. The neighborhood scale measurements could also be used for neighborhood comparisons within or between cities. This is the most likely scale of measurements to meet the needs of planners.

**Urban Scale**—This class of measurement would be made to characterize the  $PM_{10}$  concentration over an entire metropolitan area. Such measurements would be useful for assessing trends in city-wide air quality, and hence, the effectiveness of large scale air pollution control strategies.

**Regional Scale**—These measurements would characterize conditions over areas with dimensions of as much as hundreds of kilometers. As noted earlier, using representative conditions for an area implies some degree of homogeneity in that area. For this reason, regional scale measurements would be most applicable to sparsely populated areas with reasonably uniform ground cover. Data characteristics of this scale would provide information about larger scale processes of  $PM_{10}$  emissions, losses and transport.

d. In section 3, the third paragraph is revised to read as follows:

### 3. Network Design for National Air Monitoring Stations (NAMS)

\* \* \*

Category (a): stations located in area(s) of expected maximum concentrations (generally microscale for CO, microscale or middle scale for TSP, Pb and  $PM_{10}$ , neighborhood scale for  $SO_2$  and  $NO_2$ , and urban scale for  $O_3$ ).

\* \* \*

e. In Section 3.1 in the second sentence, "500,000" is replaced by "1,000,000", the word "primary" is replaced by the word "secondary," and the number "8" is replaced by the number "10." Table 2 is revised as follows:

TABLE 2.—TSP NATIONAL AIR MONITORING STATION CRITERIA

[APPROXIMATE NUMBER OF STATIONS PER AREA]\*

Population category	High concentration <sup>a</sup>	Medium concentration <sup>c</sup>	Low concentration <sup>d</sup>
> 1,000,000	6-10	4-8	2-4
500,000-1,000,000	4-8	2-4	1-2
250,000-500,000	3-4	1-2	0-1
100,000-250,000	1-2	0-1	0

\* Selection of urban and actual number of stations per area will be jointly determined by EPA and the State agency.

<sup>a</sup> High concentration—exceeding level of the secondary NAAQS by 20 percent or more.

<sup>c</sup> Medium concentration—exceeding secondary NAAQS.

<sup>d</sup> Low concentration—less than secondary NAAQS.

It is recognized that no  $PM_{10}$  samplers will be designated as  $PM_{10}$  reference or equivalent methods until, at the earliest, approximately six months after promulgation of  $PM_{10}$  NAAQS and the reference and equivalent method requirements. Even though non-designated  $PM_{10}$  samplers will have been commercially available, and a small number of samplers will have been in use by EPA, other agencies, and industry, there will not be enough ambient  $PM_{10}$  data to determine ambient  $PM_{10}$  levels for all areas of the country. Accordingly, EPA has provided guidance<sup>17</sup> on converting ambient  $IP_{15}$  data to ambient  $PM_{10}$  data. Ambient  $IP_{15}$  data are data from high volume samplers utilizing quartz filters or dichotomous samplers, both with inlets designed to collect particles

In the first sentence after Table 2, the phrase "600 to 700" is replaced by "300 to 450."

The rest of the first paragraph after Table 2 and the second and third paragraphs after Table 2 are removed and are replaced by "this range of monitors is believed to be sufficient to provide a national overview with respect to the welfare effects associated with the secondary TSP NAAQS in urban areas of 100,000 population or greater."

f. In Section 3.2, the phrase "As with TSP monitoring" at the beginning of the first paragraph is removed and the sentence begins with the next word "It." The second, third, fourth and fifth sentences in the second paragraph are removed and replaced with "This number of NAMS  $SO_2$  monitors is sufficient for national trend purposes due to the low background  $SO_2$  levels, and the fact that air quality is very sensitive to  $SO_2$  emission changes."

g. A new Section 3.7 is added as set forth below.

### 3.7 $PM_{10}$ Design Criteria for NAMS.

Table 4 indicates the approximate number of permanent stations required in urban areas to characterize national and regional  $PM_{10}$  air quality trends and geographical patterns. The number of stations in areas where urban populations exceed 1,000,000 must be in the range from 2 to 10 stations, while in low population urban areas, no more than two stations are required. A range of monitoring stations is specified in Table 4 because sources of pollutants and local control efforts can vary from one part of the country to another and therefore, some flexibility is allowed in selecting the actual number of stations in any one locale.

nominal 15  $\mu m$  and below. Also included in the guidance are procedures for calculating from ambient TSP data the probability that an area will be nonattainment for  $PM_{10}$ . For determining the appropriate number of NAMS per area, the converted  $IP_{15}$  data or the probabilities of  $PM_{10}$  nonattainment are used in Table 4, unless ambient  $PM_{10}$  data are available. If only one monitor is required in an urbanized area, it must be a category (a) type. If an evaluation of the sources of  $PM_{10}$  as described in section 2.8 indicates that the maximum concentration area is predominantly influenced by roadway emissions, then the category (a) station should be located adjacent to a major road and should be a microscale or middle scale. A microscale is preferable but a middle scale



is also acceptable if a suitable microscale location cannot be found. However, if the predominant influence in the suspected maximum concentration area is expected to be industrial emissions, and/or combustion products (from other than an isolated single source), the category (a) station should be a middle scale or neighborhood scale. A middle scale exposure is preferable to a neighborhood scale in representing the maximum concentration impact from multiple sources, other than vehicular, but a neighborhood scale is acceptable, especially in large residential areas that burn oil, wood, and/or coal for space heating.

For those cases where more than one station is required for an urban area, these should be at least one station for category (a) and one station for category (b) neighborhood

scale objectives as discussed in Section 3. Where three or more stations are required, the mix of category (a) and (b) stations is to be determined on a case-by-case basis. The actual number of NAMS and their locations must be determined by EPA Regional Offices and the State agencies, subject to the approval of the Administrator as required by § 58.32. The Administrator's approval is necessary to insure that individual stations conform to the NAMS selection criteria and that the network as a whole is sufficient in terms of number and location for purposes of national analyses. As required under the provisions of section 2.2 of Appendix C, all PM<sub>10</sub> NAMS that were previously designated as TSP NAMS must concurrently collect ambient TSP and PM<sub>10</sub> data for a one-year period beginning when each NAMS PM<sub>10</sub> sampler is put into operation.

Bedford, MA. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA Publication No. EPA-450/2-80-078. August 1980.

16. Koch, R.C. and H.E. Rector. Optimum Network Design and Site Exposure Criteria for Particulate Matter. GEOMET Technologies, Inc., Rockville, MD. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA Contract No. 68-02-3584. March 1983.

17. Frank, N. and T. Pace. Procedures for Estimating Probability of Nonattainment of a PM<sub>10</sub> NAAQS Using Total Suspended Particulate or Inhalable Particulate Data. OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, NC. February 1984.

#### Appendix E—[Amended]

12. Appendix E is amended as follows:

a. The Table of Contents is amended by adding a new section 8 and renumbering the original sections 8 through 11 as sections 9 through 12 as follows:

- \* \* \*
- 8. Particulate Matter (PM<sub>10</sub>)
- 8.1 Vertical Placement
- 8.2 Spacing from Obstructions
- 8.3 Spacing from Roadways
- 8.4 Other considerations
- 9. Probe Material and Pollutant Sample Residence Time
- 10. Waiver Provisions
- 11. Discussion and Summary
- 12. References

b. In section 1, the last sentence of the second paragraph is amended by changing the term "section 9" to "section 10."

c. In section 2.1, the first sentence is removed.

d. In section 2.3, the fourth and fifth sentences are removed. In the first sentence of the second paragraph, the last word "diminished" is replaced by the word "enhanced" and the remainder of section 2.3 is revised to read: "To determine the impact of TSP from motor vehicles it is desirable for NAMS and SLAMS category 'a' monitors to be located in the enhanced portion of the plume. For neighborhood or larger scale sites, they should be located beyond the concentrated particulate plume generated by traffic and not so close that the roadway totally dominates the measured ambient concentration. Figure 1 shows the location requirements for TSP monitors with respect to roadways of 3000 vehicles per day or greater. The microscale site must be between 5 and 15 meters from the nearest traffic lane and between 2 and 7 meters in elevation. Setback distances and vertical placement of the sampler inlet for middle scale and neighborhood scale sites are also shown in Figure 1."

TABLE 4.—PM<sub>10</sub> National Air Monitoring Station Criteria

[Approximate number of stations per area]\*

Population category	High concentration <sup>b,c</sup>	Medium concentration <sup>c,e</sup>	Low concentration <sup>e,f</sup>
>1,000,000	6-10	4-8	2-4
500,000 to 1,000,000	4-8	2-4	1-2
250,000 to 500,000	3-4	1-2	0-1
100,000 to 250,000	1-2	0-1	0

\* Selection of urban areas and actual number of stations per area will be jointly determined by EPA and the State agency.

<sup>b</sup> High concentration areas are those for which: Ambient PM<sub>10</sub> data or ambient IP<sub>10</sub> data converted to PM<sub>10</sub> show ambient concentrations exceeding either PM<sub>10</sub> NAAQS by 20 percent or more; or the probability of PM<sub>10</sub> nonattainment, calculated from TSP data, is 95 percent or greater.

<sup>c</sup> Medium concentration areas are those for which: Ambient PM<sub>10</sub> data or ambient IP<sub>10</sub> data converted to PM<sub>10</sub> show ambient concentrations exceeding either 80 percent of the PM<sub>10</sub> NAAQS; or the probability of PM<sub>10</sub> nonattainment, calculated from TSP data, is >20 percent and <95 percent.

<sup>e</sup> Low concentration areas are those for which: Ambient PM<sub>10</sub> data or ambient IP<sub>10</sub> data converted to PM<sub>10</sub> show ambient concentrations less than 80 percent of the PM<sub>10</sub> NAAQS; or the probability of PM<sub>10</sub> nonattainment, calculated from TSP data, is less than 20 percent.

<sup>f</sup> Procedures for estimating ambient PM<sub>10</sub> concentrations from IP<sub>10</sub> ambient air measurements or for estimating the probability of nonattainment for PM<sub>10</sub> given observed TSP data are provided in reference 17.

h. In section 4, Table 4 is renumbered Table 5 and is revised to include TSP and PM<sub>10</sub> as follows:

TABLE 5.—SUMMARY OF SPATIAL SCALES FOR SLAMS AND REQUIRED SCALES FOR NAMS.

Spatial scale	Scales applicable for SLAMS							Scales required for NAMS						
	TSP	SO <sub>2</sub>	CO	O <sub>3</sub>	NO <sub>2</sub>	Pb	PM <sub>10</sub>	TSP	SO <sub>2</sub>	CO	O <sub>3</sub>	NO <sub>2</sub>	Pb	PM <sub>10</sub>
Micro	✓		✓			✓	✓	✓		✓			✓	✓
Middle	✓	✓	✓	✓	✓	✓	✓	✓		✓			✓	✓
Neighborhood	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Urban	✓	✓		✓	✓	✓	✓				✓	✓		
Regional	✓	✓		✓		✓	✓							

i. In section 5, the list of references is amended by adding references 11 through 17 as follows:

5. References.

11. Cooper, J.A., et al. Summary of the Portland Aerosol Characterization Study. (Presented at the 1979 Annual Air Pollution Association Meeting, Cincinnati, OH. APCA #79-24.4).

12. Bradway, R.M. and F.A. Record. National Assessment of the Urban Particulate Problem. GCA Technology Division, Bedford, MA. Prepared for U.S. Environmental Protection Agency, Research Triangle Park,

NC. EPA Publication No. EPA-450/3-76-035. July 1976.

13. U.S. Environmental Protection Agency. Air Quality Criteria for Particulate Matter and Sulfur Oxides, Volume 2. Environmental Criteria and Assessment Office, Research Triangle Park, NC. December 1981.

14. Watson, J.G., J.C. Chow, and J.J. Shaw. Analysis of Inhalable and Fine Particulate Matter Measurements. Environmental Research and Technology, Inc., Concord, MA. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA Contract No. 68-02-2542. March 1982 draft.

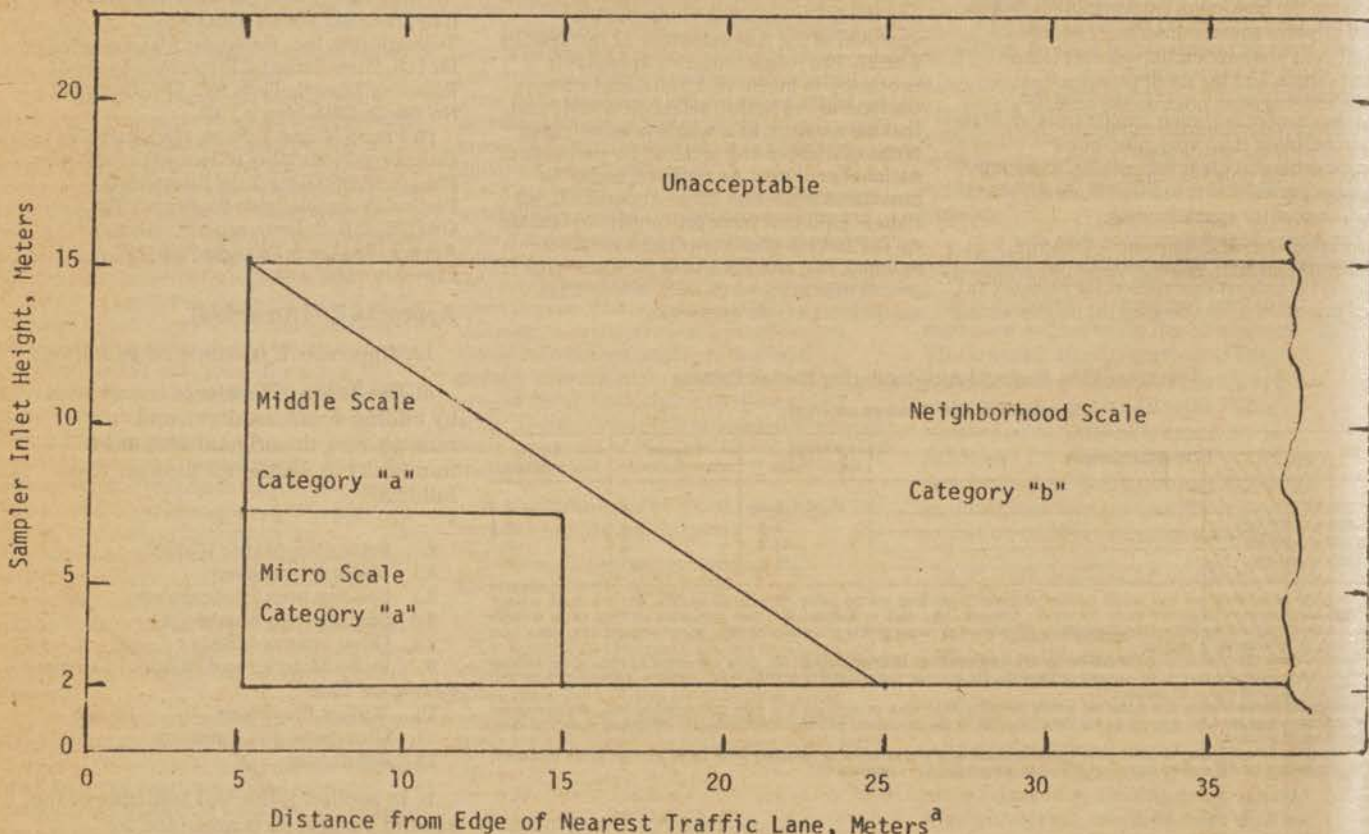
15. Record, F.A. and L.A. Baci. Evaluation of Contribution of Wind Blown Dust from the Desert Levels of Particulate Matter in Desert Communities. GCA Technology Division,



e. The text of section 2.4 is revised to read: "In order to minimize the impact of wind blown dusts, stations should not

be located on bare ground. Additional information on TSP probe siting may be found in reference 10."

f. Figure 1 in section 2 is revised by a new Figure 1 as shown.



<sup>a</sup>Applies where ADT  $\geq$  3000

Figure 1. Acceptable Areas for TSP Micro, Middle and Neighborhood Scale Monitors

g. Section 8 is revised to read as follows:

#### 8. Particulate Matter (PM<sub>10</sub>).

8.1 Vertical Placement—Although there are limited studies on the PM<sub>10</sub> concentration gradients around roadways or other ground level sources, References 1, 2, 4, 18 and 19 of this Appendix show a distinct variation in the distribution of TSP and Pb levels near roadways. TSP, which is greatly affected by gravity, has large concentration gradients, both horizontal and vertical, immediately adjacent to roads. Lead, being predominately sub-micron in size, behaves more like a gas and exhibits smaller vertical and horizontal gradients than TSP. PM<sub>10</sub>, being intermediate in size between these two extremes exhibits dispersion properties of both gas and settleable particulates and does show vertical and horizontal gradients.<sup>30</sup> Similar to monitoring for other pollutants, optimal placement of the sampler inlet for PM<sub>10</sub> monitoring should be at breathing height level. However, practical factors such as prevention of vandalism, security, and safety precautions must also be considered when

siting a PM<sub>10</sub> monitor. Given these considerations, the sampler inlet for microscale PM<sub>10</sub> monitors must be 2-7 meters above ground level. The lower limit was based on a compromise between ease of servicing the sampler and the desire to avoid re-entrainment from dusty surfaces. The upper limit represents a compromise between the desire to have measurements which are most representative of population exposures and a consideration of the practical factors noted above.

For middle or larger spatial scales, increased diffusion results in vertical concentration gradients that are not as great as for the microscale. Thus, the required height of the air intake for middle or larger scales is 2-15 meters.

8.2 Spacing from Obstructions—If the sampler is located on a roof or other structure, then there must be a minimum of 2 meters separation from walls, parapets, penthouses, etc. No furnace or incineration flues should be nearby. This separation distance from flues is dependent on the height of the flues, type of waste or fuel

burned, and quality of the fuel (ash content). In the case of emissions from a chimney resulting from natural gas combustion, as a precautionary measure, the sampler should be placed at least 5 meters from the chimney.

On the other hand, if fuel oil, coal, or solid waste is burned and the stack is sufficiently short so that the plume could reasonably be expected to impact on the sampler intake a significant part of the time, other buildings/locations in the area that are free from these types of sources should be considered for sampling. Trees provide surfaces for particulate deposition and also restrict airflow. Therefore, the sampler should be placed at least 20 meters from trees.

The sampler must also be located away from obstacles such as buildings, so that the distance between obstacles and the sampler is at least twice the height that the obstacle protrudes above the samples. Sampling stations that are located closer to obstacles than this criterion allows should not be classified as neighborhood, urban, or regional scale, since the measurements from such a station would closely represent middle scale



stations. Therefore, stations not meeting the criterion should be classified as middle scale.

There must be unrestricted airflow in an arc of at least 270° around the sampler. Since the intent of the category (a) site is to measure the maximum concentrations from a road or point source, there must be no significant obstruction between a road or point source and the monitor, even though other spacing from obstruction criteria are met. The predominant direction for the season with the greatest pollutant concentration potential must be included in the 270° arc.

**8.3 Spacing from Roads.** Since emissions associated with the operation of motor vehicles contribute to urban area particulate

matter ambient levels, spacing from roadway criteria are necessary for ensuring national consistency in  $PM_{10}$  sampler siting.

The intent is to locate category (a) NAMS sites in areas of highest concentration whether it be from mobile or multiple stationary sources. If the area is primarily affected by mobile sources, then the monitors should be located near roadways with the highest traffic volume and at separation distances most likely to produce the highest concentrations. For the microscale station, the location must be between 5 and 15 meters from the major roadway. For the middle scale station, a range of acceptable distances from the roadway is shown in Figure 2. This figure also includes separation distances between a

roadway and neighborhood or larger scale stations by default. Any station, 2 to 5 meters high, and further back than the middle scale requirements will generally be neighborhood, urban or regional scale. For example, according to Figure 2, if a  $PM_{10}$  sampler is primarily influenced by roadway emissions and that sampler is setback 10 meters from a 30,000 ADT road, the station should be classified as a micro scale, if the sampler height is between 2 and 7 meters. If the sampler height is between 7 and 15 meters, the station should be classified as middle scale. If the sampler is 20 meters from the same road, it will be classified as middle scale; if 40 meters, neighborhood scale; and if 110 meters an urban scale.

Figure 2. Acceptable Areas for  $PM_{10}$  Micro, Middle, Neighborhood, and Urban Samplers

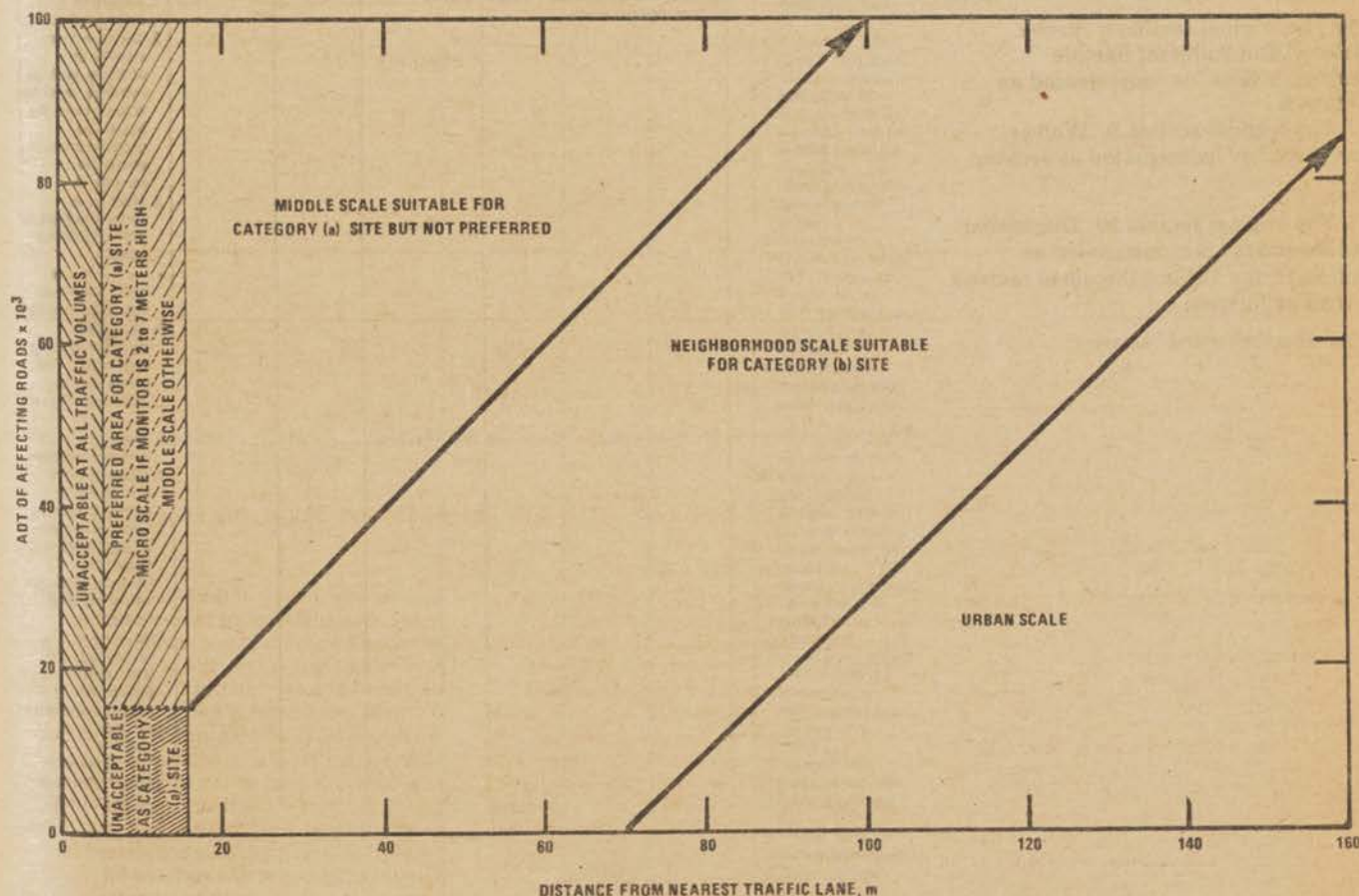




TABLE 5.—SUMMARY OF PROBE SITING CRITERIA

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacing criteria
			Vertical	Horizontal <sup>a</sup>	
TSP	Microscale	2 to 7		>2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. <sup>b</sup> 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby. <sup>c</sup> 5. Must have minimum spacing from roads.
	Middle, neighborhood, urban and regional scale.	2 to 15		>2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. <sup>b</sup> 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby. <sup>c</sup> 5. Must have minimum spacing from roads. This varies with spatial scale (see Figure 1).
SO <sub>2</sub>	All	3 to 15	>1	>1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe. <sup>b</sup> 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. No furnace or incineration flues should be nearby. <sup>c</sup>

It is important to note that the separation distances shown in Figure 2 are measured from the edge of the nearest traffic lane of the roadway presumed to have the most influence on the site. In general, this presumption is an oversimplification of the usual urban settings which normally have several streets that impact a given site. The effects of surrounding streets, wind speed, wind direction and topography should be considered along with Figure 2 before a final decision is made on the most appropriate spatial scale assigned to the sampling station.

8.4 *Other Considerations.* For these areas that are primarily influenced by stationary source emissions as opposed to roadway emissions, guidance in locating these areas may be found in the guideline document Optimum Network Design and Site Exposure Criteria for Particulate Matter.<sup>29</sup>

Stations should not be located in an unpaved area unless there is vegetative ground cover year round, so that the impact of wind blown dusts will be kept to a minimum.

h. The original section 8 "Probe Material and Pollutant Sample Residence Time" is redesignated as section 9.

i. The original section 9 "Waiver Provisions" is redesignated as section 10.

j. The original section 10 "Discussion and Summary" is redesignated as section 11; the Table 5 therein is revised to read as follows:

11. Discussion and Summary

\* \* \*



TABLE 5.—SUMMARY OF PROBE SITING CRITERIA—Continued

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacing criteria
			Vertical	Horizontal <sup>a</sup>	
CO	Micro	3 ± ½	>1	>1	1. Must be >10 meters from street intersection and should be at a midblock location. 2. Must be 2-20 meters from edge of nearest traffic lane. 3. Must have unrestricted airflow 180° around the inlet probe.
	Middle neighborhood	3 to 15	>1	>1	1. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 2. Spacing from roads varies with traffic (see Table 1).
O <sub>3</sub>	All	3 to 15	>1	>1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe. 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 2).
NO <sub>2</sub>	All	3 to 15	>1	>1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe. 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 3).
Pb	Micro	2 to 7		>2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings must be at least twice the height the obstacle protrudes above the sampler. 3. Must have unrestricted airflow 270° around the sampler except for street canyon sites. 4. No furnace or incineration flues should be nearby. <sup>c</sup>



TABLE 5.—SUMMARY OF PROBE SITING CRITERIA—Continued

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacing criteria
			Vertical	Horizontal <sup>a</sup>	
PM <sub>10</sub>	Middle, neighborhood, urban and regional.	2 to 15		>2	5. Must be 5 to 15 meters from major roadway. 1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings must be at least twice the height the obstacle protrudes above the sampler. 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby. 5. Spacing from roads varies with traffic (see Table 4).
	Micro	2 to 7		>2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. 3. Must have unrestricted airflow 270° around the sampler except for street canyon sites. 4. No furnace or incineration flues should be nearby. 5. Spacing from roads varies with traffic (see Figure 2).
	Middle, neighborhood, urban and regional scale.	2 to 15		>2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby. 5. Spacing from roads varies with traffic (see Figure 2).

<sup>a</sup> When probe is located on rooftop, this separation distance is in reference to walls, parapets, or penthouses located on the roof.

<sup>b</sup> Sites not meeting this criterion would be classified as middle scale (see text).

<sup>c</sup> Distance is dependent on height of furnace or incineration flues, type of fuel or waste burned, and quality of fuel (sulfur, ash or lead content). This is to avoid undue influences from minor pollutant sources.

k. The original section 11 [References] is redesignated as section 12; and the list of references is amended by adding references 29 and 30 as follows:

#### 12. References.

\* \* \* \* \*

29. Koch, R. C. and H. E. Rector. Optimum Network Design and Site Exposure Criteria for Particulate Matter. GEOMET Technologies, Inc., Rockville, MD. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, N.C. EPA Contract No. 68-02-3584. [March 1983].

30. Burton, R. M. and J. C. Suggs. Distribution of Particulate Matter From the Roadway of a Philadelphia Site. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, N.C. (September 1983 Draft).

#### Appendix F—[Amended]

#### 13. Appendix F is amended as follows:

a. The following is added to the end of the table of contents:

- 2.7 Particulate Matter (PM<sub>10</sub>)
- 2.7.1 Site and Monitoring Information
- 2.7.2 Annual Summary Statistics

b. In section 2.2, the title is revised, subparagraph 2.2.2 is revised, and subparagraph 2.2.3 is added to read as follows:

#### 2.2 Total Suspended Particulates (TSP)

2.2.2 Annual Summary Statistics. Annual arithmetic mean ( $\mu\text{g}/\text{m}^3$ ) as specified in Appendix K of Part 50. Daily TSP values exceeding the level of the 24-hour PM<sub>10</sub> NAAQS and dates of occurrence. If more than 10 occurrences, list only the 10 highest daily values. Sampling schedule used such as one every six days, one every three days, etc. Number of additional sampling days beyond sampling schedule used. Number of 24-hour average concentrations in ranges:

Range	Number of values
0 to 60 ( $\mu\text{g}/\text{m}^3$ )	
61 to 120	
121 to 180	
181 to 240	
241 to 300	
301 to 360	
361 to 420	
Greater than 420	

2.2.3 Episode and Other Unscheduled Sampling Data. List episode measurements, other unscheduled sampling data, and dates of occurrence. List the regularly scheduled sample measurements and date of occurrence that preceded the episode or unscheduled measurement.

c. Section 2.7 is added to read as follows:

#### 2.7 Particulate Matter (PM<sub>10</sub>)

##### 2.7.1 Site and Monitoring Information.

City name (when applicable), county name, and street address of site location. SAROAD site code. Number of daily observations.

2.7.2 Annual Summary Statistics. Annual arithmetic mean ( $\mu\text{g}/\text{m}^3$ ) as specified in Appendix K of Part 50. All daily PM<sub>10</sub> values above the level of the 24-hour PM<sub>10</sub> NAAQS and dates of occurrence. Sampling schedule used such as once every six days, once every three days, etc. Number of additional sampling days beyond sampling schedule used. Number of 24-hour average concentrations in ranges:



Range	Number of values
0 to 30 ( $\mu\text{g}/\text{m}^3$ )	
31 to 60	
61 to 90	
91 to 120	
121 to 150	
151 to 180	
181 to 210	
Greater than 210	

2.72.3 *Episode and Other Unscheduled Sampling Data.* List episode measurements, other unscheduled sampling data and dates of occurrence. List the regularly scheduled sample measurement and date of occurrence that preceded the episode or unscheduled measurement.

#### Appendix G—[Amended]

14. Appendix G is amended as follows:

a. Paragraph 2.f. is revised to read as follows:

#### 2. Definitions.

f. "Critical pollutant" means the pollutant with the highest subindex during the reporting period.

b. In the first paragraph of section 3, the term "TSP" is removed in the third

sentence and replaced by the words "PM<sub>10</sub>"; the word "particulate" is removed and replaced with "PM<sub>10</sub>" in the fourth sentence, and the term "hi-volume" is removed twice in the fourth sentence and replaced by the words "reference or equivalent method."

c. In section 7, the words "total suspended particulates (TSP)" are deleted in the second sentence of the first paragraph and replaced by the words "particulate matter (PM<sub>10</sub>)."; the first sentence of the second paragraph is removed and the word "six" in the second sentence of the second paragraph is replaced by the word "five".

d. Section 7.2 is revised to read as follows:

#### 7.2 Example Computation.

Suppose a PM<sub>10</sub> 24-hour concentration of 283  $\mu\text{g}/\text{m}^3$  is observed. The PM<sub>10</sub> subindex is calculated using equation 1 as follows: In Table 1, the observed concentration of  $X_1 = 283 \mu\text{g}/\text{m}^3$  lies between 180\* and 350\*  $\mu\text{g}/\text{m}^3$ , therefore this computation is carried out for the second segment ( $j=2$ ). For this segment,  $X_{1,2} = 180$  and  $X_{1,3} = 350$ , with corresponding subindex values for  $I_{1,2} = 100$  and  $I_{1,3} = 200$ . The computation is as follows:

$$I_1 = \frac{I_{1,3} - I_{1,2}}{X_{1,3} - X_{1,2}} (283 - X_{1,2}) + I_{1,2} = \frac{200 - 100}{350 - 180} (283 - 180) + 100 = \frac{100}{170} \times 103 + 100 = 161$$

Therefore, the PM<sub>10</sub> subindex is  $I_1 = 161$ . If four other pollutant subindices calculated in a similar manner from observations on the same data were:  $I_2 = 0$ ,  $I_3 = 0$ ,  $I_4 = 0$ , and  $I_5 = 0$ , then the overall index is reported as the maximum of these values:

$$\text{PSI} = \max(161, 0, 0, 0, 0) = 161$$

A typical report might contain the following statement: "Today's air quality index is 161 which is regarded as unhealthy. The responsible pollutant is particulate matter. This report represents conditions prevailing over most of the downtown urban area for the previous 24-hour period ending at noon today." If the index were forecast for the next day, the following additional language might also be used: "The current forecast is for improved air quality tomorrow with the index not expected to exceed 80."

e. In Table 1, in the sixth column entitled 1-hr. O<sub>3</sub>, the number 118 is removed and replaced with 120, the term " $\mu\text{g}/\text{m}^3$ " is removed from the heading

of the fifth column and replaced with " $\text{mg}/\text{m}^3$ ," the fourth column entitled TSP $\times$ SO<sub>x</sub> ( $\mu\text{g}/\text{m}^3$ )<sup>2</sup> is removed, and the second column is revised to read as follows:

Table 1.—Breakpoints for PSI in Metric Units<sup>1</sup>

	24-hr PM
$\mu\text{g}/\text{m}^3$	
*55	
*180	
*350	
*420	
*500	
*600	

\* All the concentration levels are used for illustrative purposes only. The actual levels will be determined at the time of promulgation of the standard.

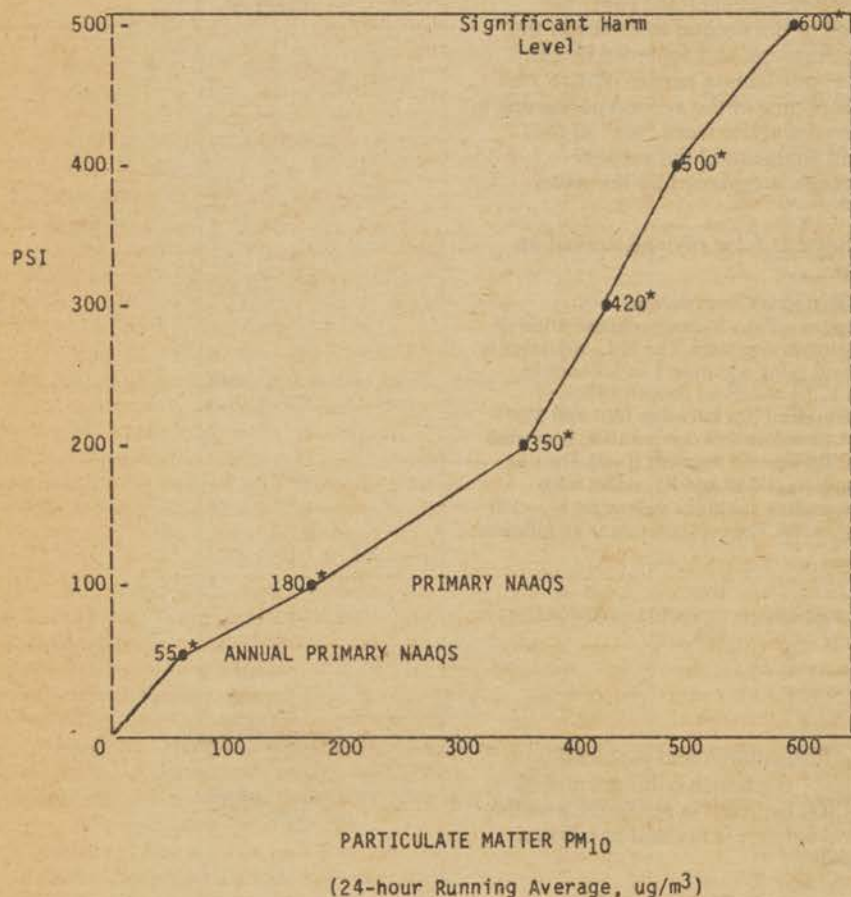
f. In Table 2, the third column entitled TSP  $\times$  SO<sub>2</sub> ( $\mu\text{g}/\text{m}^3 \times \text{ppm}$ ) is removed.

\* The levels are used for illustrative purposes only. The actual level will be determined at the time of promulgation of the standard.



g. Figure 2 is revised to read as follows:

Figure 2. PSI function for suspended particulate matter,  $PM_{10}$



\*All of the values used are for illustrative purposes only and will be replaced with the appropriate air quality standards, federal episode levels, and significant harm level at the time of promulgation.

h. Figure 6 is removed.

[FR Doc. 84-6862 Filed 3-19-84; 8:45 am]

BILLING CODE 6560-20-M

#### 40 CFR Part 53

[AD-FRL 2491-7]

#### Ambient Air Monitoring Reference and Equivalent Methods

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Elsewhere in this issue of the Federal Register the U.S. Environmental Protection Agency (EPA) is proposing

revisions to the national ambient air quality standards for particulate matter and is also proposing a new reference method for the determination of atmospheric concentrations of  $PM_{10}$ , a proposed new indicator for particulate matter. Since the proposed reference method includes a sampler that would be specified primarily by performance, EPA, in conjunction with that action, is herein proposing performance specifications, explicit test procedures, and other requirements applicable to reference and equivalent methods for  $PM_{10}$ . These  $PM_{10}$  specifications and test procedures are analogous to existing specifications and test procedures for reference and equivalent methods for

other criteria pollutants contained in 40 CFR Part 53. Therefore, EPA is proposing appropriate revisions to add the new  $PM_{10}$  requirements to Part 53. EPA is also proposing some minor clarifications to existing provisions of Part 53, pertaining to the other pollutants for which ambient air quality standards exist.

**DATE:** Comments must be received on or before May 21, 1984.

**ADDRESS:** Comments, preferably in duplicate, should be sent to Public Docket No. A-82-43, U.S. Environmental Protection Agency, Central Docket Section (A-130), West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, DC 20460. The docket may be inspected at this address between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

**FOR FURTHER INFORMATION CONTACT:** Larry J. Purdue, Chief, Methods Standardization Branch (MD-77), Quality Assurance Division, Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (919-541-2665).

#### SUPPLEMENTARY INFORMATION:

##### Background

Elsewhere in this issue of the Federal Register, EPA is proposing to revise the national ambient air quality standards (NAAQS) for particulate matter (40 CFR Part 50) and is proposing a new reference method (Appendix J) for the determination of ambient concentrations of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers ( $PM_{10}$ ).

Similar to the current manual reference methods for Total Suspended Particulate Matter (TSP) and lead, the proposed  $PM_{10}$  reference method would require a sampler for collecting particulate samples for subsequent analysis. However, while the sampler required in the TSP and lead methods is explicitly specified by design and dimensions and must be reproduced precisely, EPA is proposing to specify the sampler in the new  $PM_{10}$  reference method primarily by performance, together with explicit test procedures to be used to determine acceptability. This approach allows for the use of currently available and tested sampler designs while providing greater flexibility to encourage improvements and innovations in future sampler designs. It is also consistent with the approach used for specifying reference methods for several other criteria pollutants (CO,



O<sub>3</sub>, and NO<sub>2</sub>), and more readily facilitates the designation of equivalent methods. The appropriate performance specifications and test procedures would be contained in 40 CFR Part 53, along with the similar existing performance specifications, test procedures, and other requirements currently provided for reference and equivalent methods for most of the other pollutants for which a NAAQS has been established. The new requirements are being proposed under the authority of Section 301(a) of the Clean Air Act (42 U.S.C. 7601).

The detailed test procedures and performance specifications in the proposed amendments have been developed on the basis of extensive consultation, assistance, and general consensus among numerous particulate matter monitoring experts both within and outside EPA. In particular, two workshops on this subject were sponsored by EPA in October, 1979, and November, 1980, to bring together many of these experts to help formulate the proposed requirements. A report summarizing these workshops and listing the attendees for each has been placed in the docket for this rulemaking and is available from the Environmental Monitoring Systems Laboratory at the address given above for further information.

#### Request for Comments

Interested persons and agencies are invited to submit written comments on the proposed amendments. All such comments received by EPA during the comment period will be available for inspection during the times and at the location specified previously. After consideration of the comments received, the proposed revisions will be modified as appropriate and will become effective 30 days after final promulgation in the Federal Register.

#### Proposed Revisions

Regulations in 40 CFR Part 53 provide for the determination and designation of reference and equivalent methods. Subpart A contains general requirements, and the other subparts provide performance specifications and explicit test procedures by which the performance of candidate reference and equivalent methods is to be tested. The principal change proposed to Part 53 is the addition of a new Subpart D, which would prescribe performance specifications and test procedures specifically applicable to candidate methods for PM<sub>10</sub>. Specifications and associated test procedures for PM<sub>10</sub> candidate methods are proposed for sampling effectiveness (for both liquid

and solid particles), 50 percent cutpoint, reproducibility, and flow rate stability.

#### Specifications and Test Procedures

Sampling effectiveness of PM<sub>10</sub> sampler refers to the relationship between particle collection efficiency and particle size (aerodynamic diameter). The 50 percent cutpoint is the point on the sampling effectiveness curve that defines the particle size at which the sampling effectiveness is 50 percent. As discussed in conjunction with the PM<sub>10</sub> reference method proposed elsewhere in this issue of the Federal Register, the proposed 50 percent cutpoint has been established at 10±1 micrometers (μm). The acceptability of the sampling effectiveness of a candidate PM<sub>10</sub> sampler is tested by comparing it to the sampling effectiveness of a specified "ideal" sampler.

As noted in the discussion of the proposed reference method, Appendix J to 40 CFR Part 50, the PM<sub>10</sub> measurement is determined by gravimetric measurement of the mass of particles collected. If a candidate PM<sub>10</sub> sampler has a 50 percent cutpoint of 10±1 μm, it is not necessary that the shape of the sampling effectiveness curve be exactly like that of the ideal sampler. It is only necessary to show that a candidate PM<sub>10</sub> sampler would produce an expected PM<sub>10</sub> mass concentration measurement equal—within specified limits—to the expected mass concentration calculated for the ideal sampler, assuming a typical ambient particle distribution.

To calculate the expected mass concentration for the ideal sampler, EPA evaluated several different sampling effectiveness curves as models for the ideal sampler. The first model considered was one that attempts to relate the sampling effectiveness of the ideal sampler to the penetration of particles into the thoracic region of the human respiratory tract. Chan and Lippmann have developed a regression equation for extrathoracic deposition of particles in the human respiratory tract during mouth breathing. (1) When the Chan and Lippmann regression equation is transformed into a thoracic penetration equation (one minus fractional deposition), a model for approximating thoracic penetration suitable for the ideal sampler is obtained. This model, stated in terms of sampling effectiveness, is:

$$E = [1 - (0.0414 + 0.00017 D^2 Q)] \times 100\%$$

Where:

E=sampling effectiveness, %

D=aerodynamic particle diameter, μm

Q=inspiratory flowrate, liters/minute (taken as 24 liters/min)

There are some recognized uncertainties in this thoracic penetration model. These include possible overestimation of particle penetration into the thoracic region due to use of mouthpieces and nose clips and a necessary extrapolation of the transformed equation beyond a particle size of 14 μm—the largest particle size represented in the Chan and Lippmann data—to reach 0 percent sampling effectiveness. Based on this evaluation, this model appears to be a conservative approximation of thoracic penetration.

The second model considered for the ideal PM<sub>10</sub> sampler was a sharp, step-function cutoff at exactly 10 μm (i.e., 100 percent sampling effectiveness for particles <10 μm and 0 percent effectiveness for particles >10 μm). This curve is simple to specify but is artificial and difficult to obtain in a practical sampler. A third model was a less steep curve representative of currently available 10 μm inlets. This latter model is more practical but rather arbitrary and somewhat more complex to specify.

In selecting the best model for the ideal PM<sub>10</sub> sampler, consideration was also given to the distribution of particle sizes in the atmosphere. For each of the three models, expected mass concentrations calculated by the technique described below indicated that the particle size distribution had little effect on the difference in expected mass concentration between a candidate PM<sub>10</sub> sampler and the ideal sampler. Arguments can thus be made to support any of the three models, and there may be other models that should also be considered. Comments on this issue are welcome. Because the first model was developed directly from extrathoracic deposition data and formed the basis for the evaluation, it is being proposed as a reasonable model for the ideal sampler.

A sampling effectiveness curve for the ideal sampler can be constructed from the thoracic penetration model by plotting calculated values of sampling effectiveness (E) as a function of aerodynamic particle size (D) on semi-logarithmic graph paper. Integration of the product of this effectiveness curve (or function) and a typical ambient particle mass distribution results in a predicted mass concentration for the ideal sampler. Using the mass distribution data of Lundgren and Paulus(2) for a typical urban atmosphere, the predicted mass concentration is calculated to be 52.3 micrograms per cubic meter (μg/m<sup>3</sup>).



The test for liquid particle sampling effectiveness would be conducted in a wind tunnel test facility and would require replicate measurements of sampling effectiveness for five particle sizes (5, 7, 10, 14, and 20  $\mu\text{m}$ ) at each of 3 wind speeds (2, 8, and 24 km/hr). These test data would then be used to establish the sampling effectiveness curve for the test sampler (or sampler inlet) at each of the three wind speeds. As with the ideal sampler, integration of the product of the sampling effectiveness curve for the test sampler and the Lundgren and Paulus particle distribution yields an expected mass concentration value for the candidate method. For convenience, a table for this calculation is given in Subpart D of the proposed amendments. Sampling effectiveness values for 28 particle sizes would be multiplied by corresponding integrated mass concentration values (adjusted for the particle size interval) and summed to give the expected mass concentration for the test sampler. To pass the liquid particle sampling effectiveness test, the expected mass concentration for the test sampler (for all 3 wind speeds) would have to be within  $\pm 10\%$  of that predicted for the ideal sampler. The 50 percent cutpoint of the test sampler would be determined from the liquid particle sampling effectiveness curves and would have to be  $10 \pm 1 \mu\text{m}$  at each of the three wind speeds. Supporting information and rationale for the proposed sampling effectiveness and 50 percent cutpoint tests and specifications are provided in much greater detail in a document entitled, "Particle Collection Criteria for 10 Micrometer Samplers," which has been placed in the docket for this rulemaking and is available from the Environmental Monitoring Systems Laboratory at the address given at the beginning of this notice for further information.

A test for solid particle sampling effectiveness would be required to demonstrate that bouncy particles larger than  $10 \mu\text{m}$  are not collected by candidate  $\text{PM}_{10}$  samplers. The test would be conducted in a wind tunnel using  $20 \mu\text{m}$  particles and wind speeds of 8 and 24 km/hr. Performance of a candidate  $\text{PM}_{10}$  sampler would be acceptable if the sampling effectiveness for these solid particles is no more than 5 percent (absolute sampling effectiveness) above that obtained for liquid particles of the same size.

The reproducibility and flow rate stability of a candidate method would be tested on three  $\text{PM}_{10}$  samplers simultaneously sampling ambient air for 5 sample periods of 24 hours each. For

each of the 5 sets of  $\text{PM}_{10}$  concentration measurements, the reproducibility would be calculated as the coefficient of variation and would have to be 15 percent or less to be acceptable.

To determine flow rates stability, the flow rate of each test sampler would be recorded at the beginning and end of each 24-hour sample period. For performance to be acceptable, the percent difference between the initial and final flow rates would have to be within  $\pm 10$  percent of the initial flow rate for each of the test samplers and sample periods.

#### Equivalent Methods

The proposed amendments to Part 53 would also allow designation of equivalent methods for  $\text{PM}_{10}$  based on measurement principles different from the principle described for  $\text{PM}_{10}$  reference methods in 40 CFR Part 50. Candidate equivalent methods for  $\text{PM}_{10}$  would have to meet the performance requirements of Subpart D as described above, and the comparability requirements of Subpart C. Accordingly, Subpart C would be changed to include appropriate tests to compare a candidate equivalent method for  $\text{PM}_{10}$  to a  $\text{PM}_{10}$  reference method. Since many aspects of these tests would be similar to those of the existing comparative tests for methods for other pollutants, many of the existing provisions can be easily changed by minor modifications to make them applicable to methods for  $\text{PM}_{10}$ . However, a new section 53.34 is proposed to contain the specific test requirements for  $\text{PM}_{10}$  methods. This new section would require the collection of 5 sets of simultaneous 24-hour  $\text{PM}_{10}$  samples with a reference method sampler and with 3 candidate method samplers at each of 3 different test sites. These samples would be analyzed by the reference or candidate method, as appropriate, to obtain the corresponding  $\text{PM}_{10}$  measurements. All such measurements would have to fall into a range of 30 to 500  $\mu\text{g}/\text{m}^3$  so the comparability is determined within a range representative of expected  $\text{PM}_{10}$  concentrations. For each candidate method measurement, the percent difference between the measurement and the corresponding reference method measurement would be calculated and compared to the allowable specification. No more than one difference per test site could exceed  $\pm 20$  percent of the corresponding reference method measurement to pass the comparability test.

The three test sites would have to be located in geographical areas having particulate matter of differing character or composition so that the test sampler

would be tested under a variety of particulate matter conditions. Also, since this test would be similar to the reproducibility test proposed for Subpart D, these two tests could be combined, if desired, to reduce the total number of tests that would otherwise be required. And if a candidate method for  $\text{PM}_{10}$  used a sampler identical to a reference method but differed only in the analytical technique used, provision would be made for comparing the analyses of common  $\text{PM}_{10}$  samples.

#### Other Revisions

In a change unrelated to the specific requirements for  $\text{PM}_{10}$ , all references to "consistent relationship" in Subpart C are proposed to be changed to "comparability" to more accurately describe the nature and purpose of the comparability tests.

Other changes proposed to Part 53 include new definitions for " $\text{PM}_{10}$  sampler" and "test sampler" to distinguish those terms from "analyzer" and "test analyzer," and numerous minor changes to various sections to insure that the appropriate provisions would be explicitly applicable to  $\text{PM}_{10}$  and that headings and applicability for other sections are clear.

Until the first reference method for  $\text{PM}_{10}$  is designated, there would be a period of perhaps several months following the promulgation of these amendments when no reference method would exist. Manufacturers of  $\text{PM}_{10}$  samplers are therefore encouraged to initiate planning for conducting the required tests on their samplers to expedite the availability of approved samplers upon promulgation of these amendments. In the unlikely event that no manufactured-tested  $\text{PM}_{10}$  sampler is designated as a reference method in a reasonable time, provisions in the existing regulations would allow EPA to conduct the tests itself, if necessary.

#### Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed rule is not a major regulation, because it principally revises the existing provisions in 40 CFR Part 53 to incorporate requirements for the designation of reference and equivalent methods for  $\text{PM}_{10}$ , in conjunction with the proposed revisions to the NAAQS for particulate matter. The Regulatory Impact of the proposed revisions to the NAAQS is addressed in that proposal which is published elsewhere in today's Federal Register.



### Impact on Reporting Requirements

The information provisions in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection provisions.

### Impact on Small Entities

The Regulatory Flexibility Act requires that all federal agencies consider the impacts of final regulations on small entities, which are defined to be small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601 *et seq.*). EPA's consideration pursuant to this Act indicates that no small entity group would be significantly affected in an adverse way by the proposal. Therefore, pursuant to 5 U.S.C. 605(b) the Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

### Other Reviews

This proposed rule was submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB and any EPA responses to these comments are available for public inspection at EPA's Central Docket Section (Docket No. A-82-43), West Tower Lobby, Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C.

### List of Subjects in 40 CFR Part 53

Administrative practice and procedure, Air pollution control.

Dated: March 8, 1984.

William D. Ruckelshaus,  
Administrator.

### References

- (1) Chan, T.C., and M. Lippmann, Experimental Measurements and Empirical Modelling of the Regional Deposition of Inhaled Particles in Humans, *AIHA Journal*, Vol. 41, June 1980, pp. 390-408.
- (2) Lundgren, D.A., and H.J. Paulus, The Mass Distribution of Large Particles, *JAPCA*, Vol. 25, No. 12, December 1975, pp. 1227-1231.

### PART 53—[AMENDED]

For the reasons set forth in the preamble, EPA proposes to amend Part 53 of Chapter I of Title 40 of the *Code of Federal Regulations* as follows:

1. Section 53.1 is amended by revising paragraph (j) and adding paragraphs (m) and (n) to read as follows:

#### § 53.1 Definitions.

(j) "Test analyzer" means an analyzer subjected to testing as a candidate method in accordance with Subpart B, C, or D of this part, as applicable.

(m) "PM<sub>10</sub> sampler" means a device, associated with a manual method for measuring PM<sub>10</sub>, designed to collect PM<sub>10</sub> from an ambient air sample, but lacking the ability to automatically analyze or measure the collected sample to determine the mass concentration of PM<sub>10</sub> in the sampled air.

(n) "Test sampler" means a sampler subjected to testing as part of a candidate method in accordance with Subpart C or D of this part.

2. Section 53.2 is revised to read as follows:

#### § 53.2 General requirements for a reference method determination.

(a) *Manual methods.* (1) For measuring SO<sub>2</sub> and lead, Appendices A and G, respectively, of Part 50 of this chapter specify unique manual reference methods for those pollutants. Except as provided in § 53.16, other manual methods for SO<sub>2</sub> and lead will not be considered for reference method determinations under this part.

(2) For measuring PM<sub>10</sub>, a candidate method must be a manual method that meets the requirements specified in Appendix J of Part 50 of this chapter and must include a PM<sub>10</sub> sampler that meets the requirements specified in Subpart D of this part.

(b) *Automated methods.* For measuring CO, O<sub>3</sub>, and NO<sub>2</sub>, a candidate method must be an automated method, must utilize the measurement principle and calibration procedures specified in the appropriate appendix to Part 50 of this chapter, and must meet the requirements specified in Subpart B of this part.

3. Section 53.3 is revised to read as follows:

#### § 53.3 General requirements for an equivalent method determination.

(a) *Manual methods.* Candidate manual methods must satisfy the requirements specified in Subpart C of this part. In addition, samplers associated with manual methods for PM<sub>10</sub> must satisfy the requirements of Subpart D of this part.

(b) *Automated methods.* Candidate automated methods for pollutants other than PM<sub>10</sub> must satisfy the requirements specified in Subparts B and C of this

part; candidate automated methods for PM<sub>10</sub> must satisfy the requirements of Subparts C and D of this part.

#### § 53.4 [Amended]

4. Section 53.4 is amended as follows:

a. In paragraph (a), the address for submission of applications for reference or equivalent method determinations is revised to read as follows:

(a) \* \* \*

Director, Environmental Monitoring Systems Laboratory, Department E, United States Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

b. In paragraph (b)(3), the phrase "For automated methods," is revised to read "For samplers and automated methods," and footnote 1 is removed.

c. Paragraphs (b)(4) through (b)(6) and (c) are revised to read as follows:

\* \* \*

(b) \* \* \*

(4) A statement that the candidate method has been tested in accordance with the procedures described in Subpart B, C, or D of this part, as applicable.

(5) Test data, records, calculations, and test results as specified in Subpart B, C, or D of this part, as applicable.

(6) A statement that the method, analyzer, or sampler tested in accordance with this part is representative of the candidate method described in the application.

(c) For candidate automated methods and candidate manual methods for PM<sub>10</sub>, the application shall also contain the following:

(1) A detailed description of the quality control program that will be utilized, if the candidate method is designated as a reference or equivalent method, to ensure that all analyzer or samplers offered for sale under that designation will have essentially the same performance characteristics as the analyzer or sampler tested in accordance with this part.

(2) A description of the durability characteristics of such analyzers or samplers (see § 53.9(c)).

#### § 53.9 [Amended]

(5) Paragraphs (c), (d), (f), and (g) of § 53.9 are amended by removing the word "analyzer" and replacing it with the phrase "analyzer or PM<sub>10</sub> sampler."

6. The title of Subpart B is revised to read as follows:



### Subpart B—Procedures for testing Performance Characteristics of Automated Methods for SO<sub>2</sub>, CO, O<sub>3</sub>, and NO<sub>2</sub>

7. The title of Subpart C is revised to read as follows:

### Subpart C—Procedures for Determining Comparability Between Candidate Methods and Reference Methods

8. Section 53.30 is amended as follows:

a. Paragraph (a), paragraphs (a)(1) and (a)(2) are revised, and paragraph (a)(3) is added to read as follows:

#### § 53.30 General provisions.

(a) *Determination of comparability.* The test procedures prescribed in this subpart shall be used to determine if a candidate method is comparable to a reference method when both methods measure pollutant concentrations in a natural atmosphere.

(1) Comparability is shown for SO<sub>2</sub>, CO, O<sub>3</sub>, and NO<sub>2</sub> methods when the differences between: (i) Measurements made by a candidate manual method or by a test analyzer representative of a candidate automated method, and (ii) measurements made simultaneously by a reference method are less than or equal to the value specified in the last column of Table C-1.

(2) Comparability is shown for lead methods when the differences between: (i) Measurements made by a candidate method, and (ii) measurements made simultaneously by the reference method are less than or equal to the value specified in Table C-3.

(3) Comparability is shown for PM<sub>10</sub> methods when the differences between: (i) Measurements made by a candidate method, and (ii) measurements made by a reference method on simultaneously collected PM<sub>10</sub> samples (or the same sample, if applicable) at each of three test sites are less than or equal to the value specified in Table C-4.

b. The heading of paragraph (b)(2) is revised and paragraph (b)(4) is added to read as follows:

(b) \* \* \*  
(2) *Methods for SO<sub>2</sub>, CO, O<sub>3</sub>, and NO<sub>2</sub>.*

(4) *Methods for PM<sub>10</sub>.* Test measurements must be derived from particulate samples collected at not less than three (3) test sites, each of which must be located in a geographical area characterized by ambient particulate matter that is significantly different in nature and composition from that at the other test sites. Augmentation of

pollutant concentrations is not permitted, hence appropriate test sites must be selected to provide PM<sub>10</sub> concentrations in the specified range.

c. Paragraph (c) is revised to read as follows:

(c) *Test atmosphere.* Ambient air sampled at an appropriate test site or sites shall be used for these tests. Simultaneous concentration measurements shall be made in each of the concentration ranges specified in table C-1, C-3, or C-4, as appropriate.

d. The heading of paragraph (d)(2) and paragraphs (d)(3) and (d)(4) are revised to read as follows:

(d) \* \* \*  
(2) *Methods for SO<sub>2</sub>, CO, O<sub>3</sub>, and NO<sub>2</sub>.*

(3) *Methods for lead and PM<sub>10</sub>.* The intake points of the candidate and reference method samplers for lead or PM<sub>10</sub> shall be located at the same height, between 3 and 5 meters apart, and on a line perpendicular to the prevailing wind direction.

(4) *Methods employing a common sampling procedure.* Candidate methods which employ a sampler and sample collection procedure that are identical to the sampler and sample collection procedure specified in the reference method may be tested by analyzing common samples. The common samples shall be collected according to the sample collection procedure specified by the reference method and shall be analyzed in accordance with the analytical procedures of both the candidate method and the reference method.

#### § 53.31 [Amended]

9. Section 53.31 is amended by revising the heading and first sentence of paragraph (b) to read as follows:

(b) *Samplers and automated methods.* Set-up and start-up of the test analyzer, test sampler, and reference method (if applicable) shall be in strict accordance with the applicable operation manual(s).

10. Section 53.32 is amended by removing the phrase "consistent relationship" and replacing it with the word "comparability" in paragraphs (c)(1), (c)(2), (c)(3)(i), (c)(3)(ii), and (c)(4), and by revising the title to read as follows:

#### § 53.32 Test procedures for methods for SO<sub>2</sub>, CO, O<sub>3</sub>, and NO<sub>2</sub>.

11. Section 53.33 is amended as follows:

a. The title is revised to read as follows:

#### § 53.33 Test procedure for methods for lead.

b. In paragraph (b), the address is revised to read:

(b) \* \* \* Director, Quality Assurance Division (MD-77), Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, research Triangle Park, North Carolina 27711.

c. In paragraphs (e), (h), (h)(3), and (i), the phrase "consistent relationship" is removed and replaced by the word "comparability."

12. Section 53.34 is added to read as follows:

#### § 53.34 Test procedure for methods for PM<sub>10</sub>.

(a) *Sample collection.* Collect at least 5 sets of simultaneous 24-hour samples of particulate matter with a PM<sub>10</sub> reference method sampler and with each of the three PM<sub>10</sub> candidate method test samplers at each of the 3 test sites (a minimum of 15 candidate method samples per site, 45 total). If the conditions of § 53.30(d)(4) apply, collect sample sets only with the three candidate method samplers.

(b) *Sample analysis.* Analyze each sample (or the same sample if § 53.30(d)(4) applies) according to the reference method or candidate method, as appropriate, and determine the PM<sub>10</sub> concentration in µg/m<sup>3</sup>. If any of the measurements fall outside the range specified in Table C-4, collect additional sample sets to provide a minimum of 5 simultaneous sample sets for each site.

(c) *Test for comparability.* For all sample sets, calculate the percent difference between each candidate method measurement and the corresponding reference method measurement. Compare each percent difference to the difference range specified in Table C-4. If more than one of the percent differences per site is not within ±20 percent of the corresponding reference method measurement, the candidate method fails the test for comparability.



TABLE C-4.—TEST SPECIFICATIONS FOR PM<sub>10</sub> Methods

Concentration range, $\mu\text{g}/\text{m}^3$	30 to 500.
Minimum number of test sites	3.
Minimum number of candidate method samplers per site	3.
Number of reference method samplers per site	1.
Minimum number of 24-hour measurements per sampler site	5.
Minimum number of sample sets	15.
Maximum difference, percent of reference method	$\pm 20$ .

13. A new Subpart D is added to read as follows:

Subpart D—Procedures for Testing Performance Characteristics of Methods for PM<sub>10</sub>.

#### Subpart D—Procedures for Testing Performance Characteristics of Methods for PM<sub>10</sub>.

Sec.

53.40 General provisions.

53.41 Test conditions.

53.42 Generation of test atmospheres for wind tunnel tests.

53.43 Test procedures.

Authority: Sec. 301(a), Clean Air Act (42 U.S.C. 7601).

#### § 53.40 General provisions.

(a) The test procedures prescribed in this subpart shall be used to test the performance of candidate methods for PM<sub>10</sub> against the performance specifications given in Table D-1. Except as provided in paragraph (b) of this section, a test sampler(s) representative of the sampler described in the candidate method must exhibit performance better than, or equal to, the specified value for each such performance parameter to satisfy the requirements of this subpart.

(b) For a candidate method using a PM<sub>10</sub> sampler previously approved as part of a designated method, only the test for reproducibility need be conducted and passed to satisfy the requirements of this subpart. For candidate methods using a PM<sub>10</sub> sampler inlet previously approved as part of a designated method, the tests for reproducibility and flow rate stability must be conducted and passed to satisfy the requirements of this subpart; the tests for sampling effectiveness and 50 percent cutpoint need not be conducted if a suitable rationale is provided to demonstrate that test results submitted for the previously approved method are applicable to the candidate method.

(c) The liquid particle sampling effectiveness and 50 percent cutpoint of a test sampler shall be determined in a wind tunnel using 5 particle sizes and 3 wind speeds as specified in Table D-2. A minimum of three replicate measurements of sampling effectiveness shall be required for each of the 15 test conditions for a minimum of 45 test measurements.

(d) For the liquid particle sampling effectiveness parameter, a smooth curve plot shall be constructed of sampling effectiveness (%) versus aerodynamic particle diameter ( $\mu\text{m}$ ) for each of three wind speeds. These plots shall be used to calculate the expected mass concentration for the test sampler, using the procedure in § 53.43. The candidate method passes the liquid particle sampling effectiveness test if the expected mass concentration for the test sampler at each wind speed differs by no more than  $\pm 10$  percent from that predicted by the "ideal" sampler.\*

TABLE D-1.—PERFORMANCE SPECIFICATIONS FOR PM<sub>10</sub> SAMPLERS

Performance parameter	Units	Specification
1. Sampling effectiveness	Percent	
A. Liquid particles		Such that the expected mass concentration is within $\pm 10$ pct. of that predicted by the ideal sampler.
B. Solid particles		Sampling effectiveness is no more than 5 pct. above that obtained for liquid particles of same size.
2. 50 pct. cutpoint	$\mu\text{m}$	$10 \pm 1$ $\mu\text{m}$ aerodynamic diameter.
3. Reproducibility	Percent	15 pct. coefficient of variation for three collocated samplers.
4. Flow rate stability	Percent	Within $\pm 10$ pct. of initial flow rate over 24-hours.

TABLE D-2.—PARTICLE SIZES AND WIND SPEEDS FOR SAMPLING EFFECTIVENESS TESTS

Particle size ( $\mu\text{m}$ ) <sup>a</sup>	Wind speed (km/hr)		
	2	8	24
5 $\pm 0.5$	/	/	/
7 $\pm 0.5$	/	/	/
10 $\pm 0.5$	/	/	/
14 $\pm 1.0$	/	/	/
20 $\pm 1.0$	/	/s	/s

\* Mass median aerodynamic diameter.

/ = liquid particle.

s = solid particle.

Number of liquid particle test points (minimum of three replicates for each combination of wind speed and particle size): 45.

Number of solid particle tests (minimum of three replicates): 6.

Total number of test points: 51.

\*The sampling effectiveness curve for this "ideal" sampler is described by column 5 of Table B-3 and is based on a model that approximates the penetration of particles into the human respiratory tract. Additional information on this model may be found in a document entitled, "Particle Collection Criteria for 10 Micrometer Samplers," which is available from the Quality Assurance Division (MD-77), Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

(e) For the 50 percent cutpoint parameter, the test result for each wind speed shall be reported as the particle size at which the curve specified in § 53.40(d) crosses the 50 percent effectiveness line. The test result for each wind speed shall be compared with the 50 percent cutpoint specification in Table D-1. The candidate method passes the 50 percent cutpoint test if the test result for each wind speed meets the specification.

(f) The solid particle sampling effectiveness of a test sampler shall be determined in a wind tunnel using 20  $\mu\text{m}$  particles at 2 wind speeds as specified in Table D-2. A minimum of three replicate measurements of sampling effectiveness for the 20  $\mu\text{m}$  solid particles shall be required at both wind speeds for a minimum of 6 test measurements.

(g) For the solid particle sampling effectiveness parameter, the test result for each wind speed shall be reported as the difference between the average of the replicate sampling effectiveness measurements obtained for the 20  $\mu\text{m}$  solid particles and the average of the replicate measurements obtained for the 20  $\mu\text{m}$  liquid particles. The test result for each wind speed shall be compared with the solid particle sampling effectiveness specification in Table D-1. The candidate method passes the solid particle sampling effectiveness test if the test result for each wind speed meets the specification.

(h) The reproducibility and flow rate stability of three identical test samplers shall be determined at a suitable test site by simultaneously sampling the PM<sub>10</sub> concentration of the atmosphere for five (5) periods of 24-hours.

(i) For the reproducibility parameter, the test result for each of the 5 periods of 24-hours shall be compared with the reproducibility specification in Table D-1. The candidate method passes the reproducibility test if the test result for each of the 5 periods meets the specification.

(j) For the flow rate stability parameter, the test result for each of the three test samplers and for each of the 5 periods of 24-hours shall be compared with the flow rate stability specification in Table D-1. The candidate method passes the flow rate stability test if all 15 test results meet the specification.

(k) All test data and other documentation obtained from or pertinent to these tests shall be



identified, dated, signed by the analyst performing the test, and submitted to EPA.

#### § 53.41 Test conditions.

(a) Set-up and start-up of all test samplers shall be in strict accordance with the operating instructions specified in the manual referred to in § 53.4(b)(3).

(b) Once the test sampler or samplers have been set up and the performance tests started, manual adjustment shall be permitted only between test points for the sampling effectiveness and 50 percent cutpoint tests or between test days for the reproducibility and flow rate stability tests. The submitted records shall show clearly when any manual adjustment or periodic maintenance was made and shall describe the operations performed.

(c) If a test sampler malfunctions during any of the sampling effectiveness and 50 percent cutpoint tests, that test run shall be repeated. If a test sampler malfunctions during any of the reproducibility and flow rate stability tests, that day's test shall be repeated. A detailed explanation of all malfunctions and the remedial actions taken shall be submitted to EPA.

#### § 53.42 Generation of test atmospheres for wind tunnel tests.

(a) The liquid particle generation system shall be capable of producing monodisperse particles of oleic acid tagged with uranine dye with mass median aerodynamic diameters as specified in Table D-2. The geometric standard deviation ( $s_g$ ) for each particle size shall not exceed 1.1. If the proportion of multiplets and satellites in a liquid particle test atmosphere exceeds 10 percent, the liquid particle generation system is unacceptable for purposes of this test. To be acceptable, the solid particle generation system must be capable of producing solid particles with a mass median aerodynamic diameter of 20  $\mu\text{m}$  and a geometric standard deviation ( $s_g$ ) of not greater than 1.2. The particle delivery system shall consist of a blower system and a wind tunnel having a test section of sufficiently large cross-sectional area such that the test sampler, or portion thereof, as installed in the test section for testing, blocks no more than 15 percent of that area. To be acceptable, the blower system must be capable of achieving uniform wind speeds (measured in the center of the wind tunnel) at the speeds specified in Table D-2.

(b) The size of the liquid particles delivered to the test section of the wind tunnel shall be established using the operating parameters of the particle

generation system, and shall be verified during the tests by microscopic examination of samples of the particles collected on glass slides. The glass slides should be pretreated with a hydrophobic agent. An appropriate flattening factor shall be used in the calculation of aerodynamic diameter. The particle size, as established by the operating parameters of the generation system, shall be within the tolerance specified in Table D-2. The precision of the particle size verification technique shall be 0.5  $\mu\text{m}$  or better, and particle size determined by the verification technique shall not differ by more than 10 percent from that established by the operating parameters of the particle generation system.

(c) The solid particles delivered to the test section of the wind tunnel shall be sampled during the tests and inspected using an acceptable optical technique. If the solid particles show significant evidence of breakage or agglomeration (more than 5 percent), the solid particle generation system is unacceptable for purposes of this test. The size distribution need not be verified optically.

(d) The concentration of particles in the wind tunnel is not critical. However, the cross-sectional uniformity of the particle concentration in the test section shall be established during the tests using isokinetic samplers. An array of not less than 5 isokinetic samplers, spaced 13–15 cm apart to determine the particle concentration profile in the sampling zone, shall be used. If the variation in particle concentration throughout the sampling zone exceeds 10 percent of the mean concentration in the sampling zone, the particle delivery system is unacceptable in terms of uniformity of particle concentration. The sampling zone shall be a rectangular area having a horizontal dimension not less than 1.5 times the width of the test sampler, or portion thereof, installed in the test section and a vertical dimension not less than the height of the sampler inlet. The sampling zone is an area in the test section of the wind tunnel that is horizontally and vertically symmetrical with respect to the test sampler inlet opening.

(e) The wind speed (air speed) in the wind tunnel shall be determined during the tests using any appropriate technique capable of a precision of 5 percent or better (e.g., hot-wire anemometry). The average air speed in the sampling zone in the wind tunnel during the tests shall be within 10 percent of the value specified in Table D-2. The turbulence intensity shall be determined during the tests using an

appropriate technique (e.g., hot-wire anemometry).

(f) The accuracy of all flow measurements used to calculate the test atmosphere concentrations and the test results shall be documented and referenced to a primary standard, and shall be within  $\pm 5$  percent of that standard. Any flow measurement corrections shall be clearly shown. All flow measurements shall be given in actual volume units.

(g) Schematic drawings of the particle delivery system (wind tunnel and blower system) and other information showing complete procedural details of the test atmosphere generation, verification, and delivery techniques shall be submitted to EPA. All pertinent calculations shall be clearly presented.

#### § 53.43 Test procedures.

(a) *Sampling Effectiveness*—(1) *Technical Definition.* The ratio (expressed as a percentage) of the mass concentration of particles of a given size reaching the sampler filter or filters to the mass concentration of particles of the same size approaching the sampler.

(2) *Test Procedure.* (i) Establish a wind speed (air speed) and generate a particle size and type specified in Table D-2. Measure the air speed and turbulence intensity, verify the particle size, and establish the uniformity of the particle concentration in the sampling zone of the wind tunnel.

(ii) Install an isokinetic sampler in the wind tunnel at the center of the sampling zone (see § 53.42(d)). Collect particles on an appropriate filter (e.g., glass fiber) over a time period such that the relative error of the measured concentration is less than 5 percent. Relative error is defined as  $(p \times 100\%) / (x_i)$ , where  $p$  is the precision of the analytical technique,  $x_i$  is the measured concentration,  $i$  is the replicate number, and the units of  $p$  and  $x_i$  are the same.

(iii) Determine the quantity of material collected by the isokinetic sampling system using an appropriate analytical technique (e.g., fluorometry for uranine-tagged oleic acid; gravimetry for solid particles). Calculate the mass concentration as:

$$C_{iso(i)} = \frac{\text{mass of material collected with isokinetic sampler}}{\text{sample flow rate} \times \text{sampling time}}$$

where  $i$  = replicate number.

Record the mass concentration ( $C_{iso(i)}$ ), the particle size ( $d_p$ ), and the wind speed.

(iv) Remove the isokinetic sampler and install the test sampler (or portion



thereof) in the wind tunnel with the sampler inlet opening centered in the sampling zone (see § 53.42(d)). [NOTE: To meet the maximum blockage requirement of § 53.42(a) or for convenience, part of the test sampler may be positioned external to the wind tunnel provided that the geometry of the sampler and the length of any connecting tube or pipe are not altered.] Collect particles on an appropriate filter or filters (e.g., glass fiber or the type specified by the sampler manufacturer) for a time period such that the relative error of the measured concentration (as defined in step ii) is less than 5 percent.

(v) Determine the quantity of material collected by the test sampler as in step iii. Calculate and record the mass concentration as:

$$C_{sam(i)} = \frac{\text{mass of material collected on sampler filter(s)}}{\text{sample flow rate} \times \text{sampling time}}$$

where  $i$  = replicate number.

(vi) Calculate and record the sampling effectiveness as:

$$E(i) = \frac{C_{sam(i)}}{C_{iso(i)}} \times 100\%$$

where  $i$  = replicate number.

(vii) Remove the test sampler from the wind tunnel. Repeat steps ii through vi to obtain a minimum of three replicate measurements with both the test sampler and the isokinetic sampler.

(viii) Calculate and record the average sampling effectiveness as:

$$E_{ave} = \frac{\sum_{i=1}^n E(i)}{n}$$

where  $n$  = number of replicator.

(ix) Calculate and record the coefficient of variation (CV) for the replicate sampling effectiveness measurements as:

$$CV = \sqrt{\frac{\sum_{i=1}^n E^2(i) - \frac{(\sum_{i=1}^n E(i))^2}{n}}{n-1}} / E_{ave}$$

If the value of CV exceeds 0.10, the test run (steps i through viii) must be repeated.

(x) Repeat steps i through ix for each wind speed, particle size, and particle type specified in Table D-2.

(xi) For each of the three wind speeds (nominally 2, 8, and 24 km/hr), plot the average liquid particle sampling effectiveness ( $E_{ave}$ ) as a function of particle size ( $d_p$ ) on semi-logarithmic graph paper. Construct a smooth curve through the data points.

(xii) Calculate the expected mass concentration for the test sampler at each wind speed and compare it to the mass concentration predicted by the ideal sampler as follows:

(A) Extrapolate the upper and lower ends of the sampling effectiveness curve to 100 percent and 0 percent, respectively, using smooth curves. (Assume that  $E_{ave} = 100$  percent at a

particle size of 1.0  $\mu\text{m}$  and  $E_{ave} = 0$  percent at a particle size of 50  $\mu\text{m}$ .)

(B) From the sampling effectiveness curve, determine the value of  $E_{ave}$  at each of the particle sizes specified in the first column of Table D-3. Record each  $E_{ave}$  value as a decimal between 0 and 1 in the second column of Table D-3.

(C) Multiply the values of  $E_{ave}$  in column 2 by the interval mass distribution values in column 3 and enter the products in column 4 of Table D-3.

(D) Sum the values in column 4 and enter the total as the expected mass concentration for the test sampler at the bottom of column 4 of Table D-3.

(E) Calculate and record the percent difference in expected mass concentration between the test sampler and the ideal sampler as:

$$\Delta C = \frac{C_{sam(exp)} - C_{ideal(exp)}}{C_{ideal(exp)}} \times 100\%$$

where:

$C_{sam(exp)}$  = expected mass concentration for the test sampler,  $\mu\text{g}/\text{m}^3$

$C_{ideal(exp)}$  = expected mass concentration for the ideal sampler,  $\mu\text{g}/\text{m}^3$  (Calculated for the ideal sampler and given at the bottom of column 7 of Table 1.)

(F) The candidate method passes the liquid particle sampling effectiveness test (for a given wind speed) if the  $\Delta C$  value (for that wind speed) meets the specification in Table D-1.

TABLE D-3.—EXPECTED MASS CONCENTRATION FOR PM<sub>10</sub> Samplers

Particle size ( $\mu\text{m}$ )	Test Sampler <sup>1</sup>			Ideal Sampler <sup>2</sup>		
	Sampling effectiveness	Interval mass distribution ( $\mu\text{g}/\text{m}^3$ )	Expected mass concentration ( $\mu\text{g}/\text{m}^3$ )	Sampling effectiveness	Interval mass distribution ( $\mu\text{g}/\text{m}^3$ )	Expected mass concentration ( $\mu\text{g}/\text{m}^3$ )
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<1.0	1.000	39.807	39.8	1.000	39.807	39.8
2.0		3.142		0.942	3.142	3.0
3.0		1.310		0.922	1.310	1.2
4.0		0.906		0.893	0.906	0.8
5.0		0.791		0.857	0.791	0.7
6.0		0.797		0.812	0.797	0.6
7.0		0.880		0.759	0.880	0.7
8.0		1.257		0.697	1.257	0.9
9.0		1.816		0.628	1.816	1.1
10.0		2.109		0.551	2.109	1.2
11.0		1.988		0.465	1.988	0.9
12.0		1.829		0.371	1.829	0.7
13.0		1.663		0.269	1.663	0.4
14.0		1.498		0.159	1.498	0.2
15.0		1.264		0.041	1.264	0.1
16.0		1.054		0.000	1.054	0.0
17.0		0.887		0.000	0.887	0.0
18.0		0.749		0.000	0.749	0.0
19.0		0.651		0.000	0.651	0.0
20.0		0.849		0.000	0.849	0.0
22.0		0.903		0.000	0.903	0.0
24.0		0.739		0.000	0.739	0.0
26.0		0.609		0.000	0.609	0.0
28.0		0.500		0.000	0.500	0.0
30.0		0.720		0.000	0.720	0.0
35.0		0.677		0.000	0.677	0.0
40.0		0.487		0.000	0.487	0.0

<sup>1</sup> Expected mass concentration ( $S_{sam(exp)}$ ) =  $\mu\text{g}/\text{m}^3$ .

<sup>2</sup> Expected mass concentration ( $C_{ideal(exp)}$ ) = 52.3  $\mu\text{g}/\text{m}^3$ .



(xiii) For each of the two wind speeds (nominally 8 and 24 km/hr), calculate the difference between the average sampling effectiveness value for the 20  $\mu\text{m}$  solid particles and the average sampling effectiveness value for the 20  $\mu\text{m}$  liquid particles.

(xiv) The candidate method passes the solid particle sampling effectiveness test if each such difference meets the specification in Table D-1.

(b) **50 Percent Cutpoint**—(1) *Technical Definition*. The particle size for which the sampling effectiveness of the sampler is 50 percent.

(2) *Test Procedure*. (i) From the liquid particle sampling effectiveness curves for each of the three wind speeds, determine the particle size at which the curve crosses the 50 percent effectiveness line and record as  $D_{50}$  on the corresponding sampling effectiveness plot.

(ii) The candidate method passes the 50 percent cutpoint test if all three of the  $D_{50}$  values meet the specification in Table D-1.

(c) **Reproducibility**—(1) *Technical Definition*. The variation in the measured particle concentration among identical samplers under typical sampling conditions.

(2) *Test Procedure*. (i) Set up three identical test samplers at the test site in strict accordance with the instructions in the manual referred to in § 53.4(b)(3). Locate the intake points of the test samplers at the same height, between 3 and 5 meters apart, and on a line perpendicular to the prevailing wind direction. Perform a flow calibration for each test sampler according to the instructions given in the instruction manual and in Appendix J to Part 50 of this chapter. Set the operating flow rate to the value prescribed in the sampler instruction manual. (NOTE: For

candidate equivalent methods, this test may be used to satisfy part of the requirements of Subpart C of this chapter. In that case, a reference method sampler is also used at the test site and measurements with the candidate and reference methods are compared as specified in § 54.34. The test site must meet the requirements of § 53.30(b).)

(ii) Measure the  $\text{PM}_{10}$  concentration of the atmosphere using the three test samplers for five periods of 24-hours. Record the initial and final flow rates of each test sampler for each 24-hour test day. All measurements of flow rate and mass collected must be made according to the procedures prescribed in the

sampler instruction manual and/or Appendix J to Part 50 of this chapter. Record the  $\text{PM}_{10}$  concentration for each sampler and each test day as  $C_{\text{sam}(i)(j)}$  where  $i$  is the sampler number and  $j$  is the test day.

(iii) For each test day, calculate and record the average of the three measured  $\text{PM}_{10}$  concentrations as  $C_{\text{ave}(j)}$ , where  $j$  is the test day. If  $C_{\text{ave}(j)} < 30 \mu\text{g}/\text{m}^3$  for any test day, data from that test day are unacceptable and the tests for that day must be repeated.

(iv) Calculate and record the coefficient of variation for each of the five test days as:

$$CV_j = \sqrt{\frac{\sum_{i=1}^3 C_{\text{sam}(i)(j)}^2 - (\sum_{i=1}^3 C_{\text{sam}(i)(j)})^2/n}{n-1}} / C_{\text{ave}(j)}$$

(v) The candidate method passes the reproducibility test if all five  $CV_j$  values meet the specification in Table D-1.

(d) **Flow Rate Stability**—(1) *Technical Definition*. Freedom from variation in the operating flow rate of the sampler under typical sampling conditions.

(2) *Test Procedure*. (i) For each of the three test samplers and each of the five test days of the reproducibility test, record the initial and final flow indicator readings as  $I_{\text{init}(i)(j)}$  and  $I_{\text{final}(i)(j)}$ , where  $i$  is the sampler number and  $j$  is the test day.

(ii) Convert each  $I_{\text{init}(i)(j)}$  and  $I_{\text{final}(i)(j)}$  to actual flow rates using the sampler flow rate calibration curve and any correction factors for temperature and

pressure (if necessary). Record the actual flow rates as  $F_{\text{init}(i)(j)}$  and  $F_{\text{final}(i)(j)}$ , respectively.

(iii) For each sampler and for each test day, calculate and record the percent change in flow rate as:

$$\Delta F_{(i)(j)} = \frac{F_{\text{final}(i)(j)} - F_{\text{init}(i)(j)}}{F_{\text{init}(i)(j)}} \times 100\%$$

(iv) The candidate method passes the flow rate stability test if all 15  $\Delta F_{(i)(j)}$  values meet the specification in Table D-1.

(Sec. 301(a), Clean Air Act (42 U.S.C. 7601))

[FR Doc. 84-6861 Filed 3-19-84; 8:45 am]

BILLING CODE 6560-50-M



# Register

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Tuesday  
March 20, 1984

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## Part III

### Department of Education

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34 CFR Parts 682 and 683

Family Contribution Schedule for the  
Guaranteed Student Loan Program for  
1984-85; Definition of Independent  
Student for the PLUS Program for 1983-  
84; Final Rule



## DEPARTMENT OF EDUCATION

## 34 CFR Parts 682 and 683

**Family Contribution Schedule for the Guaranteed Student Loan Program for 1984-85; Definition of Independent Student for the PLUS Program for 1983-84****AGENCY:** Department of Education.**ACTION:** Final regulations.

**SUMMARY:** The Secretary issues final regulations for use in determining student eligibility for interest benefits under the Guaranteed Student Loan Program (GSLP). These regulations, which establish the GSL Family Contribution Schedule for 1984-85, will apply to any loan for a period of instruction which begins on or after July 1, 1984, but not later than June 30, 1985, regardless of the time when the determination of the student's need for a loan is made. These regulations also amend § 683.10 of the PLUS Program regulations by adding a new paragraph (c) to the definition of "independent student" to be used for the 1983-84 academic year.

**EFFECTIVE DATES:** The revised definition of "independent student" (§ 683.10), takes effect either 45 days after publication in the *Federal Register* or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. Under section 482 of the Higher Education Act of 1965, the remaining provisions of these regulations which establish the GSL Family Contribution Schedule for 1984-85 are expected to take effect on July 1, 1984 and will apply to any loan for a period of instruction which begins on or after July 1, 1984, but not later than June 30, 1985, regardless of the time when the determination of the student's need for a loan is made.

**FOR FURTHER INFORMATION CONTACT:** Ronald Streets, Program Specialist, or Larry Oxendine, Policy Section Chief, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education (Room 4310, ROB-3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245-2475.

**SUPPLEMENTARY INFORMATION:****Background**

On June 1, 1983, the Secretary published in the *Federal Register* (48 FR 24584), final regulations for the 1984-85 Family Contribution Schedule. However, section 4(b) of the Student Loan Consolidation and Technical

Amendments Act of 1983 (Pub. L. 98-79) amended section 9 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97-301) by requiring that the 1982-83 Family Contribution Schedule, modified to reflect the most recent and relevant data, be used as the Family Contribution Schedule for the years of 1984-85 and 1985-86. Therefore, these final regulations implement that statutory mandate for the 1984-85 academic year. Other provisions of the June 1, 1983, final regulations are unaffected by Pub. L. 98-79.

Additionally, the Secretary adds a new paragraph (c) to § 683.10 of the PLUS Program regulations to establish the definition of "independent student" in order to be consistent with other Title IV programs.

**Waiver of Rulemaking**

In accordance with Section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the content of the Family Contribution Schedule is determined by statute and the amended definition merely updates an existing definition for use during the 1983-84 academic year. Public comment could have no effect on the content of these regulations. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(3)(B) that proposed rulemaking on these regulations is unnecessary and contrary to the public interest.

**Modification of the 1982-83 Family Contribution Schedule For Use for 1984-85**

Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97-301) required that the 1982-83 Family Contribution Schedule be modified and used as the schedule for the 1983-84 academic year. The 1983-84 GSL Family Contribution Schedule was the first schedule codified in regulations published in the *Federal Register*. Earlier schedules were published as notices in the *Federal Register*. This schedule, in turn, modifies the 1983-84 schedule; because that schedule was substantially the same as the 1982-83 schedule, such modifications are, in effect, modifications of the 1982-83 schedule, as required by Pub. L. 98-79.

This schedule continues the use of systems of financial need analysis approved by the Secretary for use in the National Direct Student Loan (NDSL), College Work-Study (CWS), and the

Supplemental Educational Opportunity Grant (SEOG) Programs (the campus-based programs), and a revised set of tables in Appendix B of 34 CFR Part 682.

This schedule modifies the 1983-84 Family Contribution Schedule in the following respects.

(1) The 1983-84 schedule applies to loans for periods of instruction beginning on or after July 1, 1983, but not later than June 30, 1984. This schedule applies to loans for periods of instruction beginning on or after July 1, 1984, but not later than June 30, 1985, regardless of when an institution completes its portion of the student's GSLP application.

(2) This schedule requires, in § 682.301(c), that the school, in determining the adjusted gross family income, consider the income reported by each family member on the 1983 Federal income tax return. Section 682.301(c)(1) has been revised to clarify that "adjusted gross income" means that term as defined in section 62 of the Internal Revenue Code. Further, references to the years 1982 and 1983 in §§ 682.301(c)(2)(iii) and 682.301(c)(4) are revised to refer to the years 1983 and 1984, respectively.

(3) In § 682.301(d), the definition of "independent student" has been deleted and a reference to § 668.1a of 34 CFR Part 668, Student Assistance General Provisions regulations, has been inserted. This change reflects the final regulations which were published in the *Federal Register* (48 FR 39372) on August 30, 1983 and which define "independent student" for all Title IV student financial assistance programs.

(4) Section 682.301(e)(1) has been amended to reference the definitions of "Estimated cost of attendance" and "Estimated financial assistance" found in § 682.200 and to specify that "Expected family contribution" means the amount determined in accordance with § 682.301(f) of the GSLP regulations.

(5) Although the Secretary expects to issue separate regulations regarding the verification of information provided by the student and the student's family, § 682.301(e) has been amended to add a new paragraph (e)(3). This paragraph specifies that the Secretary may require that family members whose incomes are used to determine the "adjusted gross family income" in § 682.301(c) provide copies of the applicable Federal income tax return and other pertinent documents to the school.

(6) Section 682.301(f) has been revised to specify that this schedule applies to loans for periods of instruction beginning on or after July 1, 1984, but not later than June 30, 1985.



(7) Section 682.301(f) (1) and (2) has been revised to require the educational institution, in determining which of the approved need analysis systems may be used to calculate the student's expected family contribution, to consider whether the student has received financial assistance under the campus-based programs for the 1984-85 award year.

(8) The expected family contribution amounts in Tables A, B, C, and D of Appendix B have been revised to reflect 1983 Federal income taxes and F.I.C.A. (Social Security) withholding deductions and average State and other taxes. The Standard Maintenance Allowance (SMA), applicable to Tables A and B only and derived from the most recent Bureau of Labor Statistics low budget standard, has been updated for inflation.

#### Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as nonmajor because they do not meet the criteria for major regulations established in the order.

#### Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations continue the use of the current formula for determining student eligibility for interest benefits under the GSL program, modified to reflect the most recent and relevant data. The regulations, therefore, do not have an impact on small entities.

#### Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

#### List of Subjects in 34 CFR Parts 682 and 683

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Student aid, Vocational education.

#### Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: March 13, 1984.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan Program, PLUS Program)

#### PART 683—PLUS PROGRAM

The Secretary amends Part 683 of Title 34 of the Code of Federal Regulations as follows:

1. Section 683.10 is amended by adding a new paragraph (c) to the definition of "Independent student" to read as follows:

##### § 683.10 General definitions.

##### Independent Student

(c) For a period of instruction beginning on or after July 1, 1983, but before July 1, 1984—

(1) A single student who for 1982 and 1983—

(i) Has not lived and will not live for more than six weeks in either year in the home of his or her parent(s);

(ii) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by his or her parent(s); and

(iii) Has not received and will not receive financial assistance of more than \$750 in either year from his or her parent(s); or

(2) A married student who for 1983—

(i) Has not lived and will not live for more than six weeks in the home of his or her parent(s);

(ii) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by his or her parent(s); and

(iii) Has not received and will not receive financial assistance of more than \$750 from his or her parent(s).

(3) If a student's mother and father are divorced or separated, only one parent will be considered to be the parent of the student for purposes of applying the criteria in paragraphs (c) (1) and (2) of this definition. To determine that parent—

(i) Choose the parent with whom the student resided for the greater portion of the 12-month period preceding the date of application.

(ii) If the preceding criterion does not apply, choose the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(iii) If neither of the preceding criteria apply, choose the parent who provided the greater support for the period commencing January 1, 1982, and ending

12 months prior to the date of application.

(4) If either of the parents has died, the institution shall consider only the surviving parent as the parent for purposes of applying the criteria in paragraphs (c) (1) and (2) of this definition. If both parents have died, or the student has been declared a ward of the court, the student is independent.

#### PART 682—GUARANTEED STUDENT LOAN PROGRAM

The Secretary amends Part 682 of Title 34 of the Code of Federal Regulations as follows:

2. Section 682.301 is revised to read as follows:

##### § 682.301 Eligibility for interest benefits on a GSLP loan.

(a)(1) *General.* (i) If a student's adjusted gross family income is \$30,000 or less, the student qualifies for interest benefits for the amount of his or her GSLP loan.

(ii) If the student's adjusted gross family income is more than \$30,000, the student qualifies for interest benefits if the institution he or she attends or is planning to attend determines that the student demonstrated financial need for the loan.

(2)(i) If the student demonstrates financial need for a loan of \$1,000 or more, the student qualifies for interest benefits for the amount for which the student has demonstrated financial need.

(ii) If the student demonstrates financial need for a loan between \$500 and \$1,000, the student qualifies for interest benefits on a loan of up to \$1,000.

(b) *Application for interest benefits.* To apply for interest benefits, the student shall submit to the lender with his or her loan application a statement from the student's institution that certifies—

(1) The estimated cost of attendance for the student for the academic period for which the loan is intended;

(2) The estimated financial assistance for the student for the academic period for which the loan is intended;

(3) The adjusted gross family income of the student's family;

(4) The student's expected family contribution if his or her adjusted gross family income exceeds \$30,000; and

(5) The amount of the student's need for a loan as determined by the institution pursuant to paragraph (e) of this section.



(c) *Adjusted gross family income.* The institution determines the adjusted gross family income of the student's family based upon data provided, and certified to, by each person whose income is required to be considered.

(1) The adjusted gross family income of the student's family means the adjusted gross income, as defined in section 62 of the Internal Revenue Code, as reported on the 1983 Federal income tax return(s), of—

(i) The student;

(ii) The student's spouse, if any; and

(iii) The student's mother and father if the student, at the time he or she applies, is determined to be a "dependent student" rather than an "independent student."

(2) A student whose parents are divorced or separated follows these procedures for reporting a parent's adjusted gross income to determine the adjusted gross family income:

(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of application.

(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(iii) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support for the period commencing January 1, 1983 and ending 12 months prior to the date of application.

(3) If either of the parents has died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(4) The following rule applies if either a parent whose income is taken into account under paragraph (c)(2) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (c)(3) of this section, has remarried. The income of that parent's spouse shall be included in determining the adjusted gross family income if, in 1983 or 1984, the student—

(i) Has received or will receive financial assistance of more than \$750 from that spouse; or

(ii) Has lived or will live for more than six weeks in the home of the parent and that spouse.

(5) For a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be included in determining the adjusted gross family income.

(d) *Independent student.* An

"independent student" is a student who meets the criteria set forth in 34 CFR 668.1a. All other students are considered to be dependent students.

(e) *Determination of need.* (1) If the student's adjusted gross family income exceeds \$30,000 the institution shall determine the student's need for a loan by subtracting from the student's estimated cost of attendance, as defined in § 682.200, his or her—

(i) Estimated financial assistance, as defined in § 682.200; and

(ii) Expected family contribution, as determined in paragraph (f) of this section.

(2) The student shall certify the accuracy of any information he or she provides to the institution which is necessary to determine need.

(3) The Secretary may require that family members whose incomes are included in the student's adjusted gross family income under paragraph (c) of this section provide copies of the relevant Federal income tax return(s) and other pertinent documents to support the student's application for interest benefits.

(f) *Determination of expected family contribution.* For a student who seeks a loan for a period of instruction beginning on or after July 1, 1984, but not later than June 30, 1985, the institution shall calculate his or her expected family contribution as follows:

(1) If the student has been awarded financial assistance for award year 1984-85 (July 1, 1984-June 30, 1985) under the Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS), or National Direct Student Loan (NDSL) program at the time he or she applies for a Guaranteed Student Loan, the student's expected family contribution is his or her expected family contribution as calculated for the SEOG, CWS or NDSL program.

(2) If the student has not been awarded financial assistance under the SEOG, CWS, or NDSL program for the 1984-85 award year at the time he or she applies for a Guaranteed Student Loan, the student's expected family contribution is determined under either—

(i) Any need analysis system which has been approved by the Secretary for the SEOG, CWS, or NDSL program; or

(ii) The tables found in Appendix B if the adjusted gross income of the student and his or her family does not exceed \$75,000.

(20 U.S.C. 1078, 1082)

3. Appendix B to Part 682 is revised to read as follows:

#### Appendix B to Part 682—Guaranteed Student Loan Program Tables for Determination of Expected Family Contribution for 1984-85

If authorized under the provisions of section 682.301(f)(2)(ii), an institution may use the following tables to determine the student's expected family contribution.

For purposes of the four tables—

"Dependent student" means a student who does not qualify as an independent student, "Independent student" is defined in 34 CFR 668.1a, and

"Adjusted gross income" means the income, as defined in section 62 of the Internal Revenue Code, received in 1983.

#### Table A—Expected Family Contribution for a Dependent Student From a Two-Parent Family—1984-85

For a dependent student from a two-parent family, the educational institution determines the student's expected family contribution according to Table A. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table A, "Family members" include the student, the student's spouse and their dependents, and the student's mother and father and their dependents. If the family includes a step-parent whose income is included in the adjusted gross family income, family members also include the step-parent and the dependents of the step-parent.

Table A is based on the following assumptions:

- One of the two parents is employed,
- No assets are considered, and
- All of the family income was earned by the employed parent.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following:

- Federal income tax, based on standard deductions, computed at the rate applied to married taxpayers filing joint returns.
- F.I.C.A. (Social Security) for one wage earner,
- Average State and other taxes (8%), and
- A Standard Maintenance Allowance, based on the average non-discretionary living expenses for families derived from the Bureau of Labor Statistics low budget standard, as adjusted for inflation and family size. The Standard Maintenance Allowance does not include an allowance for living expenses of the dependent student for the 9 months of school because those living expenses are included in the student's cost of education.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. The resulting value is the expected family contribution.

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Table A - Expected Family Contribution for a Dependent Student From a Two - Parent Family--1984-85

ADJUSTED GROSS INCOME LESS THAN \$3000	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
	AUTOMATICALLY ELIGIBLE									
030001-030124	2940	2290	1770	1270	920	560	210	0	0	0
030125-030374	2990	2330	1810	1310	950	600	240	0	0	0
030375-030624	3050	2370	1850	1340	990	630	280	0	0	0
030625-030874	3110	2420	1880	1370	1020	670	310	0	0	0
030875-031124	3170	2470	1920	1410	1050	700	350	0	0	0
031125-031374	3230	2520	1960	1440	1090	730	380	30	0	0
031375-031624	3290	2570	2010	1470	1120	770	410	60	0	0
031625-031874	3350	2620	2050	1510	1160	800	450	90	0	0
031875-032124	3410	2670	2090	1540	1190	840	480	130	0	0
032125-032374	3470	2720	2130	1580	1220	870	520	160	0	0
032375-032624	3520	2770	2180	1620	1250	910	550	200	0	0
032625-032874	3580	2820	2220	1650	1290	940	590	230	0	0
032875-033124	3640	2870	2260	1690	1320	970	620	270	0	0
033125-033374	3700	2920	2310	1730	1350	1000	650	300	0	0
033375-033624	3770	2970	2350	1770	1380	1040	690	330	0	0
033625-033874	3830	3030	2390	1800	1420	1070	720	370	10	0
033875-034124	3900	3090	2440	1840	1450	1100	750	400	50	0
034125-034374	3960	3140	2490	1880	1480	1130	790	440	80	0
034375-034624	4030	3200	2540	1910	1520	1170	820	470	120	0
034625-034874	4090	3250	2590	1940	1560	1200	850	500	150	0
034875-035124	4160	3310	2640	2000	1590	1230	880	540	190	0
035125-035374	4220	3360	2690	2040	1630	1270	920	570	220	0
035375-035624	4290	3420	2730	2080	1670	1300	950	600	250	0
035625-035874	4350	3480	2780	2130	1700	1330	980	640	290	0
035875-036124	4430	3540	2840	2180	1750	1370	1020	670	320	0
036125-036374	4500	3600	2890	2220	1790	1400	1060	710	360	10
036375-036624	4570	3660	2940	2270	1830	1440	1090	740	400	50
036625-036874	4640	3730	3000	2310	1870	1480	1130	780	430	90
036875-037124	4720	3810	3060	2360	1910	1520	1170	820	470	120
037125-037374	4790	3880	3120	2400	1950	1560	1200	850	510	160
037375-037624	4860	3950	3180	2450	2000	1600	1240	890	540	190
037625-037874	4940	4020	3240	2500	2040	1640	1270	930	580	230
037875-038124	5010	4100	3310	2560	2090	1680	1310	960	620	270
038125-038374	5080	4170	3370	2610	2130	1720	1350	1000	650	300
038375-038624	5150	4240	3430	2660	2180	1760	1380	1040	690	340
038625-038874	5210	4320	3490	2720	2220	1800	1420	1070	720	380
038875-039124	5280	4390	3550	2770	2270	1830	1450	1110	760	410
039125-039374	5350	4460	3620	2820	2310	1870	1490	1140	800	450
039375-039624	5420	4530	3680	2870	2360	1910	1530	1180	830	490
039625-039874	5480	4590	3750	2930	2400	1960	1570	1220	870	520



Table A - Expected Family Contribution for a Dependent Student From a Two - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
039875-040124	5550	4660	3820	2980	2450	2000	1600	1250	910	560
040125-040374	5620	4730	3900	3040	2510	2050	1640	1290	940	590
040375-040624	5680	4800	3960	3100	2560	2090	1680	1320	980	630
040625-040874	5750	4860	4030	3160	2610	2140	1720	1350	1010	670
040875-041124	5820	4930	4100	3230	2670	2180	1760	1390	1050	700
041125-041374	5880	5000	4160	3290	2720	2230	1800	1420	1080	740
041375-041624	5950	5060	4230	3340	2770	2270	1840	1460	1120	780
041625-041874	6020	5130	4300	3400	2820	2320	1880	1490	1150	810
041875-042124	6090	5200	4360	3460	2880	2360	1910	1530	1190	850
042125-042374	6150	5260	4430	3510	2930	2410	1960	1570	1220	880
042375-042624	6220	5330	4500	3570	2980	2460	2000	1610	1250	920
042625-042874	6290	5400	4570	3630	3030	2510	2050	1650	1290	950
042875-043124	6350	5460	4630	3690	3090	2560	2090	1680	1320	980
043125-043374	6420	5530	4700	3760	3150	2620	2140	1720	1360	1020
043375-043624	6490	5600	4770	3820	3200	2660	2180	1760	1390	1050
043625-043874	6550	5670	4830	3890	3260	2710	2230	1800	1430	1090
043875-044124	6620	5730	4900	3960	3320	2760	2270	1840	1460	1120
044125-044374	6690	5800	4970	4020	3370	2810	2320	1880	1490	1150
044375-044624	6750	5870	5030	4090	3430	2860	2360	1920	1530	1190
044625-044874	6820	5930	5100	4160	3490	2910	2400	1960	1570	1220
044875-045124	6890	6000	5170	4220	3550	2950	2450	2010	1610	1260
045125-045374	6960	6070	5240	4290	3600	3010	2500	2050	1650	1290
045375-045624	7020	6130	5300	4360	3660	3060	2550	2090	1690	1320
045625-045874	7090	6200	5370	4430	3720	3120	2590	2130	1730	1360
045875-046124	7160	6270	5440	4490	3790	3180	2640	2180	1760	1390
046125-046374	7220	6340	5500	4560	3860	3230	2690	2220	1800	1430
046375-046624	7290	6400	5570	4630	3930	3290	2740	2260	1840	1460
046625-046874	7360	6470	5640	4690	3990	3350	2790	2300	1870	1500
046875-047124	7420	6540	5700	4760	4060	3410	2840	2340	1910	1530
047125-047374	7490	6600	5770	4830	4130	3460	2880	2380	1950	1570
047375-047624	7560	6670	5840	4890	4190	3520	2930	2430	1990	1610
047625-047874	7630	6740	5910	4960	4260	3580	2980	2470	2030	1640
047875-048124	7690	6800	5970	5030	4330	3630	3040	2520	2070	1680
048125-048374	7760	6870	6040	5090	4390	3690	3090	2570	2120	1720
048375-048624	7830	6940	6110	5160	4460	3760	3150	2620	2160	1750
048625-048874	7890	7010	6170	5230	4530	3830	3210	2670	2200	1790
048875-049124	7960	7070	6240	5300	4600	3890	3270	2720	2240	1820
049125-049374	8020	7140	6310	5360	4660	3960	3320	2770	2280	1860
049375-049624	8080	7210	6370	5430	4730	4030	3380	2810	2320	1890
049625-049874	8140	7270	6440	5500	4800	4100	3440	2860	2360	1930



Table A - Expected Family Contribution for a Dependent Student From a Two - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
049875-050124	8200	7340	6510	5560	4850	4160	3490	2910	2400	1970
050125-050374	8260	7400	6580	5630	4930	4230	3550	2960	2450	2010
050375-050624	8320	7460	6640	5700	5000	4300	3610	3010	2500	2060
050625-050874	8380	7520	6710	5760	5060	4360	3660	3070	2550	2100
050875-051124	8440	7580	6770	5830	5130	4430	3730	3130	2600	2140
051125-051374	8510	7640	6830	5900	5200	4500	3800	3180	2650	2180
051375-051624	8570	7700	6890	5970	5270	4560	3860	3240	2690	2220
051625-051874	8630	7760	6950	6030	5330	4630	3930	3300	2740	2260
051875-052124	8690	7820	7020	6090	5400	4700	4000	3350	2790	2300
052125-052374	8750	7890	7080	6160	5470	4770	4070	3410	2840	2340
052375-052624	8810	7950	7140	6220	5530	4830	4130	3470	2890	2390
052625-052874	8870	8010	7200	6280	5600	4900	4200	3520	2940	2430
052875-053124	8930	8070	7260	6340	5660	4970	4270	3580	2990	2480
053125-053374	8990	8130	7320	6400	5720	5030	4330	3640	3040	2530
053375-053624	9060	8190	7380	6460	5780	5100	4400	3700	3100	2580
053625-053874	9120	8250	7440	6520	5850	5170	4470	3770	3160	2620
053875-054124	9180	8310	7500	6580	5910	5230	4530	3830	3210	2670
054125-054374	9240	8370	7570	6640	5970	5290	4600	3900	3270	2720
054375-054624	9300	8440	7630	6710	6030	5350	4670	3970	3330	2770
054625-054874	9360	8500	7690	6770	6090	5410	4740	4040	3380	2820
054875-055124	9420	8560	7750	6830	6150	5470	4800	4100	3440	2870
055125-055374	9480	8620	7810	6890	6210	5540	4860	4170	3500	2910
055375-055624	9540	8680	7870	6950	6270	5600	4920	4240	3560	2960
055625-055874	9610	8740	7930	7010	6330	5660	4980	4300	3610	3020
055875-056124	9670	8800	7990	7070	6400	5720	5040	4360	3670	3070
056125-056374	9730	8860	8050	7130	6460	5780	5100	4430	3740	3130
056375-056624	9790	8920	8120	7190	6520	5840	5160	4490	3800	3190
056625-056874	9850	8990	8180	7260	6580	5900	5230	4550	3870	3240
056875-057124	9910	9050	8240	7320	6640	5960	5290	4610	3930	3300
057125-057374	9970	9110	8300	7380	6700	6020	5350	4670	3990	3360
057375-057624	10030	9170	8360	7440	6760	6090	5410	4730	4050	3420
057625-057874	10090	9230	8420	7500	6820	6150	5470	4790	4120	3470
057875-058124	10160	9290	8480	7560	6880	6210	5530	4850	4180	3530
058125-058374	10220	9350	8540	7620	6950	6270	5590	4910	4240	3580
058375-058624	10280	9410	8600	7680	7010	6330	5650	4980	4300	3630
058625-058874	10340	9470	8670	7740	7070	6390	5710	5040	4360	3680
058875-059124	10400	9530	8730	7810	7130	6450	5770	5100	4420	3740
059125-059374	10460	9600	8790	7870	7190	6510	5840	5160	4480	3810
059375-059624	10520	9660	8850	7930	7250	6570	5900	5220	4540	3870
059625-059874	10580	9720	8910	7990	7310	6640	5960	5280	4600	3930



Table A - Expected Family Contribution for a Dependent Student From a Two - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
059875-060124	10640	9780	8970	8050	7370	6700	6020	5340	4670	3990
060125-060374	10710	9840	9030	8110	7430	6760	6080	5400	4730	4050
060375-060624	10770	9900	9090	8170	7500	6820	6140	5460	4790	4110
060625-060874	10830	9960	9150	8230	7560	6880	6200	5530	4850	4170
060875-061124	10890	10020	9220	8290	7620	6940	6260	5590	4910	4230
061125-061374	10950	10080	9280	8360	7680	7000	6320	5650	4970	4290
061375-061624	11010	10150	9340	8420	7740	7060	6390	5710	5030	4360
061625-061874	11070	10210	9400	8480	7800	7120	6450	5770	5090	4420
061875-062124	11130	10270	9460	8540	7860	7180	6510	5830	5150	4480
062125-062374	11190	10330	9520	8600	7920	7250	6570	5890	5220	4540
062375-062624	11260	10390	9580	8660	7980	7310	6630	5950	5280	4600
062625-062874	11320	10450	9640	8720	8050	7370	6690	6010	5340	4660
062875-063124	11380	10510	9700	8780	8110	7430	6750	6080	5400	4720
063125-063374	11430	10570	9770	8840	8170	7490	6810	6140	5460	4780
063375-063624	11490	10630	9830	8910	8230	7550	6870	6200	5520	4840
063625-063874	11550	10700	9890	8970	8290	7610	6940	6260	5580	4910
063875-064124	11600	10760	9950	9030	8350	7670	7000	6320	5640	4970
064125-064374	11660	10810	10010	9090	8410	7730	7060	6380	5700	5030
064375-064624	11720	10870	10070	9150	8470	7800	7120	6440	5770	5090
064625-064874	11770	10930	10130	9210	8530	7860	7180	6500	5830	5150
064875-065124	11830	10980	10190	9270	8590	7920	7240	6560	5890	5210
065125-065374	11880	11040	10250	9330	8660	7980	7300	6630	5950	5270
065375-065624	11940	11100	10310	9390	8720	8040	7360	6690	6010	5330
065625-065874	12000	11150	10360	9460	8780	8100	7420	6750	6070	5390
065875-066124	12050	11210	10420	9520	8840	8160	7490	6810	6130	5460
066125-066374	12110	11260	10470	9570	8900	8220	7550	6870	6190	5520
066375-066624	12170	11320	10530	9630	8960	8280	7610	6930	6250	5580
066625-066874	12220	11380	10590	9690	9020	8350	7670	6990	6320	5640
066875-067124	12280	11430	10640	9740	9080	8410	7730	7050	6380	5700
067125-067374	12340	11490	10700	9800	9140	8470	7790	7110	6440	5760
067375-067624	12390	11550	10760	9850	9200	8530	7850	7180	6500	5820
067625-067874	12450	11600	10810	9910	9250	8590	7910	7240	6560	5880
067875-068124	12510	11660	10870	9970	9310	8650	7970	7300	6620	5940
068125-068374	12560	11720	10930	10020	9370	8710	8040	7360	6680	6010
068375-068624	12620	11770	10980	10080	9420	8760	8100	7420	6740	6070
068625-068874	12670	11830	11040	10140	9480	8820	8160	7480	6800	6130
068875-069124	12730	11880	11100	10190	9530	8880	8220	7540	6870	6190
069125-069374	12790	11940	11150	10250	9590	8930	8280	7600	6930	6250
069375-069624	12840	12000	11210	10310	9650	8990	8330	7660	6990	6310
069625-069874	12900	12050	11260	10360	9700	9050	8390	7730	7050	6370



Table A - Expected Family Contribution for a Dependent Student From a Two - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
069875-070124	12960	12110	11320	10420	9760	9100	8440	7790	7110	6430
070125-070374	13010	12170	11380	10470	9820	9160	8500	7840	7170	6490
070375-070624	13070	12220	11430	10530	9870	9220	8560	7900	7230	6560
070625-070874	13130	12280	11490	10590	9930	9270	8610	7960	7290	6620
070875-071124	13180	12340	11550	10640	9990	9330	8670	8010	7350	6680
071125-071374	13240	12390	11600	10700	10040	9380	8730	8070	7410	6740
071375-071624	13290	12450	11660	10760	10100	9440	8780	8120	7470	6800
071625-071874	13350	12510	11720	10810	10160	9500	8840	8180	7520	6860
071875-072124	13410	12560	11770	10870	10210	9550	8900	8240	7580	6920
072125-072374	13460	12620	11830	10930	10270	9610	8950	8290	7640	6980
072375-072624	13520	12670	11880	10980	10320	9670	9010	8350	7690	7030
072625-072874	13580	12730	11940	11040	10380	9720	9060	8410	7750	7090
072875-073124	13630	12790	12000	11100	10440	9780	9120	8460	7810	7150
073125-073374	13690	12840	12050	11150	10490	9840	9180	8520	7860	7200
073375-073624	13750	12900	12110	11210	10550	9890	9230	8580	7920	7260
073625-073874	13800	12960	12170	11260	10610	9950	9290	8630	7970	7320
073875-074124	13860	13010	12220	11320	10660	10000	9350	8690	8030	7370
074125-074374	13920	13070	12280	11380	10720	10060	9400	8750	8090	7430
074375-074624	13970	13130	12340	11430	10780	10120	9460	8800	8140	7490
074625-074874	14030	13180	12390	11490	10830	10170	9520	8860	8200	7540
074875-075000	14080	13240	12450	11550	10890	10230	9570	8910	8260	7600

OVER \$75,000--MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM

BILLING CODE 4000-01-C



**Table B—Expected Family Contribution for a Dependent Student From a One-Parent Family—1984-85**

For a dependent student from a one-parent family, the educational institution determines the student's expected family contribution according to Table B. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table B, "Family members" include the student, the student's spouse and their dependents, and the student's parent and the parent's dependents.

Table B is based on the following assumptions:

- The parent is employed,
- No assets are considered, and
- All of the family income was earned by the parent.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following:

- Federal income tax, based on standard deductions, computed at the rate applied to taxpayers who qualify as heads of households,
- F.I.C.A. (Social Security) for one wage earner,
- Average State and other taxes (8%),
- An employment allowance of 30% of income, to a maximum of \$1,900, and
- A Standard Maintenance Allowance,

based on the average non-discretionary living expenses for families and derived from the Bureau of Labor Statistics low budget standard, as adjusted for inflation and family size. The Standard Maintenance Allowance does not include an allowance for living expenses of the dependent student for the 9 months of school because those living expenses are included in the student's cost of education.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. The resulting value is the expected family contribution.

**BILLING CODE 4000-01-M**



Table B - Expected Family Contribution for a Dependent Student From a One - Parent Family--1984-85

ADJUSTED GROSS INCOME LESS THAN 30001	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
	AUTOMATICALLY ELIGIBLE										
030001-030124	2590	2100	1590	1170	720	370	20	0	0	0	0
030125-030374	2640	2140	1620	1200	750	400	50	0	0	0	0
030375-030624	2680	2180	1660	1230	780	440	90	0	0	0	0
030625-030874	2730	2220	1690	1260	810	470	120	0	0	0	0
030875-031124	2790	2260	1730	1300	840	500	150	0	0	0	0
031125-031374	2820	2300	1760	1330	870	530	190	0	0	0	0
031375-031624	2860	2340	1800	1360	900	560	220	0	0	0	0
031625-031874	2910	2380	1830	1390	930	590	250	0	0	0	0
031875-032124	2950	2420	1870	1420	960	620	280	0	0	0	0
032125-032374	3000	2470	1900	1450	1000	650	310	0	0	0	0
032375-032624	3050	2510	1940	1480	1030	680	340	0	0	0	0
032625-032874	3100	2550	1980	1520	1060	720	370	30	0	0	0
032875-033124	3150	2600	2020	1550	1090	750	410	60	0	0	0
033125-033374	3200	2640	2060	1590	1120	780	440	100	0	0	0
033375-033624	3250	2690	2090	1620	1150	810	470	130	0	0	0
033625-033874	3300	2730	2130	1660	1180	840	500	160	0	0	0
033875-034124	3360	2770	2170	1690	1210	870	530	190	0	0	0
034125-034374	3410	2820	2210	1720	1240	900	560	220	0	0	0
034375-034624	3460	2860	2240	1750	1270	930	590	250	0	0	0
034625-034874	3510	2900	2280	1780	1300	960	620	280	0	0	0
034875-035124	3560	2950	2320	1820	1330	990	650	310	0	0	0
035125-035374	3610	2990	2350	1850	1360	1030	680	340	0	0	0
035375-035624	3660	3040	2390	1880	1390	1060	720	370	30	0	0
035625-035874	3720	3100	2430	1910	1420	1090	750	410	70	0	0
035875-036124	3790	3150	2480	1960	1450	1120	780	440	100	0	0
036125-036374	3860	3210	2530	2000	1480	1150	820	480	130	0	0
036375-036624	3920	3270	2580	2040	1520	1180	850	510	170	0	0
036625-036874	3990	3330	2630	2080	1550	1220	890	550	200	0	0
036875-037124	4050	3390	2680	2120	1590	1250	920	580	240	0	0
037125-037374	4120	3440	2730	2170	1630	1280	950	610	270	0	0
037375-037624	4180	3500	2780	2210	1660	1310	980	650	310	0	0
037625-037874	4250	3550	2830	2250	1700	1340	1010	680	340	0	0
037875-038124	4310	3610	2880	2290	1740	1380	1050	720	380	40	0
038125-038374	4380	3660	2930	2330	1770	1410	1080	750	410	70	0
038375-038624	4440	3730	2970	2380	1810	1440	1110	780	450	110	0
038625-038874	4510	3790	3020	2420	1840	1470	1140	810	480	140	0
038875-039124	4570	3860	3080	2470	1880	1510	1170	840	510	170	0
039125-039374	4630	3920	3130	2520	1920	1540	1210	880	550	210	0
039375-039624	4700	3980	3190	2560	1960	1580	1240	910	580	240	0
039625-039874	4760	4050	3240	2610	2000	1610	1270	940	610	280	0



Table B - Expected Family Contribution for a Dependent Student From a One - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
039875-040124	4830	4110	3300	2660	2040	1650	1300	970	640	310	0
040125-040374	4890	4180	3350	2700	2080	1690	1330	1000	670	340	10
040375-040624	4960	4240	3410	2750	2120	1720	1360	1030	700	370	40
040625-040874	5020	4310	3460	2800	2160	1760	1400	1070	740	410	80
040875-041124	5090	4370	3520	2840	2200	1800	1430	1100	770	440	110
041125-041374	5150	4440	3570	2890	2240	1830	1460	1130	800	470	140
041375-041624	5220	4500	3630	2940	2280	1860	1490	1160	830	500	170
041625-041874	5280	4570	3690	2980	2320	1900	1530	1190	860	530	200
041875-042124	5340	4630	3750	3040	2360	1940	1570	1230	900	570	240
042125-042374	5410	4700	3820	3090	2400	1980	1600	1260	930	600	270
042375-042624	5470	4760	3880	3150	2450	2020	1630	1290	960	630	300
042625-042874	5540	4820	3950	3200	2500	2060	1670	1320	990	660	330
042875-043124	5600	4890	4010	3260	2540	2100	1700	1350	1020	690	360
043125-043374	5670	4950	4070	3310	2590	2140	1740	1380	1060	730	400
043375-043624	5730	5020	4140	3370	2640	2180	1770	1420	1090	760	430
043625-043874	5800	5090	4200	3420	2680	2220	1810	1450	1120	790	460
043875-044124	5860	5150	4270	3480	2730	2260	1840	1480	1150	820	490
044125-044374	5930	5210	4330	3530	2780	2300	1880	1510	1180	850	520
044375-044624	5990	5280	4400	3590	2820	2340	1910	1540	1210	890	560
044625-044874	6060	5340	4460	3640	2870	2380	1950	1580	1240	920	590
044875-045124	6120	5410	4530	3700	2920	2420	1990	1610	1270	950	620
045125-045374	6190	5470	4590	3770	2960	2460	2030	1650	1300	980	650
045375-045624	6250	5540	4660	3830	3010	2510	2070	1680	1330	1010	680
045625-045874	6310	5600	4720	3900	3070	2560	2110	1710	1360	1040	710
045875-046124	6380	5660	4790	3960	3120	2600	2150	1750	1390	1070	750
046125-046374	6440	5730	4850	4030	3180	2650	2190	1780	1420	1100	780
046375-046624	6510	5790	4910	4090	3230	2700	2230	1820	1450	1130	810
046625-046874	6570	5860	4980	4160	3290	2740	2270	1850	1490	1160	840
046875-047124	6630	5920	5040	4220	3340	2790	2310	1890	1520	1190	870
047125-047374	6680	5990	5110	4290	3400	2840	2350	1920	1550	1220	900
047375-047624	6740	6050	5170	4350	3450	2880	2390	1960	1590	1250	930
047625-047874	6800	6120	5240	4420	3510	2930	2430	2000	1620	1280	960
047875-048124	6850	6170	5300	4480	3560	2980	2480	2040	1660	1310	990
048125-048374	6910	6230	5370	4540	3620	3030	2520	2080	1690	1340	1020
048375-048624	6970	6280	5430	4610	3670	3090	2570	2120	1720	1370	1050
048625-048874	7020	6340	5490	4670	3740	3140	2620	2160	1760	1400	1080
048875-049124	7080	6400	5550	4740	3800	3200	2660	2200	1790	1430	1110
049125-049374	7140	6450	5610	4800	3870	3250	2710	2240	1830	1460	1140
049375-049624	7190	6510	5660	4870	3930	3310	2760	2280	1860	1490	1170
049625-049874	7250	6570	5720	4930	4000	3360	2800	2320	1900	1530	1200



Table B - Expected Family Contribution for a Dependent Student From a One - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
049875-050124	7300	6620	5780	4990	4060	3420	2850	2360	1930	1560	1230
050125-050374	7360	6680	5830	5040	4130	3470	2900	2400	1970	1600	1260
050375-050624	7420	6740	5890	5100	4190	3530	2940	2440	2010	1630	1290
050625-050874	7470	6790	5950	5160	4250	3580	2990	2490	2050	1670	1320
050875-051124	7530	6850	6000	5210	4310	3640	3050	2540	2090	1700	1350
051125-051374	7590	6900	6060	5270	4370	3690	3100	2590	2130	1740	1380
051375-051624	7640	6960	6120	5330	4420	3740	3160	2630	2170	1770	1410
051625-051874	7700	7020	6170	5380	4480	3820	3210	2680	2210	1800	1440
051875-052124	7760	7070	6230	5440	4540	3880	3270	2730	2250	1840	1470
052125-052374	7810	7130	6280	5490	4590	3930	3320	2770	2290	1870	1510
052375-052624	7870	7190	6340	5550	4650	3990	3380	2820	2330	1910	1540
052625-052874	7920	7240	6400	5610	4710	4050	3430	2870	2370	1950	1570
052875-053124	7980	7300	6450	5660	4760	4100	3480	2910	2410	1990	1610
053125-053374	8040	7360	6510	5720	4820	4160	3530	2960	2460	2030	1640
053375-053624	8090	7410	6570	5780	4870	4220	3570	3010	2510	2070	1680
053625-053874	8150	7470	6620	5830	4930	4270	3620	3060	2550	2110	1710
053875-054124	8210	7530	6680	5890	4990	4330	3670	3110	2600	2150	1750
054125-054374	8260	7580	6740	5950	5040	4390	3730	3160	2650	2190	1780
054375-054624	8320	7640	6790	6000	5100	4440	3780	3210	2690	2220	1810
054625-054874	8380	7690	6850	6060	5160	4500	3840	3250	2740	2260	1850
054875-055124	8430	7750	6900	6120	5210	4550	3900	3300	2780	2300	1880
055125-055374	8490	7810	6960	6170	5270	4610	3950	3350	2820	2340	1920
055375-055624	8550	7860	7020	6230	5330	4670	4010	3400	2860	2380	1960
055625-055874	8600	7920	7070	6280	5380	4720	4070	3450	2900	2430	2000
055875-056124	8660	7980	7130	6340	5440	4780	4120	3490	2940	2470	2040
056125-056374	8710	8030	7190	6400	5490	4840	4180	3540	2980	2510	2080
056375-056624	8770	8090	7240	6450	5550	4890	4240	3590	3030	2550	2120
056625-056874	8830	8150	7300	6510	5610	4950	4290	3640	3080	2590	2160
056875-057124	8880	8200	7360	6570	5660	5010	4350	3690	3130	2630	2190
057125-057374	8940	8260	7410	6620	5720	5060	4400	3750	3170	2670	2230
057375-057624	9000	8310	7470	6680	5780	5120	4460	3800	3220	2710	2260
057625-057874	9050	8370	7530	6740	5830	5180	4520	3860	3270	2750	2300
057875-058124	9110	8430	7580	6790	5890	5230	4570	3920	3320	2790	2330
058125-058374	9170	8480	7640	6850	5950	5290	4630	3970	3370	2830	2370
058375-058624	9220	8540	7690	6900	6000	5340	4690	4030	3410	2870	2400
058625-058874	9280	8600	7750	6960	6060	5400	4740	4080	3460	2920	2440
058875-059124	9330	8650	7810	7020	6120	5460	4800	4140	3510	2960	2480
059125-059374	9390	8710	7860	7070	6170	5510	4860	4200	3560	3000	2520
059375-059624	9450	8770	7920	7130	6230	5570	4910	4250	3610	3050	2560
059625-059874	9500	8820	7980	7190	6280	5630	4970	4310	3650	3090	2600



Table B - Expected Family Contribution for a Dependent Student From a One - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
059875-060124	9560	8880	8030	7240	6340	5680	5020	4370	3710	3140	2640
060125-060374	9620	8940	8090	7300	6400	5740	5080	4420	3770	3190	2680
060375-060624	9670	8990	8150	7360	6450	5800	5140	4480	3820	3240	2720
060625-060874	9730	9050	8200	7410	6510	5850	5190	4540	3880	3290	2770
060875-061124	9790	9100	8260	7470	6570	5910	5250	4590	3930	3330	2810
061125-061374	9840	9160	8310	7530	6620	5960	5310	4650	3990	3380	2850
061375-061624	9900	9220	8370	7580	6680	6020	5360	4710	4050	3430	2890
061625-061874	9960	9270	8430	7640	6740	6080	5420	4760	4100	3480	2930
061875-062124	10010	9330	8480	7690	6790	6130	5480	4820	4160	3530	2970
062125-062374	10070	9390	8540	7750	6850	6190	5530	4870	4220	3570	3010
062375-062624	10120	9440	8600	7810	6900	6250	5590	4930	4270	3620	3060
062625-062874	10180	9500	8650	7860	6960	6300	5650	4990	4330	3670	3110
062875-063124	10230	9560	8710	7920	7020	6360	5700	5040	4390	3730	3160
063125-063374	10280	9610	8770	7980	7070	6420	5760	5100	4440	3780	3210
063375-063624	10330	9670	8820	8030	7130	6470	5810	5160	4500	3840	3250
063625-063874	10380	9720	8880	8090	7190	6530	5870	5210	4550	3900	3300
063875-064124	10440	9770	8940	8150	7240	6590	5930	5270	4610	3950	3350
064125-064374	10490	9830	8990	8200	7300	6640	5980	5330	4670	4010	3400
064375-064624	10540	9880	9050	8260	7360	6700	6040	5380	4720	4070	3450
064625-064874	10590	9930	9100	8310	7410	6750	6100	5440	4780	4120	3490
064875-065124	10640	9980	9150	8370	7470	6810	6150	5490	4840	4180	3540
065125-065374	10690	10030	9210	8430	7530	6870	6210	5550	4890	4240	3590
065375-065624	10750	10080	9260	8480	7580	6920	6270	5610	4950	4290	3640
065625-065874	10800	10140	9310	8540	7640	6980	6320	5660	5010	4350	3690
065875-066124	10850	10190	9360	8590	7690	7040	6380	5720	5060	4400	3750
066125-066374	10900	10240	9410	8640	7750	7090	6430	5780	5120	4460	3800
066375-066624	10950	10290	9460	8690	7810	7150	6490	5830	5180	4520	3860
066625-066874	11010	10340	9520	8740	7860	7210	6550	5890	5230	4570	3920
066875-067124	11060	10390	9570	8800	7910	7260	6600	5950	5290	4630	3970
067125-067374	11110	10450	9620	8850	7960	7320	6660	6000	5340	4690	4030
067375-067624	11160	10500	9670	8900	8020	7370	6720	6060	5400	4740	4080
067625-067874	11210	10550	9720	8950	8070	7430	6770	6120	5460	4800	4140
067875-068124	11260	10600	9770	9000	8120	7480	6830	6170	5510	4860	4200
068125-068374	11320	10650	9830	9050	8170	7530	6890	6230	5570	4910	4250
068375-068624	11370	10700	9880	9110	8220	7580	6940	6280	5630	4970	4310
068625-068874	11420	10760	9930	9160	8270	7640	7000	6340	5680	5020	4370
068875-069124	11470	10810	9980	9210	8330	7690	7050	6400	5740	5080	4420
069125-069374	11520	10860	10030	9260	8380	7740	7100	6450	5800	5140	4480
069375-069624	11570	10910	10080	9310	8430	7790	7150	6510	5850	5190	4540
069625-069874	11630	10960	10140	9360	8480	7840	7200	6560	5910	5250	4590

Table B - Expected Family Contribution for a Dependent Student From a One - Parent Family--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
069875-070124	11680	11010	10190	9420	8530	7890	7250	6620	5960	5310	4650
070125-070374	11730	11070	10240	9470	8580	7950	7310	6670	6020	5360	4710
070375-070624	11780	11120	10290	9520	8640	8000	7360	6720	6080	5420	4760
070625-070874	11830	11170	10340	9570	8690	8050	7410	6770	6130	5480	4820
070875-071124	11880	11220	10390	9620	8740	8100	7460	6820	6180	5530	4870
071125-071374	11940	11270	10450	9680	8790	8150	7510	6870	6230	5590	4930
071375-071624	11990	11320	10500	9730	8840	8200	7560	6930	6290	5650	4990
071625-071874	12040	11380	10550	9780	8890	8260	7620	6980	6340	5700	5040
071875-072124	12090	11430	10600	9830	8950	8310	7670	7030	6390	5750	5100
072125-072374	12140	11480	10650	9880	9000	8360	7720	7080	6440	5800	5160
072375-072624	12190	11530	10700	9930	9050	8410	7770	7130	6490	5850	5210
072625-072874	12250	11580	10760	9990	9100	8460	7820	7180	6540	5910	5270
072875-073124	12300	11630	10810	10040	9150	8510	7870	7240	6600	5960	5320
073125-073374	12350	11690	10860	10090	9210	8570	7930	7290	6650	6010	5370
073375-073624	12400	11740	10910	10140	9260	8620	7980	7340	6700	6060	5420
073625-073874	12450	11790	10960	10190	9310	8670	8030	7390	6750	6110	5470
073875-074124	12500	11840	11010	10240	9360	8720	8080	7440	6800	6160	5520
074125-074374	12560	11890	11070	10300	9410	8770	8130	7490	6860	6220	5580
074375-074624	12610	11950	11120	10350	9460	8820	8190	7550	6910	6270	5630
074625-074874	12660	12000	11170	10400	9520	8880	8240	7600	6960	6320	5680
074875-075000	12710	12050	11220	10450	9570	8930	8290	7650	7010	6370	5730

OVER \$75,000--MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM



**Table C—Expected Family Contribution for a Married Independent Student—1984-85**

For a married independent student, the educational institution determines the student's expected family contribution according to Table C. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution. The contributions set forth in Table C are based on a 12-month budget. If

an educational institution calculates an independent student budget on a 9-month basis, it must multiply the contribution in the table by .75. No family assets are considered.

As used in Table C, "Family members" include the student, the student's spouse and their dependents.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following:

- Federal income tax, based on standard deductions, computed at the rate applied to married taxpayers filing joint returns,
- F.I.C.A. (Social Security) for one wage earner, and
- Average State and other taxes (4%).

The resulting value is the expected family contribution. No deduction is made for living expenses of the student and his or her family because those expenses are included in the student's cost of attendance.

BILLING CODE 4000-01-M



Table C- Expected Family Contribution for a Married Independent Student--1984-85

ADJUSTED GROSS INCOME LESS THAN \$3001	NUMBER OF FAMILY MEMBERS											
	2	3	4	5	6	7	8	9	10	11	12	
	AUTOMATICALLY ELIGIBLE											
030001-030124	22250	22510	22770	23030	23270	23500	23730	23960	24180	24370	24560	
030125-030374	22400	22660	22920	23180	23430	23660	23890	24120	24350	24550	24740	
030375-030624	22560	22820	23080	23340	23600	23830	24060	24290	24520	24720	24910	
030625-030874	22720	22980	23240	23500	23760	24000	24230	24460	24690	24900	25090	
030875-031124	22880	23140	23400	23660	23920	24160	24390	24620	24850	25070	25260	
031125-031374	23040	23300	23560	23820	24080	24330	24560	24790	25020	25250	25440	
031375-031624	23200	23460	23720	23980	24240	24490	24720	24950	25180	25410	25610	
031625-031874	23350	23610	23870	24130	24390	24650	24890	25120	25350	25580	25790	
031875-032124	23510	23770	24030	24290	24550	24810	25050	25280	25510	25740	25970	
032125-032374	23660	23930	24190	24450	24710	24970	25220	25450	25680	25910	26140	
032375-032624	23800	24090	24350	24610	24870	25130	25390	25620	25850	26080	26310	
032625-032874	23950	24250	24510	24770	25030	25290	25550	25780	26010	26240	26470	
032875-033124	24100	24400	24660	24920	25180	25440	25700	25950	26180	26410	26640	
033125-033374	24250	24550	24820	25080	25340	25600	25860	26110	26340	26570	26800	
033375-033624	24400	24700	24980	25240	25500	25760	26020	26280	26510	26740	26970	
033625-033874	24550	24850	25140	25400	25660	25920	26180	26440	26670	26900	27130	
033875-034124	24690	24990	25290	25560	25820	26080	26340	26600	26840	27070	27300	
034125-034374	24840	25140	25440	25720	25980	26240	26500	26760	27010	27240	27470	
034375-034624	24990	25290	25590	25870	26130	26390	26650	26910	27170	27400	27630	
034625-034874	25140	25440	25740	26030	26290	26550	26810	27070	27330	27570	27800	
034875-035124	25290	25590	25890	26190	26450	26710	26970	27230	27490	27730	27960	
035125-035374	25440	25740	26040	26340	26610	26870	27130	27390	27650	27900	28130	
035375-035624	25580	25880	26180	26480	26770	27030	27290	27550	27810	28060	28290	
035625-035874	25740	26040	26340	26640	26930	27190	27450	27710	27970	28230	28460	
035875-036124	25900	26200	26500	26800	27100	27360	27620	27880	28140	28400	28650	
036125-036374	26070	26370	26670	26970	27270	27540	27800	28060	28320	28580	28830	
036375-036624	26230	26530	26830	27130	27430	27710	27970	28230	28490	28750	29010	
036625-036874	26400	26700	27000	27300	27600	27890	28150	28410	28670	28930	29190	
036875-037124	26560	26860	27160	27460	27760	28060	28320	28580	28840	29100	29360	
037125-037374	26720	27030	27330	27630	27930	28230	28500	28760	29020	29280	29540	
037375-037624	26880	27190	27490	27790	28090	28390	28670	28930	29190	29450	29710	
037625-037874	27030	27360	27660	27960	28260	28560	28850	29110	29370	29630	29890	
037875-038124	27180	27520	27820	28120	28420	28720	29020	29280	29540	29800	30060	
038125-038374	27330	27680	27990	28290	28590	28890	29190	29460	29720	29980	30240	
038375-038624	27490	27840	28150	28450	28750	29050	29350	29630	29890	30150	30410	
038625-038874	27640	27990	28320	28620	28920	29220	29520	29810	30070	30330	30590	
038875-039124	27790	28140	28480	28780	29080	29380	29680	29980	30240	30500	30760	
039125-039374	27940	28290	28640	28950	29250	29550	29850	30150	30420	30680	30940	
039375-039624	28100	28450	28800	29110	29410	29710	30010	30310	30590	30850	31110	
039625-039874	28250	28600	28950	29280	29580	29880	30180	30480	30770	31030	31290	



Table C- Expected Family Contribution for a Married Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
03975-040124	28400	28750	29100	29440	29740	30040	30340	30640	30940	31200	31460
040125-040374	28550	28900	29250	29600	29910	30210	30510	30810	31110	31380	31640
040375-040624	28710	29060	29410	29760	30070	30370	30670	30970	31270	31550	31810
040625-040874	28860	29210	29560	29910	30240	30540	30840	31140	31440	31730	31990
040875-041124	29010	29360	29710	30060	30400	30700	31000	31300	31600	31900	32160
041125-041374	29160	29510	29860	30210	30560	30870	31170	31470	31770	32070	32340
041375-041624	29320	29670	30020	30370	30720	31030	31330	31630	31930	32230	32510
041625-041874	29470	29820	30170	30520	30870	31200	31500	31800	32100	32400	32690
041875-042124	29620	29970	30320	30670	31020	31360	31660	31960	32260	32560	32860
042125-042374	29770	30120	30470	30820	31170	31520	31830	32130	32430	32730	33030
042375-042624	29930	30280	30630	30980	31330	31680	31990	32290	32590	32890	33190
042625-042874	30080	30430	30780	31130	31480	31830	32160	32460	32760	33060	33360
042875-043124	30230	30580	30930	31280	31630	31980	32320	32620	32920	33220	33520
043125-043374	30380	30730	31080	31430	31780	32130	32480	32790	33090	33390	33690
043375-043624	30540	30890	31240	31590	31940	32290	32640	32950	33250	33550	33850
043625-043874	30690	31040	31390	31740	32090	32440	32790	33120	33420	33720	34020
043875-044124	30840	31190	31540	31890	32240	32590	32940	33280	33580	33880	34180
044125-044374	30990	31340	31690	32040	32390	32740	33090	33440	33750	34050	34350
044375-044624	31150	31500	31850	32200	32550	32900	33250	33600	33910	34210	34510
044625-044874	31300	31650	32000	32350	32700	33050	33400	33750	34080	34380	34680
044875-045124	31450	31800	32150	32500	32850	33200	33550	33900	34240	34540	34840
045125-045374	31600	31950	32300	32650	33000	33350	33700	34050	34400	34710	35010
045375-045624	31760	32110	32460	32810	33160	33510	33860	34210	34560	34870	35170
045625-045874	31910	32260	32610	32960	33310	33660	34010	34360	34710	35040	35340
045875-046124	32060	32410	32760	33110	33460	33810	34160	34510	34860	35200	35500
046125-046374	32210	32560	32910	33260	33610	33960	34310	34660	35010	35360	35670
046375-046624	32370	32720	33070	33420	33770	34120	34470	34820	35170	35520	35830
046625-046874	32520	32870	33220	33570	33920	34270	34620	34970	35320	35670	36000
046875-047124	32670	33020	33370	33720	34070	34420	34770	35120	35470	35820	36160
047125-047374	32820	33170	33520	33870	34220	34570	34920	35270	35620	35970	36320
047375-047624	32980	33330	33680	34030	34380	34730	35080	35430	35780	36130	36480
047625-047874	33130	33480	33830	34180	34530	34880	35230	35580	35930	36280	36630
047875-048124	33270	33630	33980	34330	34680	35030	35380	35730	36080	36430	36780
048125-048374	33410	33780	34130	34480	34830	35180	35530	35880	36230	36580	36930
048375-048624	33550	33940	34290	34640	34990	35340	35690	36040	36390	36740	37090
048625-048874	33690	34090	34440	34790	35140	35490	35840	36190	36540	36890	37240
048875-049124	33830	34230	34590	34940	35290	35640	35990	36340	36690	37040	37390
049125-049374	33970	34370	34740	35090	35440	35790	36140	36490	36840	37190	37540
049375-049624	34110	34510	34900	35250	35600	35950	36300	36650	37000	37350	37700
049625-049874	34250	34650	35050	35400	35750	36100	36450	36800	37150	37500	37850



Table C- Expected Family Contribution for a Married Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
049875-050124	34390	34790	35190	35550	35900	36250	36600	36950	37300	37650	38000
050125-050374	34530	34930	35330	35700	36050	36400	36750	37100	37450	37800	38150
050375-050624	34670	35070	35470	35860	36210	36560	36910	37260	37610	37960	38310
050625-050874	34810	35210	35610	36010	36360	36710	37060	37410	37760	38110	38460
050875-051124	34950	35350	35750	36150	36510	36860	37210	37560	37910	38260	38610
051125-051374	35090	35490	35890	36290	36660	37010	37360	37710	38060	38410	38760
051375-051624	35230	35630	36030	36430	36820	37170	37520	37870	38220	38570	38920
051625-051874	35370	35770	36170	36570	36970	37320	37670	38020	38370	38720	39070
051875-052124	35510	35910	36310	36710	37110	37470	37820	38170	38520	38870	39220
052125-052374	35650	36050	36450	36850	37250	37620	37970	38320	38670	39020	39370
052375-052624	35790	36190	36590	36990	37390	37780	38130	38480	38830	39180	39530
052625-052874	35930	36330	36730	37130	37530	37930	38280	38630	38980	39330	39680
052875-053124	36070	36470	36870	37270	37670	38070	38430	38780	39130	39480	39830
053125-053374	36210	36610	37010	37410	37810	38210	38580	38930	39280	39630	39980
053375-053624	36350	36750	37150	37550	37950	38350	38740	39090	39440	39790	40140
053625-053874	36490	36890	37290	37690	38090	38490	38890	39240	39590	39940	40290
053875-054124	36630	37030	37430	37830	38230	38630	39030	39390	39740	40090	40440
054125-054374	36770	37170	37570	37970	38370	38770	39170	39540	39890	40240	40590
054375-054624	36910	37310	37710	38110	38510	38910	39310	39700	40050	40400	40750
054625-054874	37050	37450	37850	38250	38650	39050	39450	39850	40200	40550	40900
054875-055124	37190	37590	37990	38390	38790	39190	39590	39990	40350	40700	41050
055125-055374	37330	37730	38130	38530	38930	39330	39730	40130	40500	40850	41200
055375-055624	37470	37870	38270	38670	39070	39470	39870	40270	40660	41010	41360
055625-055874	37610	38010	38410	38810	39210	39610	40010	40410	40810	41160	41510
055875-056124	37750	38150	38550	38950	39350	39750	40150	40550	40950	41310	41660
056125-056374	37890	38290	38690	39090	39490	39890	40290	40690	41090	41460	41810
056375-056624	38030	38430	38830	39230	39630	40030	40430	40830	41230	41620	41970
056625-056874	38170	38570	38970	39370	39770	40170	40570	40970	41370	41770	42120
056875-057124	38310	38710	39110	39510	39910	40310	40710	41110	41510	41910	42270
057125-057374	38450	38850	39250	39650	40050	40450	40850	41250	41650	42050	42420
057375-057624	38590	38990	39390	39790	40190	40590	40990	41390	41790	42190	42580
057625-057874	38730	39130	39530	39930	40330	40730	41130	41530	41930	42330	42730
057875-058124	38870	39270	39670	40070	40470	40870	41270	41670	42070	42470	42870
058125-058374	39010	39410	39810	40210	40610	41010	41410	41810	42210	42610	43010
058375-058624	39150	39550	39950	40350	40750	41150	41550	41950	42350	42750	43150
058625-058874	39290	39690	40090	40490	40890	41290	41690	42090	42490	42890	43290
058875-059124	39430	39830	40230	40630	41030	41430	41830	42230	42630	43030	43430
059125-059374	39570	39970	40370	40770	41170	41570	41970	42370	42770	43170	43570
059375-059624	39710	40110	40510	40910	41310	41710	42110	42510	42910	43310	43710
059625-059874	39850	40250	40650	41050	41450	41850	42250	42650	43050	43450	43850



Table C- Expected Family Contribution for a Married Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
059875-060124	39990	40390	40790	41190	41590	41990	42390	42790	43190	43590	43990
060125-060374	40130	40530	40930	41330	41730	42130	42530	42930	43330	43730	44130
060375-060624	40270	40670	41070	41470	41870	42270	42670	43070	43470	43870	44270
060625-060874	40410	40810	41210	41610	42010	42410	42810	43210	43610	44010	44410
060875-061124	40550	40950	41350	41750	42150	42550	42950	43350	43750	44150	44550
061125-061374	40690	41090	41490	41890	42290	42690	43090	43490	43890	44290	44690
061375-061624	40830	41230	41630	42030	42430	42830	43230	43630	44030	44430	44830
061625-061874	40970	41370	41770	42170	42570	42970	43370	43770	44170	44570	44970
061875-062124	41110	41510	41910	42310	42710	43110	43510	43910	44310	44710	45110
062125-062374	41240	41640	42040	42440	42840	43240	43640	44040	44440	44840	45240
062375-062624	41370	41790	42190	42590	42990	43390	43790	44190	44590	44990	45390
062625-062874	41500	41930	42330	42730	43130	43530	43930	44330	44730	45130	45530
062875-063124	41630	42070	42470	42870	43270	43670	44070	44470	44870	45270	45670
063125-063374	41760	42200	42610	43010	43410	43810	44210	44610	45010	45410	45810
063375-063624	41890	42330	42750	43150	43550	43950	44350	44750	45150	45550	45950
063625-063874	42020	42460	42890	43290	43690	44090	44490	44890	45290	45690	46090
063875-064124	42150	42590	43030	43430	43830	44230	44630	45030	45430	45830	46230
064125-064374	42280	42720	43160	43570	43970	44370	44770	45170	45570	45970	46370
064375-064624	42410	42850	43290	43710	44110	44510	44910	45310	45710	46110	46510
064625-064874	42540	42980	43420	43850	44250	44650	45050	45450	45850	46250	46650
064875-065124	42670	43110	43550	43990	44390	44790	45190	45590	45990	46390	46790
065125-065374	42800	43240	43680	44120	44530	44930	45330	45730	46130	46530	46930
065375-065624	42930	43370	43810	44250	44670	45070	45470	45870	46270	46670	47070
065625-065874	43060	43500	43940	44380	44810	45210	45610	46010	46410	46810	47210
065875-066124	43190	43630	44070	44510	44950	45350	45750	46150	46550	46950	47350
066125-066374	43320	43760	44200	44640	45080	45490	45890	46290	46690	47090	47490
066375-066624	43450	43890	44330	44770	45210	45630	46030	46430	46830	47230	47630
066625-066874	43580	44020	44460	44900	45340	45770	46170	46570	46970	47370	47770
066875-067124	43710	44150	44590	45030	45470	45910	46310	46710	47110	47510	47910
067125-067374	43840	44280	44720	45160	45600	46040	46450	46850	47250	47650	48050
067375-067624	43970	44410	44850	45290	45730	46170	46590	46990	47390	47790	48190
067625-067874	44100	44540	44980	45420	45860	46300	46730	47130	47530	47930	48330
067875-068124	44230	44670	45110	45550	45990	46430	46870	47270	47670	48070	48470
068125-068374	44360	44800	45240	45680	46120	46560	47000	47410	47810	48210	48610
068375-068624	44490	44930	45370	45810	46250	46690	47130	47550	47950	48350	48750
068625-068874	44620	45060	45500	45940	46380	46820	47260	47690	48090	48490	48890
068875-069124	44750	45190	45630	46070	46510	46950	47390	47830	48230	48630	49030
069125-069374	44880	45320	45760	46200	46640	47080	47520	47960	48370	48770	49170
069375-069624	45010	45450	45890	46330	46770	47210	47650	48090	48510	48910	49310
069625-069874	45140	45580	46020	46460	46900	47340	47780	48220	48650	49050	49450



Table C- Expected Family Contribution for a Married Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
069875-070124	45270	45710	46150	46590	47030	47470	47910	48350	48790	49190	49590
070125-070374	45400	45840	46280	46720	47160	47600	48040	48480	48920	49330	49730
070375-070624	45530	45970	46410	46850	47290	47730	48170	48610	49050	49470	49870
070625-070874	45660	46100	46540	46980	47420	47860	48300	48740	49180	49610	50010
070875-071124	45790	46230	46670	47110	47550	47990	48430	48870	49310	49750	50150
071125-071374	45920	46360	46800	47240	47680	48120	48560	49000	49440	49880	50290
071375-071624	46050	46490	46930	47370	47810	48250	48690	49130	49570	50010	50430
071625-071874	46180	46620	47060	47500	47940	48380	48820	49260	49700	50140	50570
071875-072124	46310	46750	47190	47630	48070	48510	48950	49390	49830	50270	50710
072125-072374	46440	46880	47320	47760	48200	48640	49080	49520	49960	50400	50840
072375-072624	46570	47010	47450	47890	48330	48770	49210	49650	50090	50530	50970
072625-072874	46700	47140	47580	48020	48460	48900	49340	49780	50220	50660	51100
072875-073124	46830	47270	47710	48150	48590	49030	49470	49910	50350	50790	51230
073125-073374	46960	47400	47840	48280	48720	49160	49600	50040	50480	50920	51360
073375-073624	47090	47530	47970	48410	48850	49290	49730	50170	50610	51050	51490
073625-073874	47220	47660	48100	48540	48980	49420	49860	50300	50740	51180	51620
073875-074124	47350	47790	48230	48670	49110	49550	49990	50430	50870	51310	51750
074125-074374	47480	47920	48360	48800	49240	49680	50120	50560	51000	51440	51880
074375-074624	47610	48050	48490	48930	49370	49810	50250	50690	51130	51570	52010
074625-074874	47740	48180	48620	49060	49500	49940	50380	50820	51260	51700	52140
074875-075000	47870	48310	48750	49190	49630	50070	50510	50950	51390	51830	52270

OVER \$75,000--MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM

BILLING CODE 4000-01-C



**Table D—Expected Family Contribution for a Single Independent Student—1984-85**

For a single independent student, the educational institution determines the student's expected family contribution according to Table D. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution. The contributions set forth in Table D are based on a 12-month budget. If

an educational institution calculates an independent student budget on a 9-month basis, it must multiply the contribution in the table by .75. No family assets are considered.

As used in Table D, "Family members" include the student and the student's dependents.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following:

—Federal income tax, based on standard

deductions, computed at the rate applied to taxpayers who qualify as heads of households.

—F.I.C.A. (Social Security) for one wage earner, and

—Average State and other taxes (4%).

The resulting value is the expected family contribution. No deduction is made for living expenses for the student and his or her family because those expenses are included in the student's cost of attendance.

BILLING CODE 4000-01-M



Table D - Expected Family Contribution for a Single Independent Student--1984-85

ADJUSTED GROSS INCOME LESS THAN \$3000	NUMBER OF FAMILY MEMBERS											
	1	2	3	4	5	6	7	8	9	10	11	12
	AUTOMATICALLY ELIGIBLE											
030001-030124	21180	21480	21770	22060	22350	22640	22910	23160	23410	23660	23910	24160
030125-030374	21320	21640	21930	22270	22510	22800	23080	23330	23580	23830	24080	24330
030375-030624	21460	21790	22080	22370	22660	22950	23240	23490	23740	23990	24240	24490
030625-030874	21600	21940	22230	22520	22810	23100	23390	23650	23900	24150	24400	24650
030875-031124	21740	22080	22380	22670	22960	23250	23540	23810	24060	24310	24560	24810
031125-031374	21880	22220	22530	22820	23110	23400	23690	23970	24220	24470	24720	24970
031375-031624	22010	22350	22680	22970	23260	23550	23840	24130	24380	24630	24880	25130
031625-031874	22150	22490	22830	23120	23410	23700	23990	24280	24540	24790	25040	25290
031875-032124	22290	22630	22970	23270	23560	23850	24140	24430	24700	24950	25200	25450
032125-032374	22430	22770	23110	23420	23710	24000	24290	24580	24860	25110	25360	25610
032375-032624	22570	22910	23250	23570	23860	24150	24440	24730	25020	25270	25520	25770
032625-032874	22700	23040	23380	23720	24010	24300	24590	24880	25170	25430	25680	25930
032875-033124	22840	23180	23520	23860	24160	24450	24740	25030	25320	25590	25840	26090
033125-033374	22980	23320	23660	24000	24310	24600	24890	25180	25470	25750	26000	26250
033375-033624	23120	23460	23800	24140	24460	24750	25040	25330	25620	25910	26160	26410
033625-033874	23260	23600	23940	24280	24620	24910	25200	25490	25780	26070	26330	26580
033875-034124	23400	23740	24080	24420	24760	25060	25350	25640	25930	26220	26490	26740
034125-034374	23530	23870	24210	24550	24890	25210	25500	25790	26080	26370	26650	26900
034375-034624	23670	24010	24350	24690	25030	25360	25650	25940	26230	26520	26810	27060
034625-034874	23810	24150	24490	24830	25170	25510	25800	26090	26380	26670	26960	27220
034875-035124	23950	24290	24630	24970	25310	25650	25950	26240	26530	26820	27110	27380
035125-035374	24080	24430	24770	25110	25450	25790	26100	26390	26680	26970	27260	27540
035375-035624	24210	24570	24910	25250	25590	25930	26250	26540	26830	27120	27410	27700
035625-035874	24350	24710	25050	25390	25730	26070	26410	26700	26990	27280	27570	27860
035875-036124	24500	24860	25200	25540	25880	26220	26560	26860	27150	27440	27730	28020
036125-036374	24640	25010	25360	25700	26040	26380	26720	27030	27320	27610	27900	28190
036375-036624	24790	25160	25510	25850	26190	26530	26870	27200	27490	27780	28070	28360
036625-036874	24940	25310	25670	26010	26350	26690	27030	27370	27660	27950	28240	28530
036875-037124	25090	25460	25820	26160	26500	26840	27180	27520	27820	28110	28400	28690
037125-037374	25230	25600	25970	26320	26660	27000	27340	27680	27990	28280	28570	28860
037375-037624	25380	25750	26120	26470	26810	27150	27490	27830	28160	28450	28740	29030
037625-037874	25530	25900	26270	26630	26970	27310	27650	27990	28330	28620	28910	29200
037875-038124	25680	26050	26420	26780	27120	27460	27800	28140	28480	28780	29070	29360
038125-038374	25820	26190	26560	26930	27280	27620	27960	28300	28640	28950	29240	29530
038375-038624	25970	26340	26710	27080	27430	27770	28110	28450	28790	29120	29410	29700
038625-038874	26120	26490	26860	27230	27590	27930	28270	28610	28950	29290	29580	29870
038875-039124	26270	26640	27010	27380	27740	28080	28420	28760	29100	29440	29740	30030
039125-039374	26410	26780	27150	27520	27890	28240	28580	28920	29260	29600	29910	30200
039375-039624	26560	26930	27300	27670	28040	28390	28730	29070	29410	29750	30080	30370
039625-039874	26710	27080	27450	27820	28190	28550	28890	29230	29570	29910	30250	30540



Table D - Expected Family Contribution for a Single Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS											
	1	2	3	4	5	6	7	8	9	10	11	12
039875-040124	26860	27230	27600	27970	28340	28700	29040	29380	29720	30060	30400	30700
040125-040374	27000	27370	27740	28110	28480	28850	29200	29540	29880	30220	30560	30870
040375-040624	27150	27520	27890	28260	28630	29000	29350	29690	30030	30370	30710	31040
040625-040874	27300	27670	28040	28410	28780	29150	29510	29850	30190	30530	30870	31210
040875-041124	27450	27820	28190	28560	28930	29300	29660	30000	30340	30680	31020	31360
041125-041374	27590	27960	28330	28700	29070	29440	29810	30160	30500	30840	31180	31520
041375-041624	27740	28110	28480	28850	29220	29590	29960	30310	30650	30990	31330	31670
041625-041874	27890	28260	28630	29000	29370	29740	30110	30470	30810	31150	31490	31830
041875-042124	28040	28410	28780	29150	29520	29890	30260	30620	30960	31300	31640	31980
042125-042374	28180	28550	28920	29290	29660	30030	30400	30770	31120	31460	31800	32140
042375-042624	28330	28700	29070	29440	29810	30180	30550	30920	31270	31610	31950	32290
042625-042874	28480	28850	29220	29590	29960	30330	30700	31070	31430	31770	32110	32450
042875-043124	28630	29000	29370	29740	30110	30480	30850	31220	31580	31920	32260	32600
043125-043374	28770	29140	29510	29880	30250	30620	30990	31360	31730	32080	32420	32760
043375-043624	28920	29290	29660	30030	30400	30770	31140	31510	31880	32230	32570	32910
043625-043874	29070	29440	29810	30180	30550	30920	31290	31660	32030	32390	32730	33070
043875-044124	29220	29590	29960	30330	30700	31070	31440	31810	32180	32540	32880	33220
044125-044374	29360	29730	30100	30470	30840	31210	31580	31950	32320	32690	33040	33380
044375-044624	29510	29880	30250	30620	30990	31360	31730	32100	32470	32840	33190	33530
044625-044874	29660	30030	30400	30770	31140	31510	31880	32250	32620	32990	33350	33690
044875-045124	29810	30180	30550	30920	31290	31660	32030	32400	32770	33140	33500	33840
045125-045374	29950	30320	30690	31060	31430	31800	32170	32540	32910	33280	33650	34000
045375-045624	30100	30470	30840	31210	31580	31950	32320	32690	33060	33430	33800	34150
045625-045874	30240	30620	30990	31360	31730	32100	32470	32840	33210	33580	33950	34310
045875-046124	30370	30770	31140	31510	31880	32250	32620	32990	33360	33730	34100	34460
046125-046374	30500	30910	31280	31650	32020	32390	32760	33130	33500	33870	34240	34610
046375-046624	30630	31060	31430	31800	32170	32540	32910	33280	33650	34020	34390	34760
046625-046874	30760	31200	31580	31950	32320	32690	33060	33430	33800	34170	34540	34910
046875-047124	30890	31330	31730	32100	32470	32840	33210	33580	33950	34320	34690	35060
047125-047374	31020	31460	31870	32240	32610	32980	33350	33720	34090	34460	34830	35200
047375-047624	31150	31590	32020	32390	32760	33130	33500	33870	34240	34610	34980	35350
047625-047874	31280	31720	32160	32540	32910	33280	33650	34020	34390	34760	35130	35500
047875-048124	31410	31850	32290	32690	33060	33430	33800	34170	34540	34910	35280	35650
048125-048374	31540	31980	32420	32830	33200	33570	33940	34310	34680	35050	35420	35790
048375-048624	31670	32110	32550	32980	33350	33720	34090	34460	34830	35200	35570	35940
048625-048874	31800	32240	32680	33120	33500	33870	34240	34610	34980	35350	35720	36090
048875-049124	31930	32370	32810	33250	33650	34020	34390	34760	35130	35500	35870	36240
049125-049374	32060	32500	32940	33380	33790	34160	34530	34900	35270	35640	36010	36380
049375-049624	32190	32630	33070	33510	33940	34310	34680	35050	35420	35790	36160	36530
049625-049874	32320	32760	33200	33640	34080	34460	34830	35200	35570	35940	36310	36680



Table D - Expected Family Contribution for a Single Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS											
	1	2	3	4	5	6	7	8	9	10	11	12
049875-050124	32450	32890	33330	33770	34210	34610	34980	35350	35720	36090	36460	36830
050125-050374	32580	33020	33460	33900	34340	34750	35120	35490	35860	36230	36600	36970
050375-050624	32710	33150	33590	34030	34470	34900	35270	35640	36010	36380	36750	37120
050625-050874	32840	33280	33720	34160	34600	35040	35420	35790	36160	36530	36900	37270
050875-051124	32970	33410	33850	34290	34730	35170	35570	35940	36310	36680	37050	37420
051125-051374	33100	33540	33980	34420	34860	35300	35710	36080	36450	36820	37190	37560
051375-051624	33230	33670	34110	34550	34990	35430	35860	36230	36600	36970	37340	37710
051625-051874	33360	33800	34240	34680	35120	35560	36000	36380	36750	37120	37490	37860
051875-052124	33490	33930	34370	34810	35250	35690	36130	36530	36900	37270	37640	38010
052125-052374	33620	34060	34500	34940	35380	35820	36260	36670	37040	37410	37780	38150
052375-052624	33750	34190	34630	35070	35510	35950	36390	36820	37190	37560	37930	38300
052625-052874	33880	34320	34760	35200	35640	36080	36520	36960	37340	37710	38080	38450
052875-053124	34010	34450	34890	35330	35770	36210	36650	37090	37490	37860	38230	38600
053125-053374	34140	34580	35020	35460	35900	36340	36780	37220	37630	38000	38370	38740
053375-053624	34270	34710	35150	35590	36030	36470	36910	37350	37780	38150	38520	38890
053625-053874	34400	34840	35280	35720	36160	36600	37040	37480	37920	38300	38670	39040
053875-054124	34530	34970	35410	35850	36290	36730	37170	37610	38050	38450	38820	39190
054125-054374	34660	35100	35540	35980	36420	36860	37300	37740	38180	38590	38960	39330
054375-054624	34790	35230	35670	36110	36550	36990	37430	37870	38310	38740	39110	39480
054625-054874	34920	35360	35800	36240	36680	37120	37560	38000	38440	38880	39260	39630
054875-055124	35050	35490	35930	36370	36810	37250	37690	38130	38570	39010	39410	39780
055125-055374	35180	35620	36060	36500	36940	37380	37820	38260	38700	39140	39550	39920
055375-055624	35310	35750	36190	36630	37070	37510	37950	38390	38830	39270	39700	40070
055625-055874	35440	35880	36320	36760	37200	37640	38080	38520	38960	39400	39840	40220
055875-056124	35570	36010	36450	36890	37330	37770	38210	38650	39090	39530	39970	40370
056125-056374	35700	36140	36580	37020	37460	37900	38340	38780	39220	39660	40100	40510
056375-056624	35830	36270	36710	37150	37590	38030	38470	38910	39350	39790	40230	40660
056625-056874	35960	36400	36840	37280	37720	38160	38600	39040	39480	39920	40360	40800
056875-057124	36090	36530	36970	37410	37850	38290	38730	39170	39610	40050	40490	40930
057125-057374	36220	36660	37100	37540	37980	38420	38860	39300	39740	40180	40620	41060
057375-057624	36350	36790	37230	37670	38110	38550	38990	39430	39870	40310	40750	41190
057625-057874	36480	36920	37360	37800	38240	38680	39120	39560	40000	40440	40880	41320
057875-058124	36610	37050	37490	37930	38370	38810	39250	39690	40130	40570	41010	41450
058125-058374	36740	37180	37620	38060	38500	38940	39380	39820	40260	40700	41140	41580
058375-058624	36870	37310	37750	38190	38630	39070	39510	39950	40390	40830	41270	41710
058625-058874	37000	37440	37880	38320	38760	39200	39640	40080	40520	40960	41400	41840
058875-059124	37130	37570	38010	38450	38890	39330	39770	40210	40650	41090	41530	41970
059125-059374	37260	37700	38140	38580	39020	39460	39900	40340	40780	41220	41660	42100
059375-059624	37390	37830	38270	38710	39150	39590	40030	40470	40910	41350	41790	42230
059625-059874	37520	37960	38400	38840	39280	39720	40160	40600	41040	41480	41920	42360



Table D - Expected Family Contribution for a Single Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS											
	1	2	3	4	5	6	7	8	9	10	11	12
059875-060124	37650	38090	38530	38970	39410	39850	40290	40730	41170	41610	42050	42490
060125-060374	37790	38220	38660	39100	39540	39980	40420	40860	41300	41740	42180	42620
060375-060624	37910	38350	38790	39230	39670	40110	40550	40990	41430	41870	42310	42750
060625-060874	38040	38480	38920	39360	39800	40240	40680	41120	41560	42000	42440	42880
060875-061124	38170	38610	39050	39490	39930	40370	40810	41250	41690	42130	42570	43010
061125-061374	38300	38740	39180	39620	40060	40500	40940	41380	41820	42260	42700	43140
061375-061624	38430	38870	39310	39750	40190	40630	41070	41510	41950	42390	42830	43270
061625-061874	38560	39000	39440	39880	40320	40760	41200	41640	42080	42520	42960	43400
061875-062124	38680	39130	39570	40010	40450	40890	41330	41770	42210	42650	43090	43530
062125-062374	38800	39260	39700	40140	40580	41020	41460	41900	42340	42780	43220	43660
062375-062624	38920	39390	39830	40270	40710	41150	41590	42030	42470	42910	43350	43790
062625-062874	39040	39520	39960	40400	40840	41280	41720	42160	42600	43040	43480	43920
062875-063124	39160	39640	40080	40520	40960	41400	41840	42280	42720	43160	43600	44040
063125-063374	39280	39760	40200	40640	41080	41520	41960	42400	42840	43280	43720	44160
063375-063624	39400	39890	40330	40770	41210	41650	42090	42530	42970	43410	43850	44290
063625-063874	39520	40000	40440	40880	41320	41760	42200	42640	43080	43520	43960	44400
063875-064124	39640	40120	40560	41000	41440	41880	42320	42760	43200	43640	44080	44520
064125-064374	39760	40240	40680	41120	41560	42000	42440	42880	43320	43760	44200	44640
064375-064624	39880	40360	40800	41240	41680	42120	42560	43000	43440	43880	44320	44760
064625-064874	40000	40480	40920	41360	41800	42240	42680	43120	43560	44000	44440	44880
064875-065124	40120	40600	41040	41480	41920	42360	42800	43240	43680	44120	44560	45000
065125-065374	40240	40720	41160	41600	42040	42480	42920	43360	43800	44240	44680	45120
065375-065624	40360	40840	41280	41720	42160	42600	43040	43480	43920	44360	44800	45240
065625-065874	40480	40960	41400	41840	42280	42720	43160	43600	44040	44480	44920	45360
065875-066124	40600	41080	41520	41960	42400	42840	43280	43720	44160	44600	45040	45480
066125-066374	40720	41200	41640	42080	42520	42960	43400	43840	44280	44720	45160	45600
066375-066624	40840	41320	41760	42200	42640	43080	43520	43960	44400	44840	45280	45720
066625-066874	40960	41440	41880	42320	42760	43200	43640	44080	44520	44960	45400	45840
066875-067124	41080	41560	42000	42440	42880	43320	43760	44200	44640	45080	45520	45960
067125-067374	41200	41680	42120	42560	43000	43440	43880	44320	44760	45200	45640	46080
067375-067624	41320	41800	42240	42680	43120	43560	44000	44440	44880	45320	45760	46200
067625-067874	41440	41920	42360	42800	43240	43680	44120	44560	45000	45440	45880	46320
067875-068124	41560	42040	42480	42920	43360	43800	44240	44680	45120	45560	46000	46440
068125-068374	41680	42160	42600	43040	43480	43920	44360	44800	45240	45680	46120	46560
068375-068624	41800	42280	42720	43160	43600	44040	44480	44920	45360	45800	46240	46680
068625-068874	41920	42400	42840	43280	43720	44160	44600	45040	45480	45920	46360	46800
068875-069124	42040	42520	42960	43400	43840	44280	44720	45160	45600	46040	46480	46920
069125-069374	42160	42640	43080	43520	43960	44400	44840	45280	45720	46160	46600	47040
069375-069624	42280	42760	43200	43640	44080	44520	44960	45400	45840	46280	46720	47160
069625-069874	42400	42880	43320	43760	44200	44640	45080	45520	45960	46400	46840	47280



Table D - Expected Family Contribution for a Single Independent Student--1984-85

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS											
	1	2	3	4	5	6	7	8	9	10	11	12
069875-070124	42520	43000	43480	43960	44440	44920	45400	45880	46360	46840	47320	47800
070125-070374	42640	43120	43600	44080	44560	45040	45520	46000	46480	46960	47440	47920
070375-070624	42760	43240	43720	44200	44680	45160	45640	46120	46600	47080	47560	48040
070625-070874	42880	43360	43840	44320	44800	45280	45760	46240	46720	47200	47680	48160
070875-071124	43000	43480	43960	44440	44920	45400	45880	46360	46840	47320	47770	48210
071125-071374	43120	43600	44080	44560	45040	45520	46000	46480	46960	47440	47900	48340
071375-071624	43240	43720	44200	44680	45160	45640	46120	46600	47080	47560	48030	48470
071625-071874	43360	43840	44320	44800	45280	45760	46240	46720	47200	47680	48160	48600
071875-072124	43480	43960	44440	44920	45400	45880	46360	46840	47320	47800	48280	48730
072125-072374	43600	44080	44560	45040	45520	46000	46480	46960	47440	47920	48400	48860
072375-072624	43720	44200	44680	45160	45640	46120	46600	47080	47560	48040	48520	48990
072625-072874	43840	44320	44800	45280	45760	46240	46720	47200	47680	48160	48640	49120
072875-073124	43960	44440	44920	45400	45880	46360	46840	47320	47800	48280	48760	49240
073125-073374	44080	44560	45040	45520	46000	46480	46960	47440	47920	48400	48880	49360
073375-073624	44200	44680	45160	45640	46120	46600	47080	47560	48040	48520	49000	49480
073625-073874	44320	44800	45280	45760	46240	46720	47200	47680	48160	48640	49120	49600
073875-074124	44440	44920	45400	45880	46360	46840	47320	47800	48280	48760	49240	49720
074125-074374	44560	45040	45520	46000	46480	46960	47440	47920	48400	48880	49360	49840
074375-074624	44680	45160	45640	46120	46600	47080	47560	48040	48520	49000	49480	49960
074625-074874	44800	45280	45760	46240	46720	47200	47680	48160	48640	49120	49600	50080
074875-075000	44920	45400	45880	46360	46840	47320	47800	48280	48760	49240	49720	50200

OVER \$75,000--MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM

[FR Doc. 84-7286 Filed 3-19-84; 8:45 am]

BILLING CODE 4000-01-C



# Federal Register

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Tuesday  
March 20, 1984

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## Part IV

### Environmental Protection Agency Department of Transportation

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Research and Special Programs  
Administration

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40 CFR Parts 260, 262, and 271

49 CFR Parts 171 and 172

Uniform Hazardous Waste Manifest; Joint  
EPA/DOT Rule



# ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 262, 271

[SWH-FRL 2314-4]

## Hazardous Waste Management System: General; Standards for Generators of Hazardous Waste; State Hazardous Waste Program Requirements.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Today, in a joint rulemaking effort, the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) are publishing a Uniform Hazardous Waste Manifest and requiring its use for all regulated shipments of hazardous waste. EPA's Resource Conservation and Recovery Act (RCRA) regulations presently require generators who transport, or offer for transportation, hazardous waste for off-site treatment, storage or disposal to prepare a manifest which must accompany the waste. Although the RCRA regulations require that certain information must appear on the manifest, there has been no federal requirement that a standard manifest form be used.

In the absence of a federal manifest form, numerous States have developed manifest forms and require their use. As a result, many interstate hazardous waste shipments require the preparation of multiple manifests to satisfy the requirements of the States in which the waste travels. This has caused confusion and compliance difficulties. In order to resolve these problems, EPA and DOT proposed a Uniform Hazardous Waste Manifest form on March 4, 1982. Today's joint rulemaking adopts this form, with several modifications in response to comments received on the proposal.

**DATE:** Final rule effective September 20, 1984.

**ADDRESS:** The public docket for this final rule (RCRA Section 3002—Uniform Manifest) is located in room S-212, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC and is available for viewing from 9:00 AM to 4:00 PM, Monday through Friday, excluding holidays. This docket contains, among other material, the economic analyses, background document, and comments discussed in this preamble.

**FOR FURTHER INFORMATION CONTACT:** Carolyn K. Barley, (202) 382-5235, Office of Solid Wastes (WH-563), U.S.

Environmental Protection Agency, Washington, DC, 20460 or the RCRA Hotline, (800) 424-9346 (in Washington, DC call 382-3000).

For a copy of this regulation, call Your EPA Regional Office.

EPA Region 1, Boston, MA, FTS-223-6883, (617) 223-6883

EPA Region 2, New York, NY, FTS-264-0504, (212) 264-0504

EPA Region 3, Philadelphia, PA, FTS-597-0980, (215) 597-0980

EPA Region 4, Atlanta, GA, FTS-257-3016, (404) 881-3016

EPA Region 5, Chicago, IL, FTS-886-4179, (312) 886-4179

EPA Region 6, Dallas, TX, FTS-729-2645, (214) 767-2645

EPA Region 7, Kansas, MO, FTS-758-6536, (816) 374-6536

EPA Region 8, Denver, CO, FTS-327-4136, (303) 837-4136

EPA Region 9, San Francisco, CA, FTS-454-7472, (415) 974-7472

EPA Region 10, Seattle, WA, FTS-399-8582, (206) 442-8582

### SUPPLEMENTARY INFORMATION:

#### I. OMB Control Number: 2000-0404

#### II. Authority

This final rule is issued under the authority of sections 2002, 3001, through 3007, 3009, and 3010 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6912, 6921 through 6927 and 6930.

#### III. Background

##### A. History of the Manifest System

On February 26, 1980, EPA established a manifest system to ensure that hazardous waste designated for delivery to an off-site treatment, storage or disposal facility actually reaches its destination. The central element of this system is the "manifest," a control and transport document that accompanies the waste from its point of generation to its point of destination. In this preamble, the phrase "Uniform Manifest system" refers to the entire manifest management scheme, including the manifest forms, preemption of all other forms, form handling, and reporting; while the phrase "Uniform Manifest form" or "Uniform Hazardous Waste Manifest" refers only to the documents required by this rulemaking.

EPA first proposed its manifest system requirements on December 18, 1978 (43 FR 58969). In this proposed rule EPA did not set forth a required form for the manifest, but stated the required information that must accompany the waste. This approach, in the Agency's view, would have allowed the regulated community to adapt its present

practices, notably DOT's requirements for shipping papers,<sup>1</sup> to accommodate the new EPA requirements. For the transportation of hazardous materials, DOT did not require a specific form but required each transport vehicle to carry required information.

A number of commenters on the proposed rule, however, urged the creation of a uniform national manifest form. It was suggested that differing requirements among States might result in confusion and compliance difficulties for the transportation of hazardous waste. Those commenters also stated that a national form would be simpler to use. Other commenters, however, felt that EPA should retain the flexibility of the proposed rule, particularly because of the interest of the States in adapting the manifest requirements to their own needs and interests.

In the final regulation, published February 26, 1980 (45 FR 12722), EPA decided to retain the flexible approach of the proposed regulation. The information requirements of the manifest were revised so that the manifest would, in most situations, be able to serve as the shipping paper required by DOT's hazardous materials transportation regulations. At that time, creation of a single form, satisfying both EPA's and DOT's information requirements, was rejected as too rigid an approach to work satisfactorily for all transportation practices.

During 1981 the Agency received a number of requests to reconsider the decision concerning the development of a single manifest form. As a result of this review, the Agency published a proposal which would require the use of a uniform national manifest. This final regulation and the following discussion is the result of that review and proposed rule published March 4, 1982.

##### B. Manifest Implementation Problems

Since EPA introduced the federal manifest system, there has been a proliferation of manifests as various States decided to develop and print their own forms. At least 22 States require generators to use specific manifest forms for the transport of hazardous waste. This situation has caused three major problems.

First, the lack of uniformity in State manifest forms has created a burden for

<sup>1</sup> DOT has established regulations that cover EPA's universe of hazardous wastes (49 CFR 171.3 and 171.8) and require the regulated community to use a shipping paper for the transportation of hazardous waste. Prior to this rulemaking, DOT's regulations (49 CFR 172.205) allowed industry to use a shipping paper format of their choosing for the required information.



generators, transporters, and State programs. Currently, a transporter carrying hazardous waste may be required to carry the manifest of each State in which he travels in order to comply with various State manifest requirements. Failure to carry a particular State's manifest may delay or prevent shipments from reaching their destination or subject the transporter to State enforcement action. Under these conditions, a generator may be required to go through the costly and inefficient procedure of filling out several manifest forms with duplicative information in order to ensure that the waste reaches the designated facility. State programs have been burdened in some cases by the need to adapt their administrative and data processing procedures to handle the varying out-of-State manifests which they receive.

Second, the lack of uniform information requirements prevents generators with sites in more than one State from standardizing manifesting procedures. This situation makes it extremely difficult for multistate generators to implement standardized data handling programs for coordinating hazardous waste management information.

Third, enforcement activities have been complicated. "Probable cause" to search a vehicle is easier to prove if investigators are trained with uniform manifest standards.

#### C. State and Industry Involvement

Recognizing these problems and as a result of continued review and analysis of existing and anticipated State manifest systems, EPA and DOT in November of 1980 asked two organizations representing States and industry to comment on the feasibility and desirability of requiring the use of a Uniform Manifest form. The State group, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), and the industry group, the Hazardous Materials Advisory Council (HMAC), submitted separate recommendations which were instrumental in the design of the Uniform Manifest form that was proposed jointly by EPA and DOT on March 4, 1982 (47 FR 9336).

During the comment period for the proposed rule, EPA received over 190 comments and DOT received nearly 100 comments from interested parties. (A discussion of the major comments is included in Part IV. *Response to Comments*, of the preamble.) Included in these comments was a letter from a joint task group composed of ASTSWMO and HMAC members suggesting modifications to the EPA and DOT

proposal. EPA and DOT have considered all of the comments in developing this regulation.

#### D. EPA and DOT Joint Rulemaking

1. *Required use of the uniform hazardous waste manifest.* Since the current problems associated with the manifest involve both DOT and EPA, the Agencies have worked together to devise a regulatory solution. Therefore, this joint final rulemaking contains amendments to the regulations of both agencies. Independently of each other, EPA and DOT are requiring use of the Uniform Manifest form. DOT's regulation is nationally comprehensive and applies directly to all generators and transporters. However, under EPA's regulation, there are three distinct situations.

##### a. In States Where EPA Runs the Program

EPA's authority to require compliance with a manifest system stems primarily from RCRA section 3002(5), which requires EPA to establish requirements respecting " \* \* \* use of a manifest system and any other reasonable means necessary to assure that all such hazardous waste generated is designated for treatment, storage or disposal in and arrives at \* \* \* permitted facilities. (Also, see section 3003(a)(3) and section 3004.) EPA's regulations implementing this mandate are found in the manifest sections of 40 CFR 262 (Generators), Part 263 (Transporters), Parts 264 and 265 (Facilities), and Part 271 (State Programs).

As proposed, EPA is amending Part 262 to require generators to use the Uniform Hazardous Waste Manifest form. Because the transporter regulations in Part 263 already require transporters to carry a manifest prepared by a generator with each waste shipment, no amendments to the transportation requirements are necessary. The EPA requirements published today apply directly to all generators and transporters in States where the hazardous waste program is run directly by EPA.

##### b. States With or Applying for Final Authorization

In other States, each State directly regulates hazardous waste activities under its own program approved by EPA on either an interim or final basis, as provided in RCRA Section 3006. In order to be approved by EPA, State programs must include requirements as specified in EPA's requirements for State

programs, 40 CFR Part 271.<sup>2</sup> For final authorization, State program elements generally need not be identical to the federal requirements, as long as they are equivalent. In the case of the Uniform Hazardous Waste Manifest form, however, EPA is amending 40 CFR 271.10 to provide that States seeking final authorization must require the use of the Uniform Manifest form.

This requirement is necessary to assure compliance with Section 3006(b) of RCRA, which requires that State programs be consistent with the federal program applicable in other States. EPA has already noted the importance of consistency in requirements involving the transportation of wastes, and provided that State programs not meeting the federal requirements for manifests will be deemed inconsistent. (See 40 CFR 271.4 and the preamble discussion at 45 FR 33395 (May 19, 1980).) As explained above, the proliferation of many State-specific manifest forms may hamper the movement of hazardous waste to treatment, storage, or disposal sites.

This situation, where differing requirements between States cause added work and confusion and may hamper the program for hazardous waste treatment, storage and disposal, appears to be precisely what Congress was attempting to avoid when it included the "consistency" requirement in Section 3006. Consequently, EPA has determined that to meet that requirement, all State programs must require the use of the Uniform Hazardous Waste Manifest form in order to receive final authorization from EPA. Consistency also requires that no State with final authorization may require any other manifest or information to accompany the waste shipment, as discussed below.

As provided by today's amendment to 40 CFR 271.6(d), States with final authorization must require the use of the Uniform Manifest. States authorized before the effective date of this requirement are required to revise their programs as provided by 40 CFR 271.21. EPA has determined that State adoption of the Uniform Manifest is not a "substantial" revision under 40 CFR 271.21, since, for the reasons described in the next section of this preamble, the manifest form will be effective in all States regardless of their authorization status. After completing the necessary revisions to the State's program, the

<sup>2</sup>These requirements were originally published as part of 40 CFR Part 123. They have recently been recodified as 40 CFR Part 271, [48 FR 14146, April 1, 1983]. Also see technical corrections at 48 FR 30113, June 30, 1983.



State Director must submit a letter to the Regional Administrator describing those changes. When statutory or regulatory modifications have been made, copies of those modifications must also be submitted. Copies of the Uniform Hazardous Waste Manifest form need only be submitted when the State preprints information on the form.

#### c. In States With Interim Authorization

In the case of States with interim authorization, the Uniform Manifest will not be required by EPA authority but rather by DOT authority. As we noted previously, States with interim authorization are not required to amend their regulations to be consistent with this final rulemaking. However, prior to receiving final authorization, these States will need to demonstrate compliance with the requirements of the amendments to 40 CFR 271 published today. In order to give States a definite and unchanging body of regulations to meet for the relatively short period of interim authorization, EPA requires States applying for interim authorization to meet only those requirements promulgated before the announcement date of the final component of the Phase II, interim authorization requirements (see 40 CFR 271.122(d)(2)). Since the final component (Component C) was announced on July 26, 1982, and these Uniform Manifest regulations will be promulgated after that date, the Uniform Manifest regulations will not be applicable in States with interim authorization as a result of EPA jurisdiction. (DOT will have jurisdiction in EPA interim authorized States (see below).) This situation is temporary, however, since all interim authorizations will expire in January 1985. At that time, States with interim authorization must meet the requirements for final authorization or lose their authorization altogether, with EPA taking over the implementation of their hazardous waste programs.

In any case, the absence of an EPA requirement in States with interim authorization will have no practical effect since DOT's regulations impose the identical requirements and apply universally. DOT is today amending its regulations to require all shippers and carriers of hazardous waste to use the Uniform Manifest system. These DOT amendments operate independently of RCRA requirements and will be applicable in all States, regardless of State authorization status.

DOT's authority to require use of the Uniform Manifest stems primarily from the Hazardous Materials Transportation Act (HMTA), which regulates the movement of hazardous materials, 49

U.S.C. 1801 *et seq.* DOT's implementing regulations are found in 49 CFR Parts 171 and 172. As proposed, DOT is amending its Hazardous Materials Regulations to require that shippers and carriers of hazardous waste, both intra- and interstate, comply with EPA's amendments concerning the use of the Uniform Hazardous Waste Manifest form.

2. *Restrictions on additional State manifest or information requirements.* Under limited circumstances, States may impose their own manifest information or management requirements. EPA's authority to allow or restrict such additional State requirements in authorized States involves the coordination of two statutory provisions: Section 3006, which requires approved State programs to be "consistent" with the federal program, and Section 3009, which reserves to States the latitude to be more stringent. In balancing these two provisions, EPA allows a State to impose more stringent requirements, except in those cases where the Agency has determined that consistency requires that State programs conform precisely to the federal requirement. Consequently, EPA's regulations promulgated today do not prohibit authorized States from imposing requirements that provide more rigorous or comprehensive control of hazardous waste activities than do EPA's regulations, such as requirements that handlers of hazardous waste send copies of completed manifests to State Agencies for tracking purposes. Based on the need for consistency, however, States with final authorization must use the Uniform Manifest form, and may not require any additional information to accompany the waste shipment.

EPA's regulations do not prohibit States without final authorization (either interim authorized States or unauthorized States) from imposing more stringent manifest requirements. However, under the authority of Section 112 of the HMTA (49 U.S.C. 1811(a)), DOT's regulations will prohibit those States from requiring separate State manifests or other information to accompany waste shipments. Section 112 of the HMTA expressly preempts any State or local requirement which is inconsistent with that Act or HMTA regulations. This provision is fully supported by Article I, Section 8 of the U.S. Constitution, which grants Congress the authority to regulate interstate commerce. DOT believes that national uniformity in the transportation of hazardous waste is necessary in order to avoid a patchwork of differing State requirements. Therefore, DOT is

clarifying elsewhere in today's **Federal Register** that any State law or regulation requiring a different or additional manifest (other than the Uniform Manifest form) would be inconsistent with the Hazardous Materials Regulations and, therefore, prohibited.

Although no other form may be required by a State to accompany a waste shipment, EPA and DOT have modified the Uniform Manifest form to allow the entry of certain optional State information items in addition to the federally-required items. Generators may use that section of the form to satisfy the specified State information requirements. In this way, EPA expects that both States and generators will benefit since the additional State information requirements can be met on the Uniform Manifest form while reducing or eliminating the need for generators to prepare duplicative reports on each shipment.

States may require generators to complete any of the information items included in the optional State section of the Uniform Manifest prior to the transportation of hazardous waste, and may require owners or operators of facilities to complete any of these State information items as a condition of the acceptance of waste at treatment, storage or disposal (TSD) facilities. These requirements may be imposed both by the State in which the generator is located and the State in which the designated facility is located, but may not be required by States through which the waste shipment travels. The Agency realizes that optional information required by the generator State will accompany the shipment, but EPA does not believe that this additional information can be justified as mandatory during transportation based on the transportation safety and tracking mandates RCRA places on the manifest. Therefore, States are prohibited from applying enforcement sanctions on the transporter during the transportation of hazardous waste for any failure of the form to show optional State information entries. States may hold transporters responsible only for ensuring that the information included in the federally-required portion of the Uniform Manifest form accompanies the shipment. However, States could hold the generator responsible for failure to comply with its manifest information requirements.

Finally, States may require generators or TSD facilities to send other information related to the shipment under separate cover (e.g., by mail), as long as this does not interfere with the actual movement of the waste. Such



requirements would not be "inconsistent" for purposes of the HMTA, as long as they: (a) Did not conflict with federal requirements or otherwise unduly burden commerce; and (b) as long as such requirements were not so numerous that their cumulative effect was to burden commerce. The optional State information items on the Uniform Manifest form, it is hoped, will reduce the need for such additional State reporting. Further discussion of DOT's authority to preempt inconsistent State regulations is provided in the preamble to the DOT regulations.

#### E. Implementation Date

Use of the Uniform Hazardous Waste Manifest form will be required for all transportation of hazardous waste in all States after September 20, 1984. Based upon the comments received, EPA and DOT believe that this time frame will allow States and the regulated community sufficient time to implement the Uniform Manifest form. Members of the regulated community who ship hazardous waste only in States that currently do not require the use of a specific manifest form may use the Uniform Manifest forms immediately.

As mentioned, the Uniform Hazardous Waste Manifest system requirements are applicable in all States on September 20, 1984, regardless of the State's authorization status under RCRA. The Agency believes that a uniform effective date is an important part of the Uniform Manifest system. In States receiving final authorization after the effective date of this rule and in EPA administered States without interim authorization, this is achieved by EPA's regulations. In States with interim authorization and States that receive final authorization prior to the effective date of this rule, this is achieved by DOT's regulations. Today's amendments to the DOT's Hazardous Materials Regulations reference the EPA Uniform Hazardous Waste Manifest form and require its use for all regulated off-site transportation of hazardous waste.

#### IV. Response to Comments

Five major issues were raised in the comment letters received by the Agency on the March 4, 1982, proposal. These issues are:

1. Should EPA and DOT finalize the Uniform Manifest system proposal?
2. Should the Uniform Manifest form contain space for additional State information?
3. How will the Uniform Manifest final rule apply to generators who are shipping State-regulated hazardous waste that is not regulated under federal law?

4. Should States have the right to require generators to use only a Uniform Manifest form printed by the State?

5. From what source should generators obtain copies of the blank Uniform Manifest form (copy acquisition hierarchy)?

Other issues raised by commenters are addressed in the "Background Document—Uniform Hazardous Waste Manifest."

#### Issue 1. Should EPA and DOT finalize the Uniform Manifest system proposal?

Almost all commenters supported the concept of a Uniform Manifest system. The main point of contention among the commenters was how the concept should be implemented. EPA's position on comments associated with implementation is discussed in issues 2 through 5.

The Agency's rulemaking docket for the March 4, 1982, proposal includes a small number of letters opposing a Uniform Manifest form. Industry commenters against the proposed Uniform Manifest form typically were those whose who use their own company-designed form, since they operate only in States that do not require a specific manifest form. They argue that the EPA and DOT proposals for a Uniform Manifest form limit the ability of the generator to voluntarily include additional information useful to their waste management programs. They suggested that generators should have the option of using a form of their own design, provided it contains all required information.

A State commenter proposed that the Uniform Manifest form only be required for interstate shipments, thereby allowing States to require use of their existing manifest form for intrastate shipments. The commenter suggested that this would save the State the expense of redesigning its data management system and would ensure that State-required information is filed for intrastate shipments.

In response to these comments, the Agency points out that the final Uniform Hazardous Waste Manifest form contains additional space that generators and States may use to record useful information. (Refer to Issue 2 of this part of the preamble for a more complete discussion of the use of this space.) Furthermore, a Uniform Manifest form is needed for both interstate and intrastate shipments since the hazardous waste program is a national effort to effectively manage all wastes determined to be hazardous under RCRA. Both RCRA and HMTA call for consistency among federal and State

programs, with special emphasis on the transportation of wastes. Finally, national applicability is necessary to deal with the problems discussed in this preamble. The many different State manifest forms have contributed to the current lack of standardized administrative and data management systems among generators and State programs and hamper enforcement programs. Additional discussion of the applicability of DOT's regulations involving inter- and intrastate shipments is contained in the DOT rulemaking published elsewhere in today's Federal Register.

While EPA and DOT recognize the cost factors associated with changing data management systems to comply with the new federal form, it is expected that this one-time changeover cost is far outweighed by the benefits of using the Uniform Manifest form. An Agency economic analysis (see the Docket on RCRA Section 3002 Uniform Manifest) indicates that the Nation should realize net cost benefits if 15,000 or two percent or more of the shipments are interstate. At this point the annual cost of this rulemaking equals the annual savings. Although one State indicated that only two percent of their waste moved interstate, other States indicated most or all of their hazardous waste moved interstate. EPA estimates that more than two percent of the nation's hazardous waste shipments move interstate. Thus, the fact that there is a cost reduction favors the use of the Uniform Manifest system.

A problem which generators and transporters viewed as more serious is the multiple State manifest requirements when shipping wastes interstate. The Docket on the Uniform Hazardous Waste Manifest contains accounts of generators who complained of being required to complete as many as twelve manifests to transport one interstate shipment of hazardous waste to its destination.

Waste generators felt that when they must prepare several State-required forms for multistate movements and truck drivers must determine if the State-required forms are completed properly, shipping hazardous wastes becomes extremely complicated without a related improvement in environmental protection. Several generators complained of having to include their own DOT shipping paper along with the shipment, because certain State-required forms do not satisfy DOT requirements. These administratively burdensome and duplicative requirements are costly to generators.



According to commenters, the proliferation of State-required manifests has caused considerable confusion and an inefficient utilization of resources for multistate corporations. Industry commenters stated that one of the greatest impediments to compliance with complex regulatory requirements is the difficulty of assuring that operating personnel are adequately trained. The requirement to complete different State-required manifest forms complicates shipping procedures for these personnel which, in some instances, has led to technical noncompliance with the various State manifest requirements.

Multistate corporations also believed they were prevented from easily implementing corporate-wide hazardous waste data management systems due to the lack of a standard document. This problem also besets State hazardous waste programs that desire to track and collect waste shipment data using other States' manifest forms.

EPA and DOT believe that the proliferation of manifest requirements has caused an unnecessary burden on generators and transporters. The EPA-DOT Uniform Hazardous Waste Manifest system as outlined in this final rule will ameliorate this situation in the following ways:

First and foremost, DOT's authority will be used to preempt all State manifest requirements so that under no circumstances will more than one manifest be required per shipment. The Uniform Hazardous Waste Manifest system precludes a variety of complex and inconsistent forms now in use and, therefore, reduces unnecessary and duplicative administrative costs for generators. At the same time, the uniform Hazardous Waste Manifest system permits all the information requirements of a DOT shipping paper to be satisfied, thereby eliminating the need to prepare a separate shipping paper.

Second, eliminating conflicting manifest requirements aids multistate corporations by standardizing form completion procedures and by simplifying data entry for hazardous waste information management systems. For transporters, the Uniform Manifest system preempts laws requiring them to carry each particular State's manifest form. State Agencies will no longer have to use complicated data systems to handle a variety of manifest forms. Finally, from a transportation safety and enforcement viewpoint, this rule provides a single document to enhance uniform tracking and enforcement.

Several commenters suggested that the Uniform Manifest also be designed to be used as a Bill of Lading which they

believed was required by the Interstate Commerce Commission (ICC) to accompany most commercial shipments. Prior to July 1982, the ICC had indicated that all waste shipments would require a Bill of Lading. Since that time, the ICC has ruled that " \* \* \* hazardous waste of no economic value destined for disposal (other than nuclear or radioactive waste) do not constitute 'property' within the meaning of 49 U.S.C. 10521. Accordingly, the Commission does not have jurisdiction over the for-hire transportation by motor carriers of such wastes" (47 FR 29403, July 6, 1982). Therefore, the Agency does not expect that ICC Bill of Lading requirements will apply to hazardous waste shipments destined for treatment, storage or disposal facilities. In the event a shipment must be accompanied by the Manifest and a Bill of Lading and if the requirements of both documents cannot be met by the required or optional information on the Uniform Manifest, then it would be necessary for two separate documents to accompany the shipment.

*Issue 2. Should the Uniform Manifest form contain space for additional State Information?*

The Uniform Hazardous Waste Manifest form provides space for all information needed to satisfy EPA and DOT manifest requirements. In the proposed rule, EPA solicited comments on whether the Uniform Manifest form should also contain space for additional State-required information beyond the federally-required items. (See 47 FR 9338, March 4, 1982.) State commenters were overwhelmingly in favor of this suggestion. In fact, EPA was informed that in the event specific State optional informational items were not included on the final Uniform Hazardous Waste Manifest form, some States would require generators and facilities to send detailed information regarding each individual waste shipment to the State under separate cover on the State's own form. Much of this information could repeat, in a different format, information already supplied on the Uniform Hazardous Waste Manifest form. EPA has taken these concerns into account and provided for certain additional State-required information on the form. The Agency believes that States will not need to require additional hazardous waste reports from generators relative to waste shipments.

As previously discussed, States are not precluded from setting up another system of forms to solicit information not included on the Uniform Manifest form, as long as the system does not interfere with the actual shipment of

wastes. While transporters would not be required to carry these forms, generators and treatment, storage and disposal facility operators could still be required to use them. Some commenters suggested that EPA prohibit States from requiring additional information in this manner. However, Section 3009 of RCRA (discussed earlier in this preamble) clearly allows States to impose requirements which are more stringent than the federal requirements unless the requirements would interfere with the consistency of State programs required by § 3006. At this time, EPA does not believe that allowing States to require additional information in this manner will interfere with the consistency among programs.

The possibility that States may require additional reporting prompted one commenter to suggest that while the proposal may provide relief to the transporter, unless EPA were willing to modify the form to substantially meet the needs of the various State Agencies, there would be no relief for generators and treatment, storage, and disposal facility operators. In fact, increased cost and confusion could result, in his opinion, as various States imposed additional requirements which could not be met through the proposed Uniform Federal Manifest system. The commenter suggested that it would be less confusing and less costly to have optional information spaces included on the Uniform National Manifest form.

Some commenters objected to the mandatory reporting of any information on the form other than federally required information as a violation of the "uniform manifest" concept. However, when the possibility of separate State-required reports was raised with these commenters, they generally agreed that it would be preferable to allow States to require certain, limited information to be added, if that would preclude the need for States to require separate reports as long as only one document is required for any shipment.

EPA, in consultation with DOT, has worked to develop a Uniform Manifest form that substantially meets the information needs suggested by the States through the inclusion of entries for particular items of information that may be required at the option of a State.

A few commenters stated that the inclusion of an optional information space would give States a "blank check" to solicit information from generators. In response to these comments, EPA designed the form to restrict the optional information States may require. The specific State-required information



items that may be included on the Uniform Manifest are discussed in detail in Part V.A.2. *Optional State Information Requirements*, of this preamble.

Although none of the items included as optional State-required information are required by federal law, State law may require that some or all of these specific items be reported on the Manifest and sent directly by the generator or the owner or operator of a TSD facility to that State. However, as discussed above, States may not require that any information other than the federally-required items accompany shipments of hazardous waste. It is permissible for the forms carried by the transporter to include such optional information, but States may not impose enforcement sanctions against transporters if the Manifest fails to include these items. Further, States through which hazardous waste shipments pass are not allowed to place additional information requirements on the transporter as a condition of transportation.

In some instances, both the State in which the waste is generated and the State in which the TSD facility is located may require the completion of specific information items included in the optional State section of the Manifest. In these instances, the generator may be required to comply with both requirements, including the use of both States' identification numbers. The space provided in the optional State section should be adequate to fulfill such requirements. EPA does not anticipate that this situation will occur very often and urges the States to coordinate their information needs. A State through which hazardous waste passes, however, may not require information to be entered in these spaces as a condition of transportation through that State.

The addition of optional, State-required information items on the form enables States to obtain necessary data but retains the basic uniformity of the Manifest. Since individual State requirements for the regulated community will remain in place, generators, transporters, and TSD facility operators must continue to comply with them. For example, generators must still know individual State requirements for treatment, storage, and disposal sites located in other States. A Uniform Hazardous Waste Manifest form containing space for required State information should enable States to ensure compliance with its information requirements, without

having to develop a whole series of new State reporting forms. The Agency expects that the final result will be that generators in general will be required to complete only one document: the Uniform Hazardous Waste Manifest.

*Issue 3. How will the Uniform Manifest system final rule apply to generators who ship State-regulated hazardous wastes that are not regulated under Federal law?*

EPA received comments requesting an explicit clarification in this rule on the effect of the Uniform Hazardous Waste Manifest form and system on wastes defined as hazardous by either the generator's State or the consignment State, but not defined as hazardous by EPA or DOT. A similar situation arises when States require generators to manifest shipments of hazardous waste that qualify for a federal small quantity exemption or wastes that are destined to be recycled, for which federal regulations do not require a manifest.

The Uniform Hazardous Waste Manifest form has been designed to allow the listing of both federally-regulated wastes and wastes regulated solely by the States. In order to distinguish between federally-regulated wastes and other wastes, as required by DOT regulations (49 CFR 172.201(a)(1)), generators can add (or States may overprint on the form) a hazardous materials (HM) column in the space for U.S. DOT Description. When a waste shipment consists of both federally-regulated materials and State-regulated wastes, the HM column, if added, must be checked or marked for only those line entries which are regulated under federal law as hazardous wastes or hazardous materials.

In addition to being used for shipments of RCRA hazardous waste, the Uniform Manifest may also be used for shipments of DOT regulated hazardous materials, or shipments of State-regulated wastes, or any combination of these regulated substances. This rulemaking does not preclude generators from adding a HM column or complying with any of the other DOT requirements for shipping papers found in 49 CFR 172.201.

*Issue 4. Should States have the right to require generators to use only a Uniform Manifest form printed by a State?*

EPA also solicited comments on the ASTSWMO recommendation that the States be allowed to require generators to use specific State forms. (See 47 FR 9339, March 4, 1982.) ASTSWMO advocated expansion of the top margin of the Uniform Manifest form to provide room for States to print their name and

State-assigned document number. The State organization asserted that State document numbers are necessary for the effective use of any automated tracking system.

Some commenters (in particular, members of the regulated community) objected to this recommendation, stating that it is more cost-effective and efficient for generators to print their own manifest forms. In addition, commenters were concerned that the implementation of such a regulation might require generators to complete multiple manifests for interstate shipments.

EPA and DOT recognize the merit of both positions, and this rule establishes a scheme for determining who supplies the Uniform Manifest form. The top margin of the first page of the form has been enlarged to allow for pre-printing of information. In order to retain the advantages of a uniform manifest, however, EPA must ensure that only one uniform manifest is required for each shipment and, therefore, has established a hierarchy for acquisition of blank manifest forms. This acquisition hierarchy is discussed in the section below.

*Issue 5. From what source should generators obtain copies of the blank Uniform Manifest form (the copy acquisition hierarchy)?*

Although the Agency is prescribing the use of the Uniform Hazardous Waste Manifest form, EPA does not intend to print and supply the form. This allows States, if they wish, to print and supply the form, in which case the States can print their own unique numbers on the form to aid in tracking the hazardous waste shipments. For generators located in one State but disposing of wastes in another, it is necessary to determine from which State they must obtain the Uniform Manifest form. Accordingly, EPA is specifying a hierarchy for acquisition of blank manifest forms in these regulations.

In its March 4, 1982, proposal, EPA indicated that it intended to allow States to print and supply the Manifest form and requested comments on how this could effectively be arranged. EPA received relatively few comments as to what acquisition hierarchy would be preferable. One commenter stated that the generator should be required to obtain the form from the consignment (receiving) State if that State printed and supplied the form. A few other commenters stated that the generator should obtain the form from the



generator State if that State printed and supplied the form.

The Agency, however, received a number of comments on a different but related issue that affects the decision on what acquisition hierarchy should be established. This issue involved the desire of several States to ensure that they receive copies of completed manifests from all generators that dispose of wastes in their State, especially from those generators located out-of-State. These States have systems for tracking the movement of hazardous waste that rely on receipt from generators of copies of each manifest prepared. They expressed the concern that the Uniform Manifest requirements would preclude them from requiring out-of-State generators to submit copies of the Manifest for each shipment into that State, and requested that EPA alter its regulations to impose such a requirement.

After careful consideration of these comments and concerns, EPA has determined that it is not necessary to impose a Federal requirement that generators submit copies of each completed manifest form to States or to EPA. EPA believes that the current federal manifest reporting system, which requires submission of Exception Reports by generators and Discrepancy Reports by TSD facility operators is adequate and effective to track hazardous waste shipments.

States are free, however, to impose a more stringent system that could involve the submission by generators of copies of every completed manifest form. This authority is reserved to the States by Section 3009 of RCRA, which permits any State to impose more stringent requirements, as long as those requirements meet the standard set forth in Section 3006 that they not be "inconsistent" with the Federal requirements. EPA does not believe that such requirements would be inconsistent with the Federal manifest system.

In addition, it is well settled that a State can assert jurisdiction over persons not residing in that State if such persons maintain "minimum contacts" with that State. See *International Shoe Co. v. Washington*, 326 U.S. 310 (1945). The fact that a generator disposes of a waste in that State would appear to satisfy this requirement of "minimal contacts." States can enact, and most States currently have among their laws, "long-arm" statutes by which they can assert such jurisdiction and impose such requirements.

Finally, promulgation of the Uniform Hazardous Waste Manifest system requirements does not affect this

independent State authority. The Uniform Manifest regulation simply requires that the manifest information already required by EPA regulations be provided on a nationally uniform form and describes that form. It does not speak to or affect the reporting requirements placed by States on generators under the manifest system. In the face of the independent State authority discussed above, EPA does not believe it is necessary for the Federal government to impose or enforce the requirements of those States that wish to receive manifest copies from out-of-State generators.

EPA has, however, considered the legitimate interest of some States in imposing a different reporting system, that may require submission of copies of completed manifests. As a practical matter, States need to be able to inform out-of-State generators of the existence of manifest copy submission requirements. Although, this could be accomplished by other means, a convenient method would be to print a notice of such requirements on the actual manifest form to be used by generators. For this method to be effective, generators must be required to obtain the manifest forms they use from the State that will be receiving the waste (the consignment State).

In developing the final acquisition hierarchy promulgated today, EPA considered all the comments described above, and evaluated the advantages and disadvantages of alternative approaches. Requiring generators to obtain the form from the generator State would probably be convenient for the generators. This approach might make it more difficult, however, for States to which the wastes are being delivered to track the waste shipments from the point of generation to the treatment, storage, or disposal site than if those consignment States could supply the form with their own unique State tracking numbers and reporting instructions.

Conversely, a system that required acquisition of the form from consignment States would make it easier for those States to implement and enforce their own tracking and reporting systems. Requiring form acquisition from the consignment State would enable States that wish to require submission of copies of all completed manifests to inform out-of-State generators of this requirement by printing the information on the form. In addition, as permitted by § 271.10(h)(1), the consignment State can print on each form a State manifest document number that may be helpful in tracking the

manifest in the State's own tracking system.

In choosing between these two approaches, EPA gave great weight to RCRA's emphasis on the role of the States in implementing the hazardous waste program. Both Sections 3006 and 3009 recognize the right of the States to impose requirements more stringent than the Federal requirements. EPA believes, therefore, that it is appropriate to consider the States' interest in designing their own unique procedures beyond the Federal requirements when establishing regulations. In this case, EPA believes that a State's interest in devising a regulatory program to assure proper treatment, storage and disposal of waste within its borders outweighs the advantages to generators in obtaining blank manifest forms from a single source.

Therefore, EPA is promulgating a form acquisition hierarchy that requires generators to obtain the blank manifest form from the consignment State if that State supplies the form and requires its use; if not, then from the generator State if that State supplies the form and requires its use; and if not, the generator may obtain the form from any source.

While this rule establishes a procedure for the acquisition of blank manifest forms, it does not limit the ability of the generator State or the consignment State to require submission of completed forms by the generator or facility owner or operators. For example, generators may be required by regulations of both the generator State and the consignment State to submit completed copies of the Manifest for each shipment.

Further, as discussed in Issue 2, both the generator State and the consignment State may establish specific informational requirements in the optional State section of the Manifest form. For example, a generator who obtains copy of the blank Manifest form from the consignment State may still be required to comply with his State's manifest informational requirements.

For international shipments, the regulations promulgated today require the manifest form of the generator's State to accompany export shipments of hazardous waste if that State supplies the form and requires its use. In the event the generator's State does not supply the form, the export shipment may be accompanied by a Uniform Manifest form obtained from any source. This same logic also applies to import shipments—manifest forms obtained from the consignment State must accompany the shipment if that State supplies and requires the use of its own



Uniform Hazardous Waste Manifest form. If the consignment State does not distribute the form, a Uniform Manifest form obtained from any source may be used.

#### V. The Uniform Hazardous Waste Manifest

EPA, with DOT's agreement, has designed the Uniform Hazardous Waste Manifest form and system with the following features:

##### A. Information Requirements

EPA received divergent comments on the inclusion of many information items on the manifest form. The primary comments are discussed in the following section of this preamble and the other comments are discussed in the Background Documents for this rule-making.

The information items contained on the Uniform Hazardous Waste Manifest form (EPA form 8700-22 and the Continuation Sheet, form 8700-22A) can be categorized into federally-required information and optional State-required information. The federal requirements are examined first.

1. *Federal Information Requirements.* EPA is not increasing its information reporting requirements in this final rulemaking. All federally-required information on the Uniform Manifest form is currently required by EPA's hazardous waste regulations. On March 4, 1982, the Agency proposed the inclusion of one new federal information requirement, the telephone number of the treatment, storage, or disposal facility. The Agency decided not to include that requirement in this final rule. EPA believes that transporters can obtain that information during the course of shipment by contacting the dispatcher or the waste generator. The Agency believes emergency response information, should be obtained from the generator—not the TSD facility. Therefore, while the generator's telephone number remains a federal requirement, the TSD facility's telephone number is not a required item. (As discussed below, States may require the facility's telephone number as an optional item on the form.)

In order to clarify the required federal information items on the manifest form and to discuss comments received on those items, this section presents a review of those items.

##### (a) Generator Requirements:

*Manifest Document Number*—The manifest document number consists of the generator's U.S. EPA twelve digit identification number plus a unique five digit number, allowing each generating site to manifest up to 100,000 shipments

a year without repeating a document number. In the proposed rule, EPA defined the five digit number as a "sequentially increasing number." The definition has been changed in this final rule in order to dispel the impression that generators would have to use manifests in a sequential manner. However, the generator must ensure the uniqueness of the document number for each shipment from each site during a calendar year.

*Page Number*—Generators are required to identify on the first page of a manifest the total number of pages in that manifest i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any. For example, if the manifest consists of only one page (EPA Form 8700-22), and there is no Continuation Sheet (EPA Form 8700-22A), then the correct entry would be "Page 1 of 1." If the manifest consists of one front page (EPA Form 8700-22), and one Continuation Sheet (EPA Form 8700-22A), then the correct entry would be "Page 1 of 2."

*Generator Name and Address*—The address remains the mailing address of the generator since the TSD facility must return a completed copy of the manifest promptly to the generator. Comments were received suggesting that the address reflect the site of waste generation. EPA does not believe it is necessary to include a site address on the manifest form because the EPA identification number provides this information. The generator, then, must enter the mailing address of the location that will administer the returning manifest forms (e.g., billing office, corporate headquarters, or the site of generation).

*Generator's Telephone Number*—This must be the number of a person who can provide information about the shipment in the event of an emergency.

*Transporter #1 Company Name and U.S. EPA ID Number*—The name and U.S. EPA twelve digit identification number of the initial transporter of the waste must be entered.

*Transporter #2 Company Name and U.S. EPA ID Number*—The name and U.S. EPA twelve digit identification number of the second transporter, if applicable, must be entered. Space for additional transporters is provided on the Continuation Sheet for entry in the order they are used.

*Designated Facility Name, Site Address, and U.S. EPA ID Number*—The generator must enter the TSD facility name and site address plus the facility's U.S. EPA twelve digit identification number. The site address is required to

inform the transporter where the shipment must be delivered.

*Alternate Facility*—A number of commenters suggested that the form should provide space for generators to list an alternate facility name and address, as allowed in 40 CFR 262.20. Since this item is not required of generators, the Agency has decided not to provide a specifically designated space for it. If an alternate facility is designated, it must be identified in the item marked "Special Handling Instructions and Additional Information."

*Container Number and Type*—The generator must indicate the number of containers and using the abbreviations in Table I of the form instructions, the type of containers for each waste shipped. This final rule corrects the abbreviation for Cargo Tanks/Tank Trucks (TT) and Tank Cars (TC). The abbreviation for Portable Tanks (TP) is also changed. In response to comments, a new abbreviation (DT) has been added for dump trucks. Some commenters suggested adding an abbreviation for metal boxes such as roll-offs or dumpsters. The abbreviation CM was included in the proposed rule for metal boxes, cartons, cases, and is intended to include roll-offs or dumpsters. This has been clarified in the form instructions.

*U.S. DOT Description (Including: Proper Shipping Name, Hazard Class, and ID Number)*—The generator must complete this section consistent with DOT's regulations at 49 CFR Part 172.201. As allowed by those regulations, a Hazardous Materials (HM) column may be added by the generator or the State to distinguish hazardous materials as defined by federal regulations from other wastes (see Part IV, *Response to Comments*, Issue 3 above). This permits the generator to list materials which are non-hazardous, or hazardous by State definition only, in the DOT Description space as long as the HM column is checked only for federally-regulated hazardous materials (including federally-regulated hazardous waste).

In response to comments, the heading for the Proper U.S. DOT Description has also been modified to include the DOT Identification Number as part of the shipping description. The generator must enter the assigned DOT Identification Number consisting of a four digit number preceded by the UN (United Nations) or NA (North America) designation as appropriate for each federally regulated hazardous material or waste listed. (See 49 CFR 172.101 and 172.102.) The generator must also



enter the total quantity and unit of measure (volume or weight) of the shipment. Many commenters requested clarification as to whether the weight is a measurement of the net or gross quantity (i.e., whether the weight of the container should be included in the measurement). EPA and DOT have determined that the measurement must be gross weight when the waste container is to be discarded (e.g., a drum containing waste) and net weight when it is not discarded (e.g., bulk shipments by tank truck). Another issue centering on weight or volume classification is the requirement of various States that hazardous waste shipments be determined by a specific measurement, either weight or volume. The joint HMAC and ASTSWMO proposal suggests that the Uniform Manifest be designed to allow the generator to include both weight and volume. Thus, while today's rule does not require that two units of measure be specified for any waste listing, the Uniform Manifest form provides space for both weight and volume.

One commenter asked if fractions could be used in the quantity description (see EPA Form 8700-22, Item 13). EPA does not believe that the quantity description should include fractions. Rather, the Agency believes that the quantity description should be the most accurate possible without using fractions or decimals. For example, if a shipment weighs 18,500 pounds, the correct quantity description would be 18,500 pounds, not 9.25 tons nor 9¼ tons.

**Special Handling Instructions and Additional Information.**—As proposed, this section may be used by the generator for a number of purposes. Some commenters have advocated that the ICC Bill of Lading and/or DOT placarding information be allowed on the Uniform Manifest form. The Special Handling Instructions space (or the reverse side of the form) may be used for this information, emergency response telephone numbers, or any other information the generator wishes to include about the shipment. If alternate facility information (i.e., name, address, and EPA ID number) or the conditions for international shipments (i.e., point of departure, date of departure, and transporter's signature) are included, they must appear in this space. However, States are not permitted to require any information within this space or on the back of the form as a condition of transportation. In accordance with a joint recommendation by ASTSWMO and HMAC, certain information needs of the States can be accommodated in the

State information spaces discussed below.

**Generator Certification.**—The generator is required to read and sign the certification statement at the initiation of each waste shipment. The wording of the certification statement has been changed to ensure its applicability for use with all modes of transportation (i.e., highway, railroad, water, and air) and for national and international shipments. DOT supplied EPA with the new wording as a result of changes they have made based on the recommendations of a United Nations committee of experts on the transport of dangerous goods. States seeking final authorization must submit supplemental wording they propose to add to this certification (e.g., " \* \* \* and the laws/regulations of the State regulations of the State of (name of State)" as part of their application for authorization for approval by EPA.

**International Shipments.**—Generators are required to list for each export shipment the point of departure from the United States. This information must be placed in the item labeled "Special Handling Instructions and Additional Information" on EPA Form 8700-22 (first page).

(b) Transporter Requirements:

**Acknowledgment of Acceptance.**—A transporter is required to acknowledge on the Manifest the acceptance of the waste shipment by signing the Manifest and recording the date of acceptance.

**International Shipments.**—Transporters who take waste identified on the Manifest out of the jurisdiction of the United States must enter the date that the waste was exported and sign the Manifest indicating that the waste left the United States on that date. This information must be placed in the item labeled "Special Handling Instructions and Additional Information" on EPA form 8700-22.

(c) Treatment, Storage and Disposal Facility Requirements:

**Discrepancy Indication Space.**—As proposed, the Discrepancy Indication Space must be used for recording significant discrepancies between the waste described on the Manifest and the waste actually received by the designated facility. (See 40 CFR § 264.72 and § 265.72.) Several commenters requested clarification of where to send discrepancy reports. EPA regulations require owners and operators of TSD facilities located in States where EPA administers the hazardous waste program to send reports to the appropriate EPA Regional Administrator. Owners and operators of TSD facilities located in States with

interim or final authorization are advised that individual State programs require discrepancy reports and that they should review the specific State regulations on this subject for further information.

**Acknowledgment of Acceptance.**—The owner or operator of the TSD facility is required to acknowledge the acceptance of the waste shipment by signing the manifest and recording the date of acceptance.

**2. Optional State Information Requirements.**—As previously discussed, the Uniform Manifest form includes optional information spaces to substantially meet basic requirements of the States. This should eliminate or reduce the need for additional State reporting requirements. The optional State information items on the Uniform Manifest form were selected on the basis of comments received, including the recommendations of the HMAC and ASTSWMO joint task group. The specifically identified items are generally those used most frequently by the States. Many members of the regulated community joined the task group in recommending that certain of these additional items be included on the form.

This section describes the optional State/required information items included on the Uniform Manifest form.

**State Manifest Document Number.**—In response to comments, space has been provided for a State manifest document number used by some States to track waste shipments. Typically, this number will be preprinted by the State issuing the manifest and, therefore, is not an information burden on generators.

**State Identification Numbers.**—These spaces are provided for generators', transporters', and treatment, storage and disposal facilities' State identification numbers. These numbers may include registration, permit, disposal plan, or other State identification numbers.

**Telephone Numbers.**—Space has been provided for the telephone numbers of two transporters and the TSD facility. (The generator's telephone number is a federally-required information item, as mentioned above.)

**Waste Numbers.**—This space is provided for the entry of either EPA or State hazardous waste numbers. (Space for waste numbers was included as an optional item on the Manifest form proposed on March 4, 1982.)

**Additional Waste Description Space.**—Some industry commenters requested additional space in which to list additional information about their wastes. HMAC and ASTSWMO suggested expanding the Special



Handling Instructions and Additional Information area of the proposed Uniform Manifest form to allow for "certain information about the type and nature of the waste." EPA and DOT are aware that many States want to request additional information not required by EPA or DOT as part of the proper shipping description from the generator concerning hazardous waste listings. In response to these suggestions, an "Additional Description for Wastes Listed Above" space has been included on the Uniform Manifest form. This space may only be used for data that describe the waste, such as chemical names, constituent percentages, and physical state and may be used by a generator for additional waste descriptions even if a generator State or consignment State does not require it.

**Handling Codes**—This space is provided for either EPA or State handling codes indicating the relevant treatment, storage, or disposal process.

**Other information**—Several State commenters suggested that the form contain space for emergency response telephone numbers and for the name, address, telephone number, and logo of the State Agency. Although States may not require generators to provide any information other than in the optional State information space, the top margin has been expanded to provide room for the State to preprint such information. Section V.C. of this preamble, *Modifications to the Form*, discusses more completely the additional information that may appear on the form.

#### B. Form Design

The forms required by this promulgation retain the vertical 8½" by 11" size proposed on March 4, 1982 (see 47 FR 9336), despite the addition of new information items. This is possible because the available space is used more efficiently.

The required federal information items are generally on the left and middle portions of the form. The optional State information items are on the upper right, except for the "Additional Description for Waste Listed Above" space. The optional State information items are shaded and headed by letters rather than numbers, to set them apart.

The form has been revised in response to other comments in the following manner. (1) It was redesigned to be readily adaptable to automated data processing (ADP) equipment. (2) It is suitable for either manual or typewritten entry. The marks shown in the proposed rule in certain data entry spaces (e.g., "Container Number and Type") have

been de-emphasized because commenters stated that they interfered with preparation of the forms by typewriter. They have been replaced by lighter, less conspicuous dots. (3) The information items on the form are numbered or lettered to make it easier for users to follow instructions and reference a specific item in the "Special Handling Instructions and Additional Information" space. (4) The form contains an "Additional Description for Waste Listed Above" space that provides the generator with room to clearly enter useful information. (5) The final Uniform Manifest form (EPA form 8700-22) has only four waste listing spaces, as suggested by some commenters, in order to provide additional space for other information. (6) The Manifest document is designed to include a Continuation Sheet (EPA Form 8700-22A) on which the generator may list both additional hazardous wastes and transporters, if necessary. This eliminates the need for users with many different waste streams, notably laboratories, to prepare many separate manifests for one shipment.

#### C. Modifications to the Form

States may add information to the form in the margin or on the back of the form, and only information or instructions that do not require generators, transporters, or owners or operators of hazardous waste management facilities to supply new, different, or additional information. Information or instructions States may preprint include:

1. A unique State manifest document number (items A and L);
2. State emergency telephone numbers (in the margin or on the back);
3. State Agency name, address, telephone number, and State logo (in the margin or on the back);
4. Copy distribution information (in the margin or on the back);
5. State forms inventory control numbers (in the margin or on the back);
6. Organizational marks such as light lines, line identifiers, etc. to facilitate information entry and data processing (anywhere on the form);
7. A hazardous materials (HM) column in items 11 and 28 (see DOT regulations at 49 CFR 172.201);
8. A reference to State laws or regulations following the federal identification (in item 16); and
9. Abbreviations for headings in State optional information spaces (items A-H and L-Q).

States may also print instructions which may be distributed with the forms.

Title 40 CFR 271.6 has been revised to require use of EPA form 8700-22 and 8700-22A for authorized States. States seeking final authorization are required to submit a copy of the Uniform Manifest form with their application if they preprint any information on the form.

In cases where generators print their own uniform manifest forms, they may preprint the following information:

1. Any information requirements, with the exception of the certification signature and acceptance signatures;
2. Transporter safety information, treatment, storage or disposal information, and Bill of Lading information (in the "Special Handling Instructions and Additional Information" space or, if necessary, on the back);
3. Copy distribution and other general company information (in the margin or on the back);
4. A hazardous materials (HM) column in items 11 and 28 (see DOT regulations at 49 CFR 172.201); and
5. Organizational marks such as light lines, line identifiers, etc., to facilitate proper character placement of information (anywhere on the form).

Generators may also print instructions and distribute them with the form. But, the form must be completed and consistent with federal requirements.

Instructions for filling out the Uniform Hazardous Waste Manifest form are included in today's **Federal Register**. EPA is not requiring that the instructions be included with copies of the form. The form must, however, be completed and consistent with these instructions.

#### D. Copies of the Forms

EPA is not printing copies or sets of the Manifest form for public use. Generators and others desiring copies of the form should first contact their State office to determine if their State will be printing the forms. If their State is not printing the forms, camera-ready copies of the form for printing purposes can be obtained from the State, or the EPA Regional Office or EPA Headquarters.

#### VI. Effective Date

These regulations will take effect on September 20, 1984, as required by Section 3010(b) of RCRA. Further discussion of the appropriateness of this period of time for the Uniform Manifest is provided above, Section III.E, *Implementation Date*.



## VII. Compliance with Executive Order 12291, Paperwork Reduction Act and Regulatory Flexibility Act

### A. Executive Order 12291

EPA has determined that today's final rule will not result in: An annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete in domestic or export markets. Indeed, as discussed above, today's action is expected to reduce the current burden on the regulated community. Therefore, this final rule is not subject to the major rule provisions of Executive Order 12291 and a regulatory impact analysis is not required.

This final rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Office of Solid Waste Docket, Room S-212, U.S. EPA, 401 M Street SW, Washington DC, 20460.

### B. Paperwork Reduction Act

The Uniform Hazardous Waste Manifest is subject to the OMB clearance requirements of the Paperwork Reduction Act of 1980. OMB has reviewed and approved the Uniform Hazardous Waste Manifest form through July 31, 1986 (OMB Control No. 2000-0404). The Uniform Hazardous Waste Manifest is not subject to the clearance requirements of the General Services Administration since the Manifest form is an operating rather than a reporting document.

### C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities and, therefore, does not require the preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Indeed, the required use of a Uniform Hazardous Waste Manifest form should reduce the costs of compliance with manifest requirements for regulated hazardous waste generators and transporters (including small businesses as defined by that Act) by reducing the number of manifest forms that must be completed for each shipment. Accordingly, I certify pursuant to 5 U.S.C. § 605 that the final rule will not have a significant adverse economic impact on small entities.

## VIII. List of Subjects

### 40 CFR Part 260

Administrative practice and procedure, Hazardous materials, Waste treatment and disposal.

### 40 CFR Part 262

Hazardous materials, Labeling, Packaging and containers, Reporting requirements, Waste treatment and disposal.

### 40 CFR Part 271

Confidential business information, Hazardous materials, Intergovernmental relations, Penalties, Reporting requirements, Waste treatment and disposal, Water pollution control, Water supply.

Dated: March 13, 1984.

William D. Ruckelshaus,  
Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

### PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM; GENERAL

1. The authority citation for Part 260 reads as follows:

Authority: Secs. 1006, 2002, 3001 through 3007, 3010, and 7004, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6921 through 6927, 6930, 6974).

2. Section 260.10 is amended by revising the following definitions to read as follows:

#### § 260.10 Definitions.

"Manifest"—means the shipping document EPA form 8700-22 and, if necessary, EPA form 8700-22A, originated and signed by the generator in accordance with the instructions included in the Appendix to Part 262.

"Manifest document number"—means the U.S. EPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the Manifest by the generator for recording and reporting purposes.

### PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

3. The authority citation for Part 262 reads as follows:

Authority: Secs. 2002, 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by (42 U.S.C. 6912, 6921 through 6925).

4. Section 262.20 is amended by revising paragraph (a) to read as follows:

#### § 262.20 General requirements.

(a) A generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest OMB control number 2000-0404 on EPA form 8700-22, and, if necessary, EPA form 8700-22A, according to the instructions included in the Appendix to Part 262.

5. 40 CFR is amended by revising § 262.21 in its entirety as follows:

#### § 262.21 Acquisition of Manifests.

(a) If the State to which the shipment is manifested (consignment State) supplies the Manifest and requires its use, then the generator must use that Manifest.

(b) If the consignment State does not supply the Manifest, but the State in which the generator is located (generator State) supplies the Manifest and requires its use, then the generator must use that State's Manifest.

(c) If neither the generator State nor the consignment State supplies the Manifest, then the generator may obtain the Manifest from any source.

6. Section 262.50 is amended by revising the introductory text of paragraph (b)(3) and the introductory text of paragraph (d) and by adding paragraph (b)(4) and (e) to read as follows:

#### § 262.50 International shipments.

(b) \* \* \*

(3) Meet the requirements under § 262.20(a) for the Manifest except that:

(4) Obtain the Manifest from the generator's State if that State supplies the Manifest form and requires its use. If the generator's State does not supply the Manifest form, then the generator may obtain the Manifest form from any source.

(d) When importing hazardous waste, a person must meet all the requirements of § 262.20(a) for the Manifest except that:

(e) A person who imports hazardous waste must obtain the Manifest form from the consignment State if that State supplies the Manifest and requires its use. If the consignment State does not supply the Manifest form, then the Manifest form may be obtained from any source.



7. Part 262 is amended by adding an Appendix to read as follows:

**Appendix—Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)**

**U.S. EPA Form 8700-22**

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal

facilities to use this form (8700-22) and, if necessary, the continuation sheet (Form 8700-22A) for both inter and intrastate transportation.

Federal regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to complete the following information:

\* \* \* \* \*

**GENERATORS**

**Item 1. Generator's U.S. EPA ID Number—Manifest Document Number**

Enter the generator's U.S. EPA twelve digit identification number and the

unique five digit number assigned to this Manifest (e.g., 00001) by the generator.

**Item 2. Page 1 of —**

Enter the total number of pages used to complete this Manifest, i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any.

**Item 3. Generator's Name and Mailing Address**

Enter the name and mailing address of the generator. The address should be the location that will manage the returned Manifest forms.

BILLING CODE 6560-50-M



Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

Form Approved. OMB No. 2000-0404. Expires 7-31-86.

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator's US EPA ID No.	Manifest Document No.	2. Page 1 of	Information in the shaded areas is not required by Federal law.	
3. Generator's Name and Mailing Address				A. State Manifest Document Number		
4. Generator's Phone ( )				B. State Generator's ID		
5. Transporter 1 Company Name		6. US EPA ID Number		C. State Transporter's ID		
7. Transporter 2 Company Name		8. US EPA ID Number		D. Transporter's Phone		
9. Designated Facility Name and Site Address		10. US EPA ID Number		E. State Transporter's ID		
				F. Transporter's Phone		
				G. State Facility's ID		
				H. Facility's Phone		
11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)				12. Containers	13. Total Quantity	14. Unit Wt/Vol
				No.	Type	
a.						
b.						
c.						
d.						
J. Additional Descriptions for Materials Listed Above				K. Handling Codes for Wastes Listed Above		
15. Special Handling Instructions and Additional Information						
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations.						
Printed/Typed Name				Signature		Date Month Day Year
17. Transporter 1 Acknowledgement of Receipt of Materials				Signature		Date Month Day Year
18. Transporter 2 Acknowledgement or Receipt of Materials				Signature		Date Month Day Year
19. Discrepancy Indication Space						
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.						
Printed/Typed Name				Signature		Date Month Day Year

EPA Form 8700-22 (3-84)

BILLING CODE 6560-50-C



**Item 4. Generator's Phone Number**

Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

**Item 5. Transporter 1 Company Name**

Enter the company name of the first transporter who will transport the waste.

**Item 6. U.S. EPA ID Number**

Enter the U.S. EPA twelve digit identification number of the first transporter identified in item 5.

**Item 7. Transporter 2 Company Name**

If applicable, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a Continuation Sheet(s) (EPA Form 8700-22A) and list the transporters in the order they will be transporting the waste.

**Item 8. U.S. EPA ID Number**

If applicable, enter the U.S. EPA twelve digit identification number of the second transporter identified in item 7.

**Note.**—If more than two transporters are used, enter each additional transporter's company name and U.S. EPA twelve digit identification number in items 24-27 on the Continuation Sheet (EPA Form 8700-22A). Each Continuation Sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.

**Item 9. Designated Facility Name and Site Address**

Enter the company name and site address of the facility designated to receive the waste listed on this Manifest. The address must be the site address, which may differ from the company mailing address.

**Item 10. U.S. EPA ID Number**

Enter the U.S. EPA twelve digit identification number of the designated facility identified in item 9.

**Item 11. U.S. DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number (UN/NA))**

Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (UN/NA) for each waste as identified in 49 CFR 171 through 177.

**Note.**—If additional space is needed for waste descriptions, enter these additional descriptions in item 28 on the Continuation Sheet (EPA Form 8700-22A).

**Item 12. Containers (No. and Type)**

Enter the number of containers for each waste and the appropriate

abbreviation from Table I (below) for the type of container.

**Table I—Types of Containers**

DM= Metal drums, barrels, kegs  
DW= Wooden drums, barrels, kegs  
DF= Fiberboard or plastic drums, barrels, kegs  
TP= Tanks portable  
TT= Cargo tanks (tank trucks)  
TC= Tank cars  
DT= Dump truck  
CY= Cylinders  
CM= Metal boxes, cartons, cases (including roll-offs)  
CW= Wooden boxes, cartons, cases  
CF= Fiber or plastic boxes, cartons, cases  
BA= Burlap, cloth, paper or plastic bags

**Item 13. Total Quantity**

Enter the total quantity of waste described on each line.

**Item 14. Unit (Wt./Vol.)**

Enter the appropriate abbreviation from Table II (below) for the unit of measure.

**Table II—Units of Measure**

G= Gallons (liquids only)  
P= Pounds  
T= Tons (2000 lbs)  
Y= Cubic yards  
L= Liters (liquids only)  
K= Kilograms  
M= Metric tons (1000 kg)  
N= Cubic meters

**Item 15. Special Handling Instructions and Additional Information**

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States may not require additional, new, or different information in this space. For international shipments, generators must enter in this space the point of departure (City and State) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States.

**Item 16. Generator's Certification**

The generator must read, sign (by hand), and date the certification statement. If a mode *other than* highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode *in addition to* the highway mode is used, enter the appropriate additional mode (e.g., *and rail*) in the space below.

**Note.**—All of the above information *except* the handwritten signature required in item 16 may be preprinted.

\* \* \* \* \*

**TRANSPORTERS****Item 17. Transporter 1****Acknowledgement of Receipt of Materials**

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

**Item 18. Transporter 2****Acknowledgement of Receipt of Materials**

Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

**Note.**—International Shipments—Transporter Responsibilities.

**Exports.**—Transporters must sign and enter the date the waste left the United States in item 15 of Form 8700-22.

**Imports.**—Shipments of hazardous waste regulated by RCRA and transported into the United States from another country must upon entry be accompanied by the U.S. EPA Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into the United States from another country are responsible for completing the Manifest (40 CFR 263.10(c)(1)).

Owners and Operators of Treatment, Storage, or Disposal Facilities

**Item 19. Discrepancy Indication Space**

The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and the waste actually received at the facility.

Owners and operators of facilities located in unauthorized States (i.e., the U.S. EPA administers the hazardous waste management program) who cannot resolve significant discrepancies within 15 days of receiving the waste must submit to their Regional Administrator (see list below) a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (40 CFR 264.72 and 265.72).

Owners and operators of facilities located in authorized States (i.e., those States that have received authorization from the U.S. EPA to administer the hazardous waste program) should contact their State agency for information on State Discrepancy Report requirements.



## EPA Regional Administrators

Regional Administrator, U.S. EPA  
Region I, J.F. Kennedy Fed. Bldg.,  
Boston, MA 02203

Regional Administrator, U.S. EPA  
Region II, 26 Federal Plaza, New York,  
NY 10278

Regional Administrator, U.S. EPA  
Region III, 6th and Walnut Sts.,  
Philadelphia, PA 19106

Regional Administrator, U.S. EPA  
Region IV, 345 Courtland St., NE.,  
Atlanta, GA 30365

Regional Administrator, U.S. EPA  
Region V, 230 S. Dearborn St.,  
Chicago, IL 60604

Regional Administrator, U.S. EPA

Region VI, 1201 Elm Street, Dallas, TX  
75270

Regional Administrator, U.S. EPA  
Region VII, 324 East 11th Street,  
Kansas City, MO 64106

Regional Administrator, U.S. EPA  
Region VIII, 1860 Lincoln Street,  
Denver, CO 80295

Regional Administrator, U.S. EPA  
Region IX, 215 Freemont Street, San  
Francisco, CA 94105

Regional Administrator, U.S. EPA  
Region X, 1200 Sixth Avenue, Seattle,  
WA 98101

*Item 20. Facility Owner or Operator:  
Certification of Receipt of Hazardous  
Materials Covered by This Manifest  
Except as Noted in Item 19*

Print or type the name of the person

accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Items A-K are not required by Federal regulations for intra- or interstate transportation. However, States may require generators and owners or operators of treatment, storage, or disposal facilities to complete some or all of items A-K as part of State manifest reporting requirements. Generators and owners and operators of treatment, storage, or disposal facilities are advised to contact State officials for guidance on completing the shaded areas of the Manifest.

BILLING CODE 6560-50-00



Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

Form Approved. OMB No. 2000-0404. Expires 7-31-86

<b>UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet)</b>		21. Generator's US EPA ID No.		Manifest Document No.		22. Page		Information in the shaded areas is not required by Federal law.					
23. Generator's Name						L. State Manifest Document Number							
						M. State Generator's ID							
24. Transporter _____ Company Name				25. US EPA ID Number		N. State Transporter's ID							
						O. Transporter's Phone							
26. Transporter _____ Company Name				27. US EPA ID Number		P. State Transporter's ID							
						Q. Transporter's Phone							
28. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)						29. Containers		30. Total Quantity		31. Unit Wt/Vol		R. Waste No.	
						No.		Type					
a.													
b.													
c.													
d.													
e.													
f.													
g.													
h.													
i.													
S. Additional Descriptions for Materials Listed Above						T. Handling Codes for Wastes Listed Above							
32. Special Handling Instructions and Additional Information													
33. Transporter _____ Acknowledgement of Receipt of Materials										Date			
Printed/Typed Name					Signature					Month Day Year			
34. Transporter _____ Acknowledgement of Receipt of Materials										Date			
Printed/Typed Name					Signature					Month Day Year			
35. Discrepancy Indication Space													



**Instructions—Continuation Sheet, U.S. EPA Form 8700-22A**

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

This form must be used as a continuation sheet to U.S. EPA Form 8700-22 if:

- More than two transporters are to be used to transport the waste;
- More space is required for the U.S. DOT description and related information in Item 11 of U.S. EPA Form 8700-22.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both inter- and intrastate transportation.

**GENERATORS****Item 21. Generator's U.S. EPA ID Number—Manifest Document Number**

Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in item 1 on the first page of the Manifest.

**Item 22. Page —**

Enter the page number of this Continuation Sheet.

**Item 23. Generator's Name**

Enter the generator's name as it appears in item 3 on the first page of the Manifest.

**Item 24. Transporter — Company Name**

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.

**Item 25. U.S. EPA ID Number**

Enter the U.S. EPA twelve digit identification number of the transporter described in item 24.

**Item 26. Transporter — Company Name**

If additional transporters are used to transport the waste described on this Manifest, enter the company name of

each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.

**Item 27. U.S. EPA ID Number**

Enter the U.S. EPA twelve digit identification number of the transporter described in item 26.

**Item 28. U.S. DOT Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA)**

Refer to item 11.

**Item 29. Containers (No. and Type)**

Refer to item 12.

**Item 30. Total Quantity**

Refer to item 13.

**Item 31. Unit (Wt./Vol.)**

Refer to item 14.

**Item 32. Special Handling Instructions**

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States are *not* authorized to require additional, new, or different information in this space.

**TRANSPORTERS****Item 33. Transporter — Acknowledgement of Receipt of Materials**

Enter the same number of the Transporter as identified in item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

**Item 34. Transporter — Acknowledgement of Receipt of Materials**

Enter the same number as identified in item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Owners and Operators of Treatment, Storage, or Disposal Facilities

**Item 35. Discrepancy Indication Space**

Refer to item 19.

Items L-R are not required by Federal regulations for intra- or interstate

transportation. However, States may require generators and owners or operators of treatment, storage, or disposal facilities to complete some or all of items L-R as part of State manifest reporting requirements. Generators and owners and operators of treatment, storage, or disposal facilities are advised to contact State officials for guidance on completing the shaded areas of the manifest.

**PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS**

8. The authority citation for Part 271 reads as follows:

**Authority:** Sections 1006, 2002 and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6905, 6912, and 6926).

9. Section 271.6 is amended by revising paragraph (d) to read as follows:

**§ 271.6 Program Description.**

(d) Copies of the permit form(s), application form(s), and reporting form(s) the State intends to employ in its program. Forms used by the State for hazardous waste management need not be identical to the forms used by EPA but should require the same basic information, except that the State RCRA program must require the use of EPA Manifest forms 8700-22 and 8700-22A. Where the State preprints information on the Manifest forms, such forms must be submitted with the State's application for approval. Restrictions on preprinting by the States are identified in 40 CFR 271.10(h). Otherwise, the State need not provide copies of uniform national forms it intends to use but should note its intention to use such forms.

10. Section 271.10 is amended by revising paragraph (f)(1) and adding (h)(1)-(h)(3) to read as follows:

**§ 271.10 Requirements for generators of hazardous waste.**

(f) \* \* \*

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery, and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved State program or the federal program. The manifest system must include the use of Manifest form as required by § 262.20(a) and § 262.21. No



other manifest forms, shipping document, or information, other than that required by federal law, may be required by the State to travel with the shipment.

(h) \* \* \*

(1) A State that supplies the manifest form required by § 262.20(a) may preprint information on the form only as follows:

(i) In items A and L, a State Manifest document number; (EPA Form 8700-22, items A; EPA Form 8700-22A, item L);

(ii) In items 11 and 28, a hazardous materials (HM) column for use in distinguishing between federally regulated wastes and other materials according to 49 CFR 172.201(a)(1);

(iii) Anywhere on the form, light organizational marks to indicate proper placement of characters or to facilitate data entry;

(iv) Anywhere in the margin of the form or on the back of the form, any information or instructions that do not require generators, transporters, or owners or operators of hazardous waste management facilities to supply additional information;

(v) In item 16, reference to State laws or regulations following the federal certification; and

(vi) Abbreviations for headings in State optional information spaces (EPA Form 8700-22, items A-H; and EPA Form 8700-22A, items L-Q).

(2) In addition to the federally required information, both the State in which the generator is located and the State in which the designated facility is located may require completion of the following items:

(i) State manifest document number (EPA Form 8700-22, item A; EPA Form 8700-22A item L);

(ii) For generators, State generator identification numbers (EPA Form 8700-22, item B; EPA Form 8700-22A, item M);

(iii) For transporters, telephone numbers and State transporter identification numbers (EPA Form 8700-22, items C, D, E and F; EPA Form 8700-22A, items N, O, P and Q);

(iv) For owners and operators of hazardous waste management facilities, facility telephone number, and State facility identification numbers (EPA Form 8700-22, items G and H);

(v) Codes associated with particular wastes (EPA Form 8700-22, item I; EPA Form 8700-22A, item R);

(vi) Codes associated with particular waste treatment, storage, or disposal methods (EPA Form 8700-22, item K; EPA Form 8700-22A, item T); and

(vii) Additional waste description associated with particular hazardous

wastes listed on the Manifest. This information is limited to information such as chemical names, constituent percentages, and physical state (EPA Form 8700-22, item J; EPA Form 8700-22A, item S).

(3) No State, however, may impose enforcement sanctions on a transporter during transportation of the shipment for failure of the form to include preprinted information or optional State information items

[FR Doc. 84-7166 Filed 3-19-84; 8:45 am]

BILLING CODE 6550-50-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 171 and 172

[Docket HM-145D; Amdt. Nos. 171-78, 172-90]

#### Hazardous Waste Manifest; Shipping Papers

**AGENCY:** Materials Transportation Bureau, Research and Special Programs Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Department of Transportation (DOT) and the Environmental Protection Agency (EPA) today are publishing requirements for a Uniform Hazardous Waste Manifest. These rules are necessary to assure uniform enforcement and to resolve difficulties encountered by shippers and carriers involved in the transportation of hazardous waste, which were brought on by differing State manifest requirements. EPA is adopting a standard format for the manifest and the Materials Transportation Bureau (MTB) is amending the Hazardous Materials Regulations to require use of EPA's standardized hazardous waste manifest form for the transportation of hazardous waste in commerce. MTB has amended § 171.1 of the Hazardous Materials Regulations to delete the reference to EPA interim authorizations, and § 171.3 by revising the Note to paragraph (c)(3). MTB also adopts two amendments pertaining to shipping papers; one is a revision of § 172.201 to recognize that a shipping paper, including a hazardous waste manifest, may consist of more than one page; the other is a revision of § 172.205 to include reference to the EPA form number for the hazardous waste manifest.

**EFFECTIVE DATE:** September 20, 1984, however, compliance with the

regulations as herein amended is authorized on or after March 20, 1984.

#### FOR FURTHER INFORMATION CONTACT:

Lee E. Metcalfe, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On February 26, 1980, the Environmental Protection Agency (EPA) established a manifest system to assure that hazardous wastes designated for delivery to offsite treatment, storage or disposal facilities actually reach their destination. The central element of that system is the "manifest", a control and transport document that accompanies the hazardous waste shipment from its point of generation to its point of destination. On May 22, 1980, MTB issued final regulations, under Docket HM-145A (45 FR 34560), relative to the use and disposition of manifests.

Although EPA considered requiring a uniform manifest form when it developed its regulations, the Agency chose instead only to require that specific information accompany the waste. It did not require the use of a specified format for a manifest. EPA recognized that DOT's regulations already require shipping papers for the transportation of hazardous materials without a requirement for use of a specific form; therefore, EPA concluded that a shipping paper could be used satisfactorily as a manifest if additional information required by EPA was included. By not requiring a specific form EPA's intent was to provide the regulated community with the option of adapting their existing DOT shipping papers to function as manifests as was requested by several commenters in response to the proposed EPA rule (43 FR 58946, Dec. 18, 1978).

Since the introduction of the Federal manifest system, there has been a proliferation of manifests as various States decide to develop and print their own forms. At least 22 States presently require generators to use specific manifest forms, often with varying additional information requirements. This has caused two major problems. First, the lack of uniformity in the manifests required by States has created a substantial burden for both generators and transporters. Prior to the effective date of this rule, a transporter carrying hazardous waste may be required to carry the manifest of each State in which it travels in order to comply with those States' manifest requirements. Failure to carry a State's particular



manifest may delay or prevent shipments from reaching their destination, or subject the transporter to legal action. Under these conditions, a generator may be required to go through the costly and inefficient procedure of filling out several manifest forms with duplicative information in order to ensure that the waste shipment reaches the designated facility. Second, generators with facilities in more than one State are hampered when attempting to standardize manifesting procedures because of a lack of uniform requirements. This prevents multistate generators from achieving efficiency in their information collection activities.

## II. Development of Standard Forms and Rules for Their Use

In an effort to solve these problems, EPA and MTB asked two organizations representing the States and the regulated community to submit suggestions for a uniform manifest. The State group, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the industry group, the Hazardous Materials Advisory Council (HMAC), each developed a set of recommendations concerning the content and use of a uniform manifest which were submitted to EPA and MTB in March of 1981. EPA and MTB reviewed the recommendations, prepared a draft manifest form and met with the ASTSWMO and HMAC committees in July of 1981. Since the current problems associated with the manifest involve both DOT and EPA, the Agencies have worked together to devise a regulatory solution. EPA is amending 40 CFR Parts 262 and 271 (formerly 123) to introduce the Uniform Hazardous Waste Manifest form and to make use of the form a requirement for State interim and final authorization. MTB, in turn, is amending the Hazardous Materials Regulations to require that shippers and carriers of hazardous waste comply with EPA's amendments pertaining to use of the manifest, and to clarify that any State (or political subdivision of a State) law or regulation requiring a different, or additional manifest, is inconsistent with the Hazardous Materials Regulations.

The effect of these amendments is twofold. First, the use of a nationally uniform manifest will be required for all offsite transport of hazardous waste. Second, no State may require a carrier to provide information with or on the manifest which is in addition to that authorized by the uniform manifest system. Thus, no carrier could be required to carry any State manifest form that differs from the EPA form.

Neither the EPA nor DOT amendments prohibit States from requiring additional information from the generator or the treatment, storage or disposal facility concerning a hazardous waste shipment. For example, States may require that the generator (or the treatment, storage, or disposal facility, if the State so chooses) submit a copy of the manifest directly to the appropriate agency of that State. In addition, the State in which the waste disposal facility is located may require that certain disposal-related data be presented to the appropriate State agency or be present at the facility before the facility accepts the waste. Considering that the conventional methods of transmitting data by mail, wire, telephone and other means are very reliable and readily available, MTB is not persuaded that placing additional paperwork burdens on carriers is appropriate or necessary for the safe transportation of hazardous waste. Therefore, while these amendments do not prohibit the transporter from voluntarily carrying such information, they do preclude States from requiring the transporter to do so.

Certain areas of transportation demand a strong predominant Federal role. In the Senate Committee language reporting on what became Section 112 of the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. 1801 et seq., the need for uniform national standards in the field of hazardous materials is strongly indicated. Section 112 of the HMTA expressly preempts any State or local requirement that is inconsistent with the HMTA or the regulations issued thereunder. MTB believes that national uniformity is necessary in this area and that an evolving patchwork of differing State requirements for manifests is clearly inconsistent with the Congressional intent underlying the HMTA. Rather than addressing the differing requirements of the States through proceedings initiated pursuant to 49 CFR Part 107, MTB believes it best to amend its regulations to require use of the Uniform Hazardous Waste Manifest and to revise the Note following § 171.3(c)(3) to make it clear that EPA's instructions and limitations pertaining to a manifest are within the scope of the inconsistency declaration of the paragraph.

Docket HM-145D, Hazardous Waste Manifest was first identified in the April 1, 1982, issue of the Department of Transportation Semi-Annual Regulations Agenda and Review List (47 FR 14080) as a "Significant Regulation." It was believed there would be substantial shipper and carrier industry

as well as State government interest in, and controversy concerning, a hazardous waste manifest system. EPA resolved the only significant problem area by modifying the format of the manifest slightly to allow limited State requested information to be entered on the manifest. As presented in this final rule, the uniform hazardous waste manifest is an EPA standard form and MTB is authorizing it to be used as a shipping paper when it contains the necessary entries to meet shipping paper requirements. The anticipated substantial controversy has not materialized.

## III. Discussion of Comments

A. *General.* In response to Notice No. 82-2 (Docket No. HM-145D, 47 FR 9346, March 4, 1982), MTB received comments from 78 different organizations. Generators accounted for the largest group and all but one of those 52 commenters expressed a general approval of the rules as proposed.

Various agencies of the State governments filed a total of 13 comments. Although the New Jersey Department of Transportation gave its unequivocal support to the proposed rules and the Wisconsin Department of Natural Resources strongly opposed the proposed rules, most State agencies indicated they did see advantages in nationally consistent regulations but expressed only their tentative support for adoption of a uniform hazardous waste manifest. Limited support by the States is generally tied to provisions that: (1) Would have the content of the form modified to include specific data which the States consider essential to effective waste management; (2) allow control of the forms and assignment of unique document numbers to be managed by the States; and (3) permit the States to require use of their own manifest form when the generator and treatment, storage, or disposal facility are both located within the same State.

Comments were also received from six organizations representing carriers or carrier associations. Only the California Trucking Association expressed a disapproval of the proposed rule. Its main objection is to the provision which effectively prohibits States from requiring their own forms for purely intrastate shipments.

Five comments were received from operators of hazardous waste treatment, storage or disposal facilities. Three of those commenters support the proposal and two oppose it.

Finally, ASTSWMO and HMAC filed separate and joint comments which support the concept of the proposed



rules. Their comments do, however, contain recommendation which each organization considers necessary to accomplish the objectives of this rulemaking.

**B. Format of the Uniform Hazardous Waste Manifest.** Practically every comment received in response to the notice of proposed rulemaking contains recommendations that the manifest forms be revised to: include more data elements than were proposed, delete some of the proposed data elements, or incorporate designs which are more suitable for data entry and extraction. Aside from the acceptability of the forms to contain hazard warning, certification, and additional information considered absolutely necessary for all shipping papers, MTB has deferred to EPA's judgment in all other aspects of the development of the manifest document. MTB is satisfied that the format developed by EPA does permit generators to comply with requirements of the Hazardous Materials Regulations applicable to shipping papers. With respect to the commenter's specific recommendations regarding other data elements, MTB advised EPA of the presence of those comments in Docket HM-145D for EPA's consideration in revising the proposed form. Consequently, this document does not address specific comments regarding the format of the Uniform Hazardous Waste Manifest. Interested persons should refer to EPA's final rule appearing elsewhere in this issue of the **Federal Register** for a discussion of comments pertaining to the form.

**C. Intrastate Shipments Transported by Motor Vehicle.** Expanding the scope of the Hazardous Materials Regulations to include the intrastate shipment of hazardous waste in States which operate a hazardous waste program under interim authorization from EPA met resistance only on the issue of required use of the Uniform Hazardous Waste Manifest. Consistent with the Congressional intent discussed earlier in the preamble, MTB believes that a primary element in establishing a uniform national system for safe and effective control of hazardous waste transportation is uniform documentation. This is particularly important as greater emphasis is being placed on enforcement of the Department's Hazardous Materials Regulations (including those applying in particular to hazardous wastes) by highway enforcement agencies of the States. Therefore, this amendment applies to all hazardous waste transportation that is subject to EPA's

manifest requirements specified in 40 CFR Part 262.

**D. Miscellaneous Comments.** Comments filed by the Missouri Pacific Railroad Company express that carrier's concern about individual State requirements which may compel rail carriers to physically handle the Uniform Hazardous Waste Manifest. Presently, § 172.205(f) excepts rail carriers from that process, if the originating rail carrier signs the manifest and in turn obtains the handwritten signature of the person representing the designated facility on the carrier's separately generated shipping paper for the waste. Under this system, the generator sends the original manifest to the designated facility by mail or other means. The rail carrier's shipping paper, in turn, must contain all information required by DOT and EPA on the manifest except for generator and carrier identification numbers and the generator's certification and signature. The Missouri Pacific Railroad Company thinks it is necessary for DOT to restrict States from imposing different shipping paper requirements on railroads so that the railroad's existing automated record handling systems may be preserved. Because § 172.205(f) clearly indicates MTB's intent that rail carriers not be required to physically handle the waste manifest with other documents accompanying freight in a train delivering hazardous waste to a treatment, storage, or disposal facility, no further amendment is considered necessary or appropriate. State requirements which are inconsistent with the Hazardous Materials Regulations are expressly preempted by Section 112 of the HMTA. Where, as here MTB's stated purpose in amending the Hazardous Materials Regulations is to establish a nationally uniform hazardous waste manifest system, the type of State action which DOT is urged to prohibit would clearly be inconsistent and, therefore, preempted. Therefore, the concerns expressed by the Missouri Pacific Railroad Company are resolved by the rule as proposed and adopted by this amendment.

In comments submitted by the Allied Chemical Company, the proposed rule was correctly interpreted as precluding the practice whereby a vehicle which, in a single day, transported multiple shipments of the same type of waste to the same disposal facility could use a single manifest showing cumulative quantities of the waste transported. As that concept is presently being studied by EPA under Docket No. 3002 (Standard for Hazardous Waste Generators: Alternate Manifest) the

Allied Chemical Company comments are considered beyond the scope of Docket HM-145D.

#### IV. Effective Date and Synopsis of Amendments

After considering alternatives for phasing in the Uniform Hazardous Waste Manifest, MTB and EPA have agreed to an effective date six months following publication in the **Federal Register**. This time period was chosen to provide States and the regulated community sufficient time to implement the new hazardous waste manifest.

MTB is amending the Hazardous Materials Regulations to: (1) Remove the qualifying language in § 171.1(a)(3)(i) pertaining to transportation of hazardous waste by motor vehicle in intrastate commerce, thereby making the Hazardous Materials Regulations applicable to all hazardous wastes transported offsite by motor vehicle; (2) Revise the Note following § 171.3(c)(3); (3) Amend § 172.201 to specifically recognize the use of continuation pages for shipping papers, by requiring a showing of the number of pages constituting a multi-page shipping paper; and (4) Amend § 172.205(a) to require that EPA Form 8700-22 (and 8700-22A when appropriate) be used to display mandatory hazardous waste information for all such transportation.

#### V. Classification of Rule; Reporting Requirements; and Impact on Small Entities

**A. Non-Major Rule.** The Materials Transportation Bureau has determined that this regulatory amendment is not a major rule under terms of Executive Order 12291 or significant under DOT's regulatory procedures (44 FR 11034), and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). This determination is made on the basis that: (1) The final rule will have an annual effect on the economy not exceeding \$100 million, (2) there will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions, (3) it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets, and (4) no environmental impact is anticipated, however, if there is any it is expected to be positive, resulting from more positive control over carriers of hazardous



waste. A regulatory evaluation is available for review in the docket.

**B. Paperwork Reduction Act.** Information collection requirements contained in this regulation (§ 172.205) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2137-0034.

**C. Impact on Small Entities.** Based on limited information available concerning size and nature of entities likely to be affected, I certify that this amendment will not, as promulgated, have a significant economic impact on a substantial number of small entities. This determination recognizes that most small entities generate less than 2200 pounds of hazardous waste per month and, therefore, are already excepted from the regulations applicable to hazardous waste transportation.

## VI. List of Subjects

### 49 CFR Part 171

Hazardous materials transportation, and waste treatment and disposal.

### 49 CFR Part 172

Hazardous materials transportation.

In consideration of the foregoing, Parts 171 and 172 of Title 49 Code of Federal Regulations are amended as follows:

## PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.1, paragraph (a)(3)(i) is revised to read as follows:

### § 171.1 Purpose and scope.

(a) \* \* \*

(3) \* \* \*

(i) Hazardous waste.

2. In § 171.3, Note 1 to paragraph (e) is amended by removing the reference "40 CFR 262.21 and 263.11" and inserting, in its place, "40 CFR 262.20(a) and 263.11", and the Note following paragraph (c)(3) is revised to read as follows:

### § 171.3 Hazardous waste.

(c) \* \* \*

(3) \* \* \*

**Note.**—See § 172.205; each manifest must be prepared in accordance with 40 CFR 262.20 including the instructions and limitations specified for preparation of a manifest.

## PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. In § 172.201, paragraph (c) is added to read as follows:

### § 172.201 General entries.

(c) *Continuation page.* A shipping paper may consist of more than one page, if each page is consecutively numbered and the first page bears a notation specifying the total number of pages included in the shipping paper. For example, "Page 1 of 4 pages."

4. In § 172.205, paragraph (a) is revised to read as follows:

### § 172.205 Hazardous waste manifest.

(a) No person may offer, transport, transfer, or deliver a hazardous waste (waste) unless an EPA Forms 8700-22 and 8700-22A (when necessary) hazardous waste manifest (manifest) is prepared in accordance with 40 CFR 262.20 and is signed, carried, and given as required of that person by this section.

(Approved by the Office of Management and Budget under OMB control numbers 2137-0034)

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Issued in Washington, D.C., on March 12, 1984.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84-7167 Filed 3-19-84; 8:45 am]

BILLING CODE 4910-60-M



# 34 CFR Part 690

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Tuesday  
March 20, 1984

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## Part V

### Department of Education

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34 CFR Part 690

Pell Grant Program—Schedule of  
Expected Family Contributions; Final Rule



## DEPARTMENT OF EDUCATION

## 34 CFR Part 690

## Pell Grant Program—Schedule of Expected Family Contributions

AGENCY: Department of Education.

ACTION: Final regulations.

**SUMMARY:** The Secretary issues final regulations for the Pell Grant Expected Family Contribution Schedule for the 1985-86 award year. These regulations are needed to implement the provisions of Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983, Public Law 98-79. The Family Contribution Schedule sets forth the formulas used in determining student eligibility for Pell Grants on the basis of need. The Pell Grant expected family contribution number is also known as the "student aid index (SAI)."

**EFFECTIVE DATE:** These regulations take effect either 45 days after publication in the *Federal Register* or later if Congress takes certain adjournments. It should be noted, however, that these regulatory amendments apply only to the awarding of student financial assistance under the Pell Grant Program for periods of enrollment beginning on or after July 1, 1985. The regulations for the 1984-85 award year, which pertain to the awarding of student financial assistance under the Pell Grant Program for periods of enrollment beginning on or after July 1, 1984 through June 30, 1985, are still applicable. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Brian Kerrigan, Chief, Pell Grant Policy Section, or Deborah Cohen, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education, [ROB-3, Room 4318], 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 472-4300.

**SUPPLEMENTARY INFORMATION:****Background**

Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98-79), enacted on August 15, 1983, requires the Secretary to use, with certain specified modifications, the 1983-84 award year Pell Grant Expected Family Contribution Schedule in award years 1984-85 and 1985-86. The modifications include changes in the family size offsets, and other changes to reflect the most recent and relevant data, such as updating the calendar years. The Secretary is

amending only the relevant sections of the 1984-85 Pell Grant Family Contribution Schedule, and publishing these amendments as final regulations.

A technical revision also is being made to correct an omission in § 690.46 of the 1984-85 Family Contribution Schedule concerning the adjustment to the total expected family contribution for an independent student, based on the number of family members enrolled in programs of postsecondary education. The words "or more" should be added for "4" family members.

**Updating the Family Size Offsets to Account for Inflation**

Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983 requires that the family size offsets for the 1985-86 Pell Grant Expected Family Contribution Schedule be based upon the offsets used in the 1984-85 award year schedule, adjusted by a percentage change equal to the percentage increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, rounded to the nearest \$100. That section also provides that the percentage change is the percentage difference between the arithmetic mean for the period of October 1, 1982, through September 30, 1983, and the arithmetic mean for the period of October 1, 1983, through September 30, 1984. Finally, that section directs the Secretary to publish the family size offset tables for the 1985-86 Pell Grant Schedule immediately after the Secretary of Labor publishes the Consumer Price Index for September, 1984. Therefore, the family size offsets will be published in the *Federal Register* at that time.

**Proposed Self-help Grant Program**

The Secretary has included in the appropriation language for the 1985 Budget request, provisions that will implement a new Self-help Grant Program for the 1985-86 award year that will, if enacted, broaden the goals of the Pell Grant Program.

The Self-help Grant Program is designed to provide grant aid as a supplement to the family's and student's self-help contributions toward educational costs at postsecondary institutions. The Administration's Fiscal Year 1985 budget request provides for full funding of awards of up to \$3,000 for qualified students. As the cost of education increases, students will qualify for larger Self-help Grant awards and will also be required to make a larger self-help contribution. Therefore, while restoring some of the traditional responsibility for educational costs to

the student and family, substantial grant aid is provided to ensure not only access to but a wider choice of institutions, particularly for low-income students.

**Description of the New Self-help Grant Program**

There will be two elements for determining a student's financial eligibility for the Self-help Grant Program. The first element will be the expected family contribution as determined by this final regulation, except that an increase in the assessment rates on discretionary income for the family of a dependent student will be proposed. The second element will be a self-help contribution from the student which will be included in the award calculation.

The calculation used in determining the student's award will, in general, provide for a minimum self-help expectation of \$500 or 40 percent of the cost of attendance. The expectation rises as the cost of attendance increases.

The calculation used to determine a student's grant under this new program will be the least of the following:

- Cost of attendance minus \$500 minus expected family contribution;
- Cost of attendance minus 40 percent of cost of attendance minus expected family contribution;
- \$1,000 plus 25 percent of cost of attendance minus expected family contribution;
- Maximum grant minus expected family contribution.

The student's self-help contribution can be met through work earnings, loans or other aid. Supplemental grants available to students may not contribute to the Self-help expectation.

The allowable cost of attendance for the new program would be direct educational costs (tuition and fees) plus an allowance for indirect costs (a maximum of \$3,000 for students not living at home and \$1,500 for students living at home). Except for these numerical changes in the indirect cost allowances, the cost of attendance regulations for the Self-help Grant program will be identical to the current Pell Grant cost of attendance regulations. The cost of attendance regulations for the Self-help Grant would be published later in the year.

The Self-help Grant Program has a number of advantages over the existing Pell Grant Program. Under the new program all students will have a greater opportunity to attend the postsecondary institution of their choice because students will be able to qualify for larger



awards at higher cost schools. Under current law, no student's Pell Grant would vary at any institution with a cost of attendance above \$3,800. Under the new program, a student's Self-help Grant would continue to increase up to a cost of attendance of \$8,000. The maximum Self-help Grant would be \$3,000 for the 1985-86 award year.

Another advantage of the new Self-help Grant Program is that it would more equitably distribute federal financial assistance to students. The Self-help Grant award calculations would reduce the grants of middle income students attending low cost schools as compared to other students at the same institutions who have a higher financial need. Under the existing program, two students attending the same low cost institution may receive the same award even though one student is from a low income family and another student is from a middle income family.

The Self-help Grant Program, therefore, is designed to assure equity by targeting awards to the most economically disadvantaged students, by relating the level of awards directly to the family's ability to contribute to educational costs, and by making awards more sensitive to the cost of education.

By improving award accuracy and by distributing funds more equitably, a \$3,000 maximum grant can be provided under the President's budget request of \$2.8 billion.

#### Proposed Statutory Change to the Expected Family Contribution Schedule Under the Self-help Grant Program

The Secretary is proposing a legislative change to the schedule of expected family contributions for the assessment rates on the discretionary income of the family of a dependent student. A legislative change would be necessary because assessment rates are statutorily set under Pub. L. 98-79. The Secretary proposes to increase the rates on discretionary income. Discretionary income is the income that remains after income taxes and all of the other offsets are subtracted from the total income of the family. Both the current and proposed assessment rates for the family of a dependent student require the first \$15,000 of discretionary income to be divided into three equal amounts, and the rates applied accordingly. That is, the first, second, and third \$5,000 of discretionary income are assessed at certain rates. The amounts above \$15,000 also are assessed at a certain rate. Under current law, as reflected in this final regulation, the first \$5,000 is assessed at 11 percent, the second

\$5,000 is assessed at 13 percent, the third \$5,000 is assessed at 18 percent, and amounts above \$15,000 are assessed at 25 percent. Under the proposed legislation for the Self-help Grant Program, the first \$5,000 would be assessed at 18 percent, the second \$5,000 would be assessed at 20 percent, the third \$5,000 would be assessed at 25 percent, and amounts above \$15,000 would be assessed at 30 percent.

If Congress provides legislation to authorize the Self-help Grant Program, the Secretary will publish regulations implementing that legislation.

#### Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

#### Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations revise the Pell Grant Family Contribution Schedule used in determining student eligibility for Pell Grants. They do not have an impact on small entities.

#### Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

#### Waiver of Rulemaking

In accordance with Section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the changes made in these regulations are specifically directed by Section 4 of Public Law 98-79 and establish no new substantive policy. Public comment could have no effect on the content of these regulations. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(3)(B), that proposed rulemaking on these regulations is unnecessary and contrary to the public interest.

#### List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of

disadvantaged, Grant programs—education, Student aid.

#### Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: March 13, 1984.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.063; Pell Grant Program)

The Secretary amends Part 690 of Title 34 of the Code of Federal Regulations as follows:

#### PART 690—PELL GRANT PROGRAM

##### § 690.32 Special Definitions. [Amended]

1. In § 690.32, under the definition for "Dependent of the student's parents," "1984-85" is amended to read "1985-86."

2. In § 690.32, under the definition "medical expenses," "1983" is amended to read "1984" and "1984" is amended to read "1985."

##### § 690.33 Effective family income. [Amended]

3. In § 690.33(b)(1), "1983" is amended to read "1984."

4. In § 690.33(b)(2), "1984-85" is amended to read "1985-86."

5. In § 690.33(f), "1983 or 1984" is amended to read "1984 or 1985."

##### § 690.33a Effective student income. [Amended]

6. In § 690.33a(b), "1983" is amended to read "1984."

7. In § 690.33a(f), "June 1, 1984 through May 31, 1985" is amended to read "June 1, 1985 through May 31, 1986," and "1983" is amended to read "1984."

##### § 690.34 Computation of the expected family contribution for a dependent student from the effective family income. [Amended]

8. In § 690.34(a)(1)(i), "A family size offset in the amount specified in the following table."

FAMILY SIZE OFFSETS

Family members	Amount
2	\$6,000
3	7,300
4	9,300
5	11,000
6	12,400

Plus \$1,600 for each additional family member over 6," is amended to read "A family size offset. (The Secretary determines the amount of the family size offsets in accordance with section 5 of the Student Financial Assistance



Technical Amendments Act of 1982 as amended by the Student Loan Consolidation and Technical Amendments Act of 1983. The Secretary publishes a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September.)

9. In § 690.34(a)(2), "1983" is amended to read "1984" and "1984" is amended to read "1985."

10. In § 690.34(a)(3)(ii), "1983" is amended to read "1984" and "1984" is amended to read "1985."

11. In § 690.34(a)(4), "1983" is amended to read "1984" and "1984" is amended to read "1985."

**§ 690.34a Computation of the expected family contribution for a dependent student from the effective student income. [Amended]**

12. In § 690.34a(a)(1), "If the parental discretionary income is positive, the dependent student offset, which is derived from the family size offset (See § 690.34(a)(1)(i)), is in the amount specified below:

**DEPENDENT STUDENT OFFSET**

Single student.....	\$3,200
Married student.....	4,700

is amended to read "If the parental discretionary income is positive, the dependent student offset, which is derived from the family size offset, will be the amount published in the **Federal Register** along with the family size offset. (See § 690.34(a)(1)(i))."

**§ 690.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student. [Amended]**

13. In § 690.39(a), "1984" is amended to read "1985."

14. In § 690.39(a)(1), "1983" is amended to read "1984" and "1984" is amended to read "1985."

15. In § 690.39(a)(2), "1983" is amended to read "1984," "1984" is amended to read "1985," and "1983 or 1984" is amended to read "1984 or 1985."

16. In § 690.39(a)(3), "1983" is amended to read "1984" and "1984" is amended to read "1985."

17. In § 690.39(a)(5), "1983" is amended to read "1984," "after the

submission of an earlier application for 1984-85" is amended to read "after the student has submitted his or her application," and "1984" is amended to read "1985."

18. In § 690.39(b), "1984" is amended to read "1985."

**§ 690.42 Special definitions. [Amended]**

19. In § 690.42, under the definition for "Dependent," "1984-85" is amended to read "1985-86."

**§ 690.43 Effective family income. [Amended]**

20. In § 690.43(b)(1), "1983" is amended to read "1984."

21. In § 690.43(b)(2), "1984-85" is amended to read "1985-86."

**§ 690.44 Computation of the expected family contribution for an independent student from the effective family income. [Amended]**

22. In § 690.44(a)(1)(i), "A family size offset in the amount specified in the following table.

**FAMILY SIZE OFFSETS**

Family members	Amount
1.....	\$4,700
2.....	6,000
3.....	7,300
4.....	9,300
5.....	11,000
6.....	12,400

Plus \$1,600 for additional family member over 6." is amended to read "A family size offset. (The Secretary determines the amount of the family size offset in accordance with section 5 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by the Student Loan Consolidation and Technical Amendments Act of 1983. The Secretary publishes a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September.)"

23. In § 690.44(a)(2), "1983" is amended to read "1984" and "1984" is amended to read "1985."

24. In § 690.44(a)(3)(ii), "1983" is amended to read "1984" and "1984" is amended to read "1985."

25. In § 690.44(a)(4), "1983" is amended to read "1984" and "1984" is amended to read "1985."

**§ 690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education. [Amended]**

26. In § 690.46(b):

"Number of family members enrolled in programs of postsecondary education"	Expected contribution per student from combined contributions
1.....	100 percent of the contribution determined in paragraph (a).
2.....	70 percent of the contribution determined in paragraph (a).
3.....	50 percent of the contribution determined in paragraph (a).
4.....	40 percent of the contribution determined in paragraph (a).

is amended to read,

"Number of family members enrolled in programs of postsecondary education"	Expected contribution per student from combined contributions
1.....	100 percent of the contribution determined in paragraph (a).
2.....	70 percent of the contribution determined in paragraph (a).
3.....	50 percent of the contribution determined in paragraph (a).
4 or more.....	40 percent of the contribution determined in paragraph (a).

**§ 690.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student. [Amended]**

27. In § 690.48(a), "1984" is amended to read "1985."

28. In § 690.48(a)(1), "1983" is amended to read "1984" and "1983" is amended to read "1984."

29. In § 690.48(a)(2), "1983" is amended to read "1984" and "1984" is amended to read "1985."

30. In § 690.48(a)(3), "1983" is amended to read "1984," and "1984" is amended to read "1985," and "1983 or 1984" is amended to read "1984 or 1985."

31. In § 690.48(a)(4), "1983" is amended to read "1984" and "1984" is amended to read "1985."

32. In § 690.48(a)(6), "1983" is amended to read "1984," and "after the submission of an earlier application for 1984-85," is amended to read "after the student has submitted his or her application."

33. In § 690.48(b), "1984" is amended to read "1985."

(Sec. 4 of Pub. L. 98-79)

[FR Doc. 84-7285 Filed 3-19-84; 8:45 am]

BILLING CODE 4000-01-M



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**Tuesday  
March 20, 1984**

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**Part VI**

**Department of  
Energy**

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**Office of Civilian Radioactive Waste  
Management; Toll-Free Telephone  
Information Service; Notice**



DEPARTMENT OF ENERGY  
OFFICE OF CIVILIAN UTILITIES  
WASHINGTON, D.C. 20545

Part VI

Department of Energy  
Office of Civilian Utilities  
Washington, D.C. 20545



**DEPARTMENT OF ENERGY****Office of Civilian Radioactive Waste Management; Toll-Free Telephone Information Service**

On June 27, 1983, the U.S. Department of Energy (DOE) and the U.S. Nuclear Regulatory Commission (NRC) entered into a Procedural Agreement (FR 48:38701) which outlines the procedures which DOE and NRC will observe in their interactions on the characterization of sites for a geologic repository under the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425, 96 Stat. 2201). The Procedural Agreement specifies that schedules for activities

pertaining to technical meetings between DOE and NRC will be made publicly available by DOE in a timely manner with members of the public invited to attend as observers.

To provide members of the public with timely information pertaining to the time, location and agenda for all such public meetings, DOE has established a toll-free telephone information service as follows:

For calls originating in Maryland—800-492-4610

For calls originating in the other 49 States—800-368-2235

Callers using the toll-free numbers will hear a recorded tape describing

scheduled public meetings between DOE and NRC for the upcoming three month period. Members of the public are invited to attend these meetings as observers.

For additional information about the toll-free telephone information service contact: Mark W. Frei, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, RW-23 (GTN), Washington, D.C. 20545.

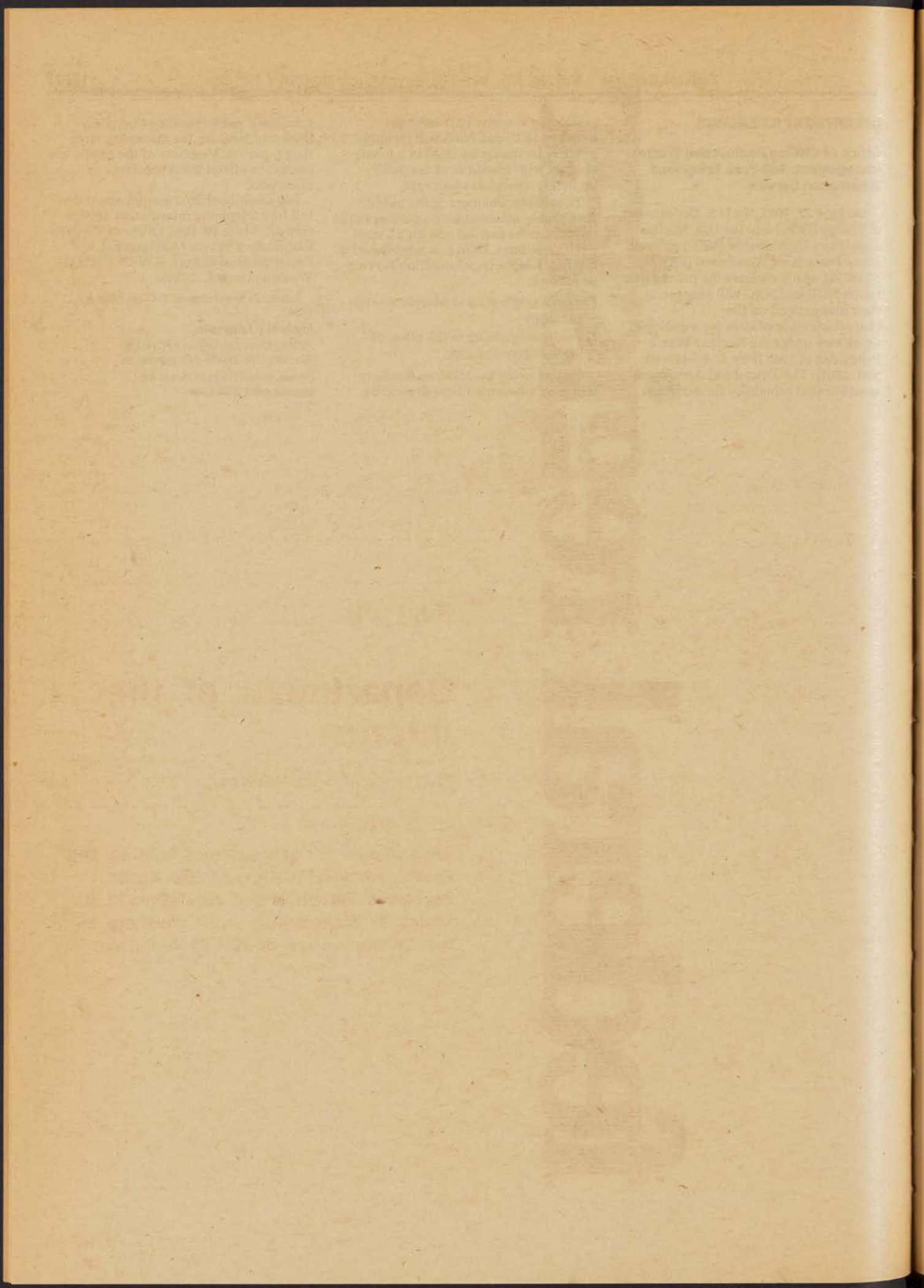
Issued in Washington, D.C. on March 8, 1984.

**Michael J. Lawrence,**  
*Acting Director, Office of Civilian  
Radioactive Waste Management.*

[FR Doc. 84-7415 Filed 3-19-84; 8:45 am]

**BILLING CODE 6450-01-M**







# United States Federal Register

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Tuesday  
March 20, 1984

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## Part VII

### Department of the Interior

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#### Fish and Wildlife Service

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#### 50 CFR Part 17

Endangered and Threatened Wildlife and  
Plants; Reclassification of the Arctic  
Peregrine Falcon and Clarification of Its  
Status in Washington and Elsewhere in  
the Conterminous United States; Final  
Rule



## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**Endangered and Threatened Wildlife and Plants; Reclassification of the Arctic Peregrine Falcon and Clarification of Its Status in Washington and Elsewhere in the Conterminous United States**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** Three separate rules are promulgated: (1) The Service reclassifies the Arctic peregrine falcon (*Falco peregrinus tundrius*) from endangered to threatened status (there is no significant change in protection of this subspecies under the Endangered Species Act); (2) the range and status of the peregrine falcons in western Washington are clarified [for the purposes of the Act those falcons nesting in Washington are classified as the endangered American peregrine falcon (*Falco peregrinus anatum*)]; (3) any free-flying peregrine falcon found within the conterminous 48 States will be protected from illegal take under the Similarity of Appearance provisions of the Act. These actions are taken following the statutorily mandated 5-year review of this species. No net change in protections afforded this species will occur.

**DATE:** These rules become effective April 19, 1984.

**ADDRESSES:** The complete file for these rules is available for inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia (703/235-1975).

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703-235-2771).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Service is required to conduct a status review of each species listed at 50 CFR 17.11 and 17.12 at least once every 5 years. This requirement stems from the amendments to Section 4 of the Endangered Species Act of 1973 signed into law on November 10, 1978. The rules at 50 CFR 424.20 implement this requirement of the amended Act. Subsequently, the Service published a notice of review for all species listed prior to 1975 in the *Federal Register* of

May 21, 1979 (44 FR 29566-29577), that included the two listed subspecies of North American peregrine falcons—American and Arctic. This rule is based upon data accumulated in the Service's Office of Endangered Species through December 1983.

The American peregrine falcon (*Falco peregrinus anatum*) and the Arctic peregrine falcon (*F. p. tundrius*) were added to the U.S. Department of the Interior's list of foreign endangered species on June 2, 1970 (35 FR 8495) and to the native list on October 13, 1970 (35 FR 16047). The basis for adding two of the three North American subspecies to this list was the realization, in the late 1960's, that DDT and its metabolites (hereafter referred to only as DDT) were having a direct negative impact on these falcons' survival. Only the Peale's peregrine falcons (*F. p. pealei*), which nests from the Aleutian Islands east and south to Vancouver Island, were found to be reproducing at near normal levels with only traces of DDT.

The Service proposed (48 FR 8796-8802 March 1, 1983) three changes for peregrine falcons under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*): (1) The Arctic peregrine falcon (*Falco peregrinus tundrius*) would be reclassified from endangered to threatened throughout its range (northern Alaska to Greenland); (2) the peregrines found nesting in western Washington would be considered American peregrine falcons (*Falco peregrinus anatum*) for the purposes of the Act and are, therefore, classified as endangered; and (3) all free-flying peregrine falcons found within the 48 conterminous States would be treated as endangered under the Similarity of Appearance provisions of the Act and, therefore, take would be prohibited, except under a permit (50 CFR 17.22, 17.32, 17.53).

**Summary of Comments and Recommendations**

Some 71 comments were received on this proposal. Twenty-three States (plus the Virgin Islands), 5 other Federal agencies, and 42 individuals, groups, or other entities provided comments, many quite extensive. The Canadian Wildlife Service (CWS) acted as an intermediary between the Provincial Governments (which are responsible for the management of Canadian raptors) and the U.S. Fish and Wildlife Service on this matter and provided a lengthy comment.

**Similarity of Appearance Rule**

As the proposal indicated, pursuant to the "Similarity of Appearance" provisions of Section 4(e) of the Act,

species (or subspecies or other groups of wildlife), which are not considered to be endangered or threatened, may nevertheless be treated as such for the purpose of providing protection to a species that is biologically endangered or threatened. Under this Similarity of Appearance provision (implemented by 50 CFR 17.50) the Service must find: (a) That the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in identifying listed from unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the purposes of the Act.

Therefore, the Service, in order to further the purposes of the Act, made the following finding in the proposal: (1) Enforcement personnel, as well as nearly all other persons, would be unable to routinely separate the presently listed stocks (i.e., American or Arctic peregrine falcons) from the unlisted stocks; (2) enforcement personnel would not always be able to separate the endangered American peregrine falcon from the threatened Arctic peregrine falcon; and (3) that the illegal take of any peregrine falcons in areas where listed populations occur would be without regard for, or forehand knowledge of, the status of that particular individual falcon, and thus poses direct and indirect threats to the wild native birds.

The Service is now listing all free-flying *Falco peregrinus*, not otherwise identifiable as a listed subspecies, to be endangered under the "Similarity of Appearance" provision in the 48 conterminous States.

This part of the proposal was widely accepted by nearly all those commenting on this rule. Several commentators did ask why the rule was not extended to either Alaska or Canada. In the case of Alaska, this rule would have then covered the Peale's peregrine falcon (*Falco peregrinus pealei*), an unlisted subspecies. The Peale's peregrine does not qualify for listing. Similarity of Appearance treatment is not needed because its range does not ordinarily overlap that of the other listed peregrines in Alaska. The illegal take of peregrines in Alaska has been concentrated almost exclusively to nest sites (eggs or young), where identification as to subspecies is more easily determined.

In the case of Canada, the Act only applies to persons under the jurisdiction



of the United States. The take of a U.S. listed species within U.S. jurisdiction or on the high seas is a violation of the Endangered Species Act. (The Act would, however, control import and commercial activities for such species in interstate or foreign commerce involving persons under U.S. jurisdiction.)

Several persons expressed some confusion as to either the purpose or need for a "Similarity of Appearance" provision. Within the lower 48 States, the Similarity of Appearance provision would protect from take any *Falco peregrinus* as an endangered species. The value of this provision is that in some cases where the legal take of peregrines is planned, some of these birds may, in fact, be the subspecies *anatum* and, therefore, in need of the strictest protection possible under the Act. For example, a person authorized to take Peale's falcons on the West Coast (WA, OR, CA) could unintentionally trap an *anatum*. The review of such permits and other similar activities would be for the protection of such *anatum*.

Other examples given in the proposal included a side benefit to those falcons being released under restoration projects in various parts of the country. Regardless of their genetic origin, all peregrines released under this program would receive full protection from take under the Act. Shooting, for example, these or any other peregrines in the lower 48 States would be a violation of the Act under this provision.

#### Clarification of American Peregrine Falcon Status

As indicated in the proposal, one of the areas with persistent problems as to the identification (*ergo*, legal status) of some falcons has been the Olympic Peninsula of Washington. A few pairs of falcons nest there, and other falcons are seen in migration or during the winter. The Service believes that most of the nesting birds and some of the non-nesting birds are only an extension of the endangered *anatum* populations to the east and south. The nesting pairs in this area have been identified as *pealei* by some authorities and *anatum* by others. Based upon the best available scientific and commercial data, the Service has determined that this population is *anatum* for the purposes of the Act and should be so classified. Therefore, the Service gives notice that all peregrine falcons found nesting in Washington, not just those east of the Olympic Peninsula, would be recognized as American peregrine falcons and, therefore, treated as endangered for the purposes of the Act.

Several comments were received indicating that the peregrines in that area should not be listed under the Act because they believed these were Peale's falcons, and such birds should be left available for use by falconers. The State of Washington already classifies all *Falco peregrinus* as endangered and does not now allow the take of any peregrine falcons, except under strict permit. The State of Washington pointed out that only three active nest sites are known, and the population is still in a precarious condition statewide.

Several other comments indicated some confusion on what the effect of this rule would be. Only a few falcons in western Washington are affected. For the purposes of the Act, those birds are now considered American peregrine falcons and will be treated as an endangered species. Such falcons will receive the full protection of the Act (e.g., Sections 7 and 9).

#### Reclassification of the Arctic Peregrine Falcon to Threatened

This rule changes the status at 50 CFR 17.11 of the falcons now listed under "Falcon, Arctic peregrine, *Falco peregrinus tundrius*" from endangered to threatened. This rule formally recognizes the relative security of this population from being no longer in danger of extinction throughout a significant portion of its range.

Most of the comments received addressed this rule. Approximately one-quarter of the comments did not support reclassification to threatened at this time. Two-thirds did support reclassification. The remainder either had no comment on this issue or wanted the Arctic peregrine removed from the list. Specific comments opposed to the rule as proposed and the Service's responses are given below.

One of the major concerns expressed to the Service was the use of the Lincoln Index calculation to arrive at some estimate of the falcons' populations in the proposal. The Lincoln Index uses the following proportion: the number of nestlings banded is to the number of all nestlings as the number of banded birds caught in fall migration is to the total trapped sample. The formula, data, and assumptions were presented in detail in the proposal (48 FR 8797), to which the reader is referred. Several comments attempted to show how changing the numbers used in the calculation would influence the resulting estimate. Many questioned whether 20,000 peregrines were produced in the northern latitudes each summer as apparently reported by the calculations.

The purpose of using the index was to get a general estimate of peregrine populations: were there a few hundred pairs or perhaps a few thousand pairs? Since only a very small percentage (<3 percent) of the peregrines banded as nestlings is retrapped that first fall, then the remaining unbanded proportion (>97 percent) trapped in the fall indicates a substantial number of young were not banded in the nest. In 1983, nearly 1,000 peregrines were banded either in the nest (north of 55°) or on fall migration in the U.S., Canada, Greenland, and Mexico. Less than 3 percent of the banded nestlings were retrapped. Again, it is clear that the banders did not come close to banding a large proportion of the entire 1983 production as only a few of the falcons banded in nests were trapped on fall migration.

Two specific comments were that not all the Alaska birds banded there were Arctic peregrines and that some of those from that part of North America migrate down the West Coast, where no significant fall trapping occurs. The Lincoln Index was used to get a gross estimate for all peregrines produced north of 55°N. latitude. From other sources the Service knows that the American peregrine represents a smaller fraction of that production: Alaska, estimated 50-100 pairs; northwest Canada, 10-75 pairs; and eastern Canada, 25-100 pairs. The North Slope of Alaska, all of Canada above the tree line, and Greenland may have a few thousand pairs of Arctic peregrine falcons.

The assumptions that pertain to the use of the Lincoln Index do not require all the marked birds to pass by a trapping station. So long as the behavior of the unbanded nestlings does not differ from the behavior of the banded nestlings (e.g., 50 percent of all Alaskan birds migrate down the West Coast), then the basic assumptions are met. Other commenters noted that males are less frequently trapped along the coast in autumn. Again, the banded nestlings represented the same male to female ratios that were assumed to be present in the unbanded sample of nestlings. Removing the banded nestling males reduces the  $n_1$  values (see 48 FR 8797 for details) by the expected 50 percent. Similar adjustments for the other values still yields estimates of the numbers of female peregrines produced each year that are similar to the original estimates for both sexes.

Several individuals commented on the lack of any trapping stations on the West Coast of the United States. They argued that such stations would



increase, perhaps, the number of Alaska-banded birds in the sample and "therefore" decrease the Lincoln Index estimates. There are two problems with this idea. First, not all the peregrines that would be trapped along the West Coast of the U.S. would be from the area north of 55°. Some could be *anatum* (or *pealei*) from the western States and Provinces, particularly further south in California. Peregrines originating south of 55° could account for more than 10 percent of the unbanded sample, if such stations were operated. Secondly, the Lincoln Index uses the "total trapped" at such fall migration stations.

Presumably, 95-98 percent of any such sample would be unbanded when trapped. Even if a substantial number (more than 3 birds) were already banded when caught at a station, the total trapped would be added to the totals of all stations. The index would still indicate that more than a few thousand peregrines are being produced to the fledging stage in the area north of 55°.

Two letters asked if two specific retrap records of banded falcons were included in the Lincoln Index calculations. One record (Greenland to Mexico) was already included, while the second (Alaska to Washington) was known but rejected for the reasons given above. No new records were brought to the attention of the Service to otherwise alter the data presented in the proposal.

Other comments suggested that the banded birds may not migrate the same way as the unbanded. In other words, the banded sample may not be representative of the population as a whole. This would be a possibility, if peregrines migrated in the same traditional manner as such groups as cranes, swans, and geese. Falcons banded in the same area have been encountered in a broad range of migration paths and wintering grounds. Not one reasonable sample (>40) of banded falcons has shown an exceptional band retrap rate (>5 percent) or the use of a single migration route. In the context of the entire Arctic, such banding samples are not being selected for banding and their possible migration route. (Accessibility and numbers of falcons are more the determining factors in the choice of banding falcons.) Thus, unbanded birds can be expected to arrive at any trapping station in the same relative proportion as the banded nestlings.

In summary, the index does yield a gross estimate of the number of peregrines produced each summer. The index only gives a rough estimate in answer to the question: Are the banded nestling falcons a small or large

proportion of all the nestlings in the areas north of 55°? All of the estimates show a relatively large number of peregrines is involved. The Service does not believe it necessary to make a specific estimate of the size of the population, except to observe that the production almost certainly exceeds 3,000 young per annum and may be increasing. Therefore, this estimate, when used in conjunction with estimates of pairs of both American and Arctic peregrines from different portions of their total range, does not support the continued listing of at least the Arctic subspecies as endangered. This estimate is only one small part of all the information used by the Service in the overall assessment of the status of these birds, as indicated in the proposal.

The Service has used additional evidence in its assessment of the status of these falcons: rough population estimates, nesting productivity, fall migration counts, and DDT levels in migrant falcons. The Act requires the Service to use the best available scientific and commercial data in evaluating the status of any species. The proposed reclassification of the Arctic peregrine (and the retention of the American peregrine as endangered) was suggested to the Service in 1980 as a result of the 5-year review. That recommendation came principally from the Eastern Peregrine Falcon Recovery Team and the Peregrine Fund.

The second major point raised by several who commented dealt with the Alaska Peregrine Falcon Recovery Plan. This plan is concerned with the two listed falcons in Alaska and was approved by the Service in October 1982 after some 7 years in various drafts and revisions. The team preparing this plan was given the charge to define recovery goals for the falcons in Alaska but not throughout the range of the two subspecies. In the proposed reclassification, the Service reviewed the status of all peregrines nesting in North America, not just those in Alaska. In that context, it remains the view of the Service that the Arctic subspecies is clearly no longer in danger of extinction throughout all or a major portion of its range. Alaska may represent about 10 percent of the total Arctic peregrine population. The above recovery plan remains a useful document for the management of peregrines within Alaska, but it was not intended to address peregrine recovery considerations over all of North America.

Other specific comments and responses concerning the proposed reclassification are given below.

The Service estimated that approximately 90 percent of the adult peregrines showed low DDT (herein, includes DDE) blood levels on the Texas Gulf Coast in the spring. One comment indicated those data may be biased, as "it is not known how many birds failed to make it to the sampling station . . . because of pesticide-induced stress." The Service believes that this sample is representative of the peregrines headed towards the Arctic and sub-Arctic regions of North America. Any that did not make it to the latitude of south Texas from such stress very probably failed to reach their nesting grounds as well. This does not mean the Service believes all peregrines pass over the trapping stations in Texas, only that a large random assortment occurs there in spring migration.

A few States and others indicated they had concerns that this proposal might lead to some form of take of peregrines for falconry purposes. The rule was definitional and does not expand the situations in which Arctic peregrines can be taken. In order for threatened birds to be taken for falconry, a special rule (50 CFR 17.41) would have to be proposed and finalized to allow for any such use. This final rule does not reduce the protection afforded the Arctic peregrine falcon beyond the general restrictions and exceptions at §§ 17.31 and 17.32 for the take of any threatened species. Endangered species may be taken under special permit only for scientific research or for enhancing the propagation or survival of the species (§ 17.22). In addition to those purposes, threatened species may be taken under permit for zoological exhibition, educational, or other special purposes consistent with the purposes of the Act (§ 17.32).

The Service has promulgated final rules to allow for the sale of captive produced raptors, including listed peregrine falcons (48 FR 31600-31610, July 8, 1983). The Service does not intend to allow the take of wild American or Arctic peregrine falcons for the purposes of falconry until these subspecies are removed from the List of Endangered and Threatened Wildlife.

Several commenters suggested that only the full species, *Falco peregrinus*, should appear on the list at 17.11, and then geographic populations could be "clearly defined." The Service prefers to use the subspecific entries in the list, so long as actions taken with respect to any falcon can be reasonably identifiable as to their effect upon American or Arctic peregrines or both. In either case, the actual effect under the law is that there are no differences



between the two classifications. Penalties are the same regardless of the bird being classified as endangered or threatened. The effect of this reclassification rule is definitional; the Service believes that the Arctic peregrine is no longer in danger of extinction, although threats do remain. To delimit in precise geographical terms all the boundaries between various subspecies of this species, when such boundaries have no management value nor assist Federal agencies in satisfying their Section 7 responsibilities, would serve no benefit to the species.

Several comments were received that the Service had not adequately addressed the continued use of DDT south of the United States—the principal wintering grounds for the bulk of the Arctic and American peregrine falcons. Some assessment of current, past, and expected future usage rates could have been done. Regardless, if 1 pound or billions of pounds of DDT have been used in the past decade, the returning nesting falcons and their productivity levels have provided a reasonably clear index of the effect of the contamination and have not indicated that DDT is still a critical biological problem for the falcon.

Moreover, correlating varying usage rates in various countries to contamination rates of returning breeders would be difficult. Individual breeders from the same nesting area may winter thousands of miles apart or be feeding on different prey and, therefore, be exposed to totally different levels of environmental contamination. The Service believes that data such as nesting success and contaminant levels in the blood of spring migrants give an overall picture of significant levels of DDT contamination in only a small portion of the breeding-aged falcons. If, for example, half the eggs were failing to hatch because of DDT and half the spring blood samples were likewise at high DDT levels, then the falcons would still be under very severe stress from this environmental threat. Therefore, under such circumstances, the Service would not have considered reclassification from endangered to threatened for the Arctic peregrine falcon.

Several commenters from Alaska indicated that the change to threatened for the Arctic peregrines could produce several undesirable results. Monies for studies on the bird might be in shorter supply with a "lower" status level. Developers and land managers could reduce their concern for the birds and start projects that could be detrimental to some nesting falcons. The Service

appreciates these concerns. However, all Federal agencies must still follow the requirements under Section 7 of the Act. Section 7 makes no distinction whatsoever between treatment of endangered and threatened species. Also, Section 4(a) of the Act does not allow concern for the availability of research or management monies to influence the determination of an endangered, threatened, or unlisted classification for a species.

Several comments suggested that the 1981–82 nesting productivity data from the North Slope of Alaska may be atypical and not to be expected in the future. The data for 1983 was the highest (2.2 young produced per known nesting attempt, 1981–83 average was 1.73) yet recorded, since the first data were obtained in the early 1950's. The 5-year (1979–83) mean for this area was 1.59 young per known attempt. (The Alaska recovery plan calls for 1.4, although that level was not reached in the years 1979 and 1980.) The initial studies in the 1950's estimated about 1.0 young per attempt was normal and required to maintain the population.

One comment was received from a biologist regarding the Service's statement in the proposal that there had been a gradual improvement over the past 5–6 (now 6–7) years in productivity in the Arctic. His own data from Greenland showed a weighted mean of 1.97 young per attempt for the past 12 years, but in the first 6 years (1972–1977) only 1 year (1973: 2.2) was above the mean, while in the past 6 only 1 (1979: 1.6) was below the mean. The same general trend appears to be working in Greenland, although the population there was never known to have suffered the dramatic reproductive failures seen in the western Arctic populations in the late 1960's and early 1970's. (The lowest productivity reported from Greenland was 1.50 for 3 years: 1974, 1975, and 1977.)

Several comments were received that the North Slope, Alaska, population is not nearly as well off as the American peregrines in the central part of Alaska (mostly Yukon River drainage). The Service agrees that the Alaskan population of American peregrine falcons is in stable condition. However, it is just about the only American peregrine population in such a condition. South and east from this population there are many areas now devoid of nesting American peregrines or areas with a few pairs producing a relatively small number of young per nest. In the case of such a wide ranging species, the Service considers either whole subspecies or very large segments of

peregrine populations for listings or reclassifications.

Other comments were made that the proposal frequently combined some known data for Alaskan *anatum* populations with those of *tundrius*, particularly with respect to the Lincoln Index discussed above. The Service is now reclassifying the Arctic peregrine falcon and acknowledges that some of the adjacent populations (frequently referred to as "Taiga birds") may be doing as well or better than some *tundrius* populations.

At the present time, taxonomists usually assign these Taiga birds to the *anatum* subspecies. Others suggest that these are in the zone of intergradation (interbreeding of two adjacent subspecies). The use of Alaska *anatum* data was to show that no falcon population segment has totally recovered from the effects of DDT. At this time, this is the only Taiga population to have made a partial recovery. They must be included in the Lincoln Index, since they are an integral part of the migration sample.

The main point the Service is following in this regard is that for *anatum* as a whole (Taiga to Mexico), the falcon is still in serious trouble. Most of the American peregrines are barely able to maintain their current population level, even with some assistance in the form of artificial production (i.e., captive-produced or hatched eggs and young). There is no clear-cut distinction over the entire range of *Falco peregrinus* in North America between the productivity in one small locale and that in the adjacent locale. There is a continuum of nesting success rates over the continent. By and large, the worst situations are found in the Rocky Mountains and central Canada (from Colorado to northern Alberta) for *anatum*.

Some comment was raised in Canada that this proposal deals with the North American peregrine falcons and not just those within the confines of the United States. The Act under which this proposal and final rule are issued does not address nationality of the species. In fact, any species in the world is eligible for listing. Such listing (non-U.S. species or populations) serves the purposes of import controls and bringing world attention to the condition of the species. That attention often benefits the species, by assisting those governments and private conservation groups in raising monies and initiating programs to save those species.

Several questions were raised concerning the breeding areas toward which the falcons migrating in spring



were headed when blood samples were taken in Texas. Several suggested that the Service could not assume that most were *tundrius*, and that, in fact, some large proportion could be *anatum*. Several sources commenting on the proposal, plus data already on file, indicated that no more than several hundred pairs of *anatum* are present in Canada. The Canadian Wildlife Service pointed out that when the blood sampling was being done in Texas, the American peregrines from Alberta (and southward) were already on their nests and, therefore, not likely to be a major component in the Texas blood samples.

Unless there is an undetected and very large population of American peregrine falcons somewhere in North America, the preponderance of evidence suggests that only *tundrius*, Alaska *anatum*, and a small number of other Taiga birds comprise the bulk of those flights. (The marked captive-produced falcons released in eastern U.S. and southeastern Canada are excluded from the fall samples, as they are both of local origin and easily identified—the same as the capture of a different species in the trapping sample.)

The low number of pairs in some parts of the range of *tundrius* was pointed out by several commenters. The Service acknowledged in the proposal that some areas have only a few pairs. In 1980, no breeding pairs occurred on the North Slope of the Yukon (historical level is given as 16 pairs). On the other hand, the Service has received reports in the recent past of random survey sites, (i.e., not picked for peregrines) that were represented by large numbers of peregrines. There is an extremely large potential habitat area available to the Arctic peregrine. The Service finds it difficult to accept that even 10 percent of the possible peregrine habitat in the Arctic has been thoroughly and intensively surveyed.

Even in areas under intensive study, pairs of falcons are easily missed. In a few cases, the pair was not seen in early visits to the site and the site was initially assumed to be abandoned, until large young were later seen perched on the edge of the site. In other cases, pairs were found nesting a few hundred meters behind the previous sites, but out of sight to most observers. Arctic surveys for most wildlife are difficult at best. The peregrine falcon is not always easy to find.

The State of California now estimates a breeding population of perhaps 60 pairs. A decade ago, before any intensive surveys were made, the population was thought to be only a dozen or less. California has one of the largest aggregations of bird watchers,

falconers, and others who share a special interest in raptors. To imagine more than a few pairs escaping notice was almost unthinkable in those early years. After intensive surveys were initiated, over 30 pairs were located.

The Service simply implied that all populations estimates for this species must be used with caution, including those estimates derived from the Lincoln Index calculations. From all available evidence and allowing for the variety of possible errors in those estimates, the Service concludes that not less than 3,000 pairs probably occupy the Arctic and sub-Arctic areas of North America. Current populations are almost certainly lower than those found prior to use of DDT (pre-1945). The Act does not require that an endangered species be recovered to historical levels, in all cases, in order to be reclassified to threatened or be removed from the list.

#### Summary of Reclassification Issue

No convincing argument nor data were presented to the Service to indicate that the peregrine falcons in the Arctic are still in danger of extinction. The Service sees a continuing threat from DDT (and possibly other environmental contaminants) usage in Central and South America. Until that threat is clearly removed, these two subspecies (*anatum* and *tundrius*) will remain on the List of Endangered and Threatened Wildlife (50 CFR 17.11).

The majority of those who opposed or questioned this proposal either implied or indicated that there would be some measurable difference in treatment for a threatened species versus an endangered one. Under the law, there is no difference in treatment, except for some permits that could be issued in Alaska (see discussion below). The effect of this action is simply one of definition: Is the Arctic peregrine still in danger of extinction when compared to the American peregrine falcon (Alaska to Mexico), as well as to such species as the California condor (*Gymnogyps californianus*), whooping crane (*Grus americana*), and many of the Hawaiian Island endemics? The Arctic peregrine falcon is not in such danger of extinction in the foreseeable future.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Arctic peregrine falcon should be reclassified as a threatened species. Procedures found in Section 4 of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations promulgated to implement the listing provisions of the

Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the falcon *Falco peregrinus tundrius* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* As indicated in the proposal, this falcon has not been threatened with any significant losses of habitat throughout its range. Some migration and wintering areas have been lost to development, but the Arctic region and many areas elsewhere can still support this bird.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No measurable overall effects can be demonstrated for losses in the past to falconry (or any other interests), to this subspecies.

C. *Disease or predation.* Except for normal losses, this falcon is not threatened by disease or predation.

D. *The inadequacy of existing regulatory mechanisms.* Protection under the Act is still assured. No change in the protection afforded this falcon is being made by these rules.

E. *Other natural or manmade factors affecting its continued existence.* Both the American and the Arctic peregrine falcons are still contaminated by DDT. The former has been greatly reduced or extirpated from the bulk of its range in Canada and the United States. From Colorado to northern Alberta, the *anatum* are producing few young of their own and are unable to maintain their population without augmentation. Only *anatum* populations in Alaska and perhaps parts of California, Arizona, and New Mexico, as well as a few places in Mexico, are at least producing reasonable numbers of young falcons, but the general population is still well below historic levels.

As reflected by current productivity, the contamination level of Arctic peregrines is less than for most *anatum*. Average productivity of Arctic birds is now greater than 1.0 young/attempt in most areas. A number of old sites have been reoccupied. This population does not have the prospect of extinction at this time or in the foreseeable future. Chronic low levels (some 5-10 percent of birds will be "high") of DDT contamination are expected to remain for the immediate future.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or



threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for opportunities for land acquisition, cooperation with the States, requires that recovery actions be carried out for all listed species, and further requires a review of their status every 5 years.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7 requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If it is determined that a Federal action may affect a listed species, the Federal agency must enter into consultation with the Service.

The Act and implementing regulations found at 50 CFR 17.21 (for endangered species) and §§ 17.21 and 17.31 (for threatened species) set forth a series of general prohibitions and exceptions that apply to all listed wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce listed species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies (§§ 17.21 and 17.31) and for certain falcons (see § 17.7 and §§ 21.28-21.30).

Permits may be issued to carry out otherwise prohibited activities involving listed animal species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.32. Such permits are available for scientific purposes or to enhance the propagation or survival of endangered species (§ 17.22). In addition to these permits, permits for threatened species may be issued (§ 17.32) for zoological exhibition or education or other purposes consistent with the purposes of the Act.

All protections under the Act shall continue for the Arctic peregrine falcon. There is a change for a permit

application (50 CFR 17.32) for the take of Arctic peregrines on the Alaskan North Slope. Applications meeting the requirements of § 17.32 would not be published in the *Federal Register*, as applications for endangered species permits are. Consultations on threatened species permit issuances would still occur. As a matter of policy, the Service has issued the one permit for all work on listed peregrines in Alaska to the Service's Regional Director in Anchorage. The activities of all agencies and individuals are rigidly controlled under the provisions of that permit.

For the purposes of the Act, the peregrines nesting in western Washington are determined to be an endangered species. In the future, Federal agencies will be required to consult under Section 7 of the Act, if any action they propose may affect those peregrines nesting, as well as wintering, in western Washington. Until now there has been confusion as to whether to consult or not on those nesting in this area.

All peregrines not identifiable as American peregrine falcons found in the lower 48 States will be treated as endangered for law enforcement purposes under the Similarity of Appearance provisions (see § 17.50). This ensures the protection from take of American peregrine falcons that may be nesting, migrating, or wintering in the lower 48 States.

The species *Falco peregrinus* is on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which requires both a permit for export from the country of origin and an import permit from the recipient country. No change in this status is being proposed by the Service to other parties of CITES as a result of this reclassification.

#### Critical Habitat

The previously determined critical habitat for American peregrine falcons in California remains unaltered in § 17.95(b). Critical habitat has not been designated for the Arctic peregrine falcons because such action would not be prudent. No benefit would ensue from designation of critical habitat for the Arctic peregrine falcons.

#### National Environmental Policy Act

A draft Environmental Assessment was prepared at the time of the proposal. Subsequently, and in accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service is no longer preparing Environmental Assessments for Section 4(a) actions. The

recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals, which held that the preparation of NEPA documentation was not required as a matter of law for Section 4(a) actions under the Endangered Species Act. *PLF v. Andrus*, 657 F.2d 829 (6th Cir., 1981).

#### References

There have been many scientific papers, books, administrative reports, recovery plans, letters, petitions, and other documents used in the preparation of this rule. Some of these documents have been prepared for future publication in appropriate scientific journals. Others are still part of ongoing research or management projects and constitute only interim reports of data gathered to date. Some of the documentation goes back several decades, while some has been obtained as recently as last fall (1983). The Service is unable to provide a brief list of these hundreds of sources within this *Federal Register* document. Persons interested in examining these materials, including all comments received, may review them at the Service's Office of Endangered Species by appointment during normal business hours (703/235-1975).

#### Author

The author of this rule is Jay M. Sheppard of the Service's Office of Endangered Species (703/235-1975, see **ADDRESS** section).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

#### Regulations Promulgation

#### PART 17—[AMENDED]

Accordingly, the Service amends Part 17 of Title 50 of the Code of Federal Regulations as follows:

1. The authority citation for Part 17 reads as follows:

**Authority:** Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1241; and Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend the table at § 17.11(h) by revising the entries of the "Falcon, American peregrine" and "Falcon, Arctic peregrine" and adding the entry "Falcon, peregrine" under "BIRDS" to read as follows:

#### § 17.11 Endangered and threatened wildlife.

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Falcon, American peregrine.	<i>Falco peregrinus anatum.</i>	Nests from central Alaska across north-central Canada to central Mexico, winters south to South America.	Entire .....	E.....	2,3, 145	17.95(b)...	NA.
Falcon, Artic peregrine.	<i>Falco peregrinus tundrius.</i>	Nests from northern Alaska to Greenland, winters south to Central and South America.	.....do .....	T.....	2,3, 145	NA.....	NA.
Falcon, peregrine.	<i>Falco peregrinus</i> .....	Worldwide, except Antarctica and most Pacific islands.	Wherever found in wild in the conterminous 48 States.	E(S/A)....	145	NA.....	NA.

Dated: March 14, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-7492 Filed 3-19-84; 8:45 am]

BILLING CODE 4310-55-M



# **Registered Federal Register**

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**Tuesday  
March 20, 1984**

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## **Part VIII**

### **Department of Agriculture**

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**Animal and Plant Health Inspection  
Service**

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**9 CFR Part 73  
Scabies in Cattle; Interim Rule**



## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

[Docket No. 83-099]

## 9 CFR Part 73

## Scabies in Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

**SUMMARY:** This document amends the cattle scabies regulations which restrict the interstate movement of certain cattle because of scabies. The regulations are amended to provide for the use of ivermectin against scabies as an alternative to dipping cattle with permitted dips.

**DATES:** The effective date of this document is March 16, 1984.

Comments must be received on or before May 21, 1984.

**ADDRESS:** Written comments concerning this interim rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. Glen O. Schubert, Assistant Senior Staff Veterinarian, Special Diseases Staff, VS, APHIS, USDA, Room 824, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8438.

**SUPPLEMENTARY INFORMATION:** This document amends the cattle scabies regulations (contained in 9 CFR Part 73 and referred to below as the regulations) which restrict the interstate movement of certain cattle because of scabies, a contagious skin disease caused by mites. The regulations are amended to provide for the use of ivermectin against scabies.

Prior to the effective date of this document, the regulations provided for the treatment of scabies in cattle only by dipping the cattle with permitted dips. This document amends the regulations to allow ivermectin to be used as an alternative for dipping cattle.

Ivermectin, an injectable drug, has been approved by the Food and Drug Administration as a treatment of certain cattle for scabies, as well as certain other external and internal parasites. It is approved for use for all cattle other than female dairy cattle of breeding age. Ivermectin is now being used pursuant to this approval. Research and field

trials conducted by the manufacturer and by the Agricultural Research Service of the U.S. Department of Agriculture, and field trials carried out by Veterinary Services in cooperation with several States have confirmed that ivermectin effectively eradicates cattle scabies mites without injury to the cattle.

Section 73.1 of the regulations provides that no cattle affected with scabies, no cattle which just prior to movement were affected with or exposed to scabies, and no cattle from an area quarantined for scabies shall be shipped, trailed, driven, or otherwise moved interstate for any purpose except

Accordingly, a new section (§ 73.12) is added to the regulations to read as follows:

(a) Cattle affected with scabies or which just prior to movement were affected with or exposed to scabies may be moved interstate from a nonquarantined area after being treated with ivermectin under the supervision of a Veterinary Services inspector or State inspector in accordance with the directions on the label of the drug if the following conditions are met:

(1) Such cattle are kept physically separated for 14 days following treatment from all cattle not part of the group treated together with ivermectin (regardless of whether the cattle are moved interstate before the end of the 14-day period); and

(2) If such cattle are moved interstate before the end of the 14th day following treatment, at the time of interstate movement they are accompanied by a certificate issued and signed by a Veterinary Services inspector or State inspector identifying the group of cattle treated with ivermectin and stating the date on which the cattle were treated with ivermectin; and

(3) If such cattle are moved interstate before the end of the 14th day following treatment, at the time of interstate movement the means of conveyance carrying them is placarded and the billing marked in accordance with § 73.6.

**Note.**—Cattle from nonquarantined areas which are not affected with scabies or which just prior to movement were not affected with or exposed to scabies may be moved interstate without restrictions under this Part. Accordingly, cattle from nonquarantined areas which had been treated with ivermectin more than 14 days before movement interstate may be moved interstate without restriction under this Part unless following treatment they become affected with scabies or just prior to movement become affected with or exposed to scabies.

(b) Cattle may be moved interstate from a quarantined area after being treated with ivermectin under the supervision of a Veterinary Services inspector or State inspector in accordance with the directions on the label of the drug if the following conditions are met:

(1) Such cattle are moved interstate within 21 days following treatment with ivermectin; and

(2) Such cattle are kept physically separated for 14 days following treatment from all cattle not part of the group treated together with ivermectin (regardless of whether the cattle are moved interstate before the end of the 14 day period); and, if such cattle are moved interstate with the 15- to 21-day period following treatment, they remain kept physically separated from all cattle not a part of the group treated together with ivermectin until after they are moved interstate; and

(3) Such cattle are accompanied at the time of interstate movement by a certificate issued and signed by a Veterinary Services Inspector or State inspector identifying the group of cattle treated with ivermectin and stating the date on which the cattle were treated with ivermectin; and

(4) If such cattle are moved interstate before the end of the 14 day period following treatment, at the time of interstate movement the means of conveyance carrying them is placarded and the billing marked in accordance with § 73.6.

## Basis for New § 73.12

In order to prevent the interstate spread of scabies infestations, it is necessary that cattle regulated because of scabies that are treated with ivermectin and that are moving interstate be physically separated from cattle not part of the group treated together with ivermectin for at least 14 days following treatment. By the end of the 14th day following treatment with ivermectin all of the mites that were present on the cattle at the time of treatment would be dead or incapable of causing further scabies infestation. The physical separation for the 14-day period is necessary to ensure that the treated cattle do not become reinfested because of contact with other infested cattle prior to interstate movement, and is necessary to ensure that the treated cattle do not infest other cattle after interstate movement.

It is also necessary that cattle moved interstate from a quarantined area be moved within the 21-day period following treatment. A significant degree of protection against reinfestation would be present from the 14th day to the 21st day after treatment. For such cattle moving interstate after the 14-day period following treatment, it is also necessary as an added precaution that the cattle remain physically separated from all cattle not a part of the group treated together with ivermectin until moved interstate. In a quarantined area there would be a significant risk that treated cattle allowed to commingle with other cattle would become reinfested with scabies.

It is necessary that cattle moved interstate under the ivermectin provisions, from a quarantined area or a



nonquarantined area, be accompanied at the time of interstate movement by a certificate issued and signed by a Veterinary Services inspector or State inspector. This is necessary so that determinations can be made concerning the status of the cattle during movement.

In addition it is provided that the ivermectin treatments be conducted under the supervision of a Veterinary Services inspector or State inspector to ensure that the cattle are treated with ivermectin.

Further, a note is included to clarify that the regulations do not impose any restrictions on the interstate movement from nonquarantined areas of cattle which are not affected with scabies or which just prior to movement were not affected with or exposed to scabies.

Also, for informational purposes, a footnote is added to § 73.12 as follows:

Tissue residues remain following treatment with ivermectin. Cattle treated with ivermectin are not allowed to be slaughtered for food purposes until the expiration of such period as may be required under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*). Further, the animal drug regulations in 21 CFR Parts 522 and 556 promulgated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) contain limitations on the use of ivermectin and contain tolerances for ivermectin in edible cattle tissue. With respect to the limitations, 21 CFR Part 522 provides the following: "For subcutaneous use only. Not for intramuscular use. Do not treat cattle within 35 days of slaughter. Because a withdrawal time in milk has not been established, do not use in female dairy cattle of breeding age. Federal law restricts this drug to use by or on the order of a licensed veterinarian."

#### Changes Relating to § 73.6

Prior to the effective date of this document, § 73.6 of the regulations provided for means of conveyance carrying certain cattle having a significant risk of being infested with scabies to be placarded and the billing to be marked as follows:

When cattle are shipped as "Dipped Scabby Cattle," or "Cattle Exposed to Scabies," the transportation companies shall securely affix to and maintain upon both sides of each means of conveyance carrying such cattle a durable, conspicuous placard, not less than 5½ by 8 inches in size, on which shall be printed with permanent black ink in boldfaced letters, not less than 1½ inches in height, the words, "Dipped Scabby Cattle," or "Cattle Exposed to Scabies," as the case may be. These placards shall also show the name of the place from which the shipment was made, the date of the shipment (which must correspond to the date of the waybills and other papers), the name of the transportation company, and the name of the place of destination. The carrier issuing the waybills, conductors' manifests, memoranda, and bills of lading pertaining to such shipments shall

plainly write or stamp upon the face of each such paper the words, "Dipped Scabby Cattle," or "Cattle Exposed to Scabies," as the case may be. If for any reason the placards required by this part have not been affixed to the means of conveyance as aforesaid, or the placards have been removed, destroyed, or rendered illegible, or the cattle are rebilled or are transferred to other means of conveyance, the placards shall be immediately affixed or replaced by the carrier, and the new waybills shall be marked as aforesaid by the carrier issuing them, the intention being that the billing accompanying the shipment shall be marked and the means of conveyance containing the cattle shall be placarded "Dipped Scabby Cattle," or "Cattle Exposed to Scabies," as the case may be, from the time of shipment until the cattle arrive at destination or point of dipping and the disposition of the means of conveyance is indicated by a Veterinary Services inspector or State inspector.

The term "Dipped Scabby Cattle" has been used in the regulations to refer to cattle that have been treated for scabies by dipping. The provisions of § 73.6 are made applicable to cattle moved before the end of the 14-day period following treatment with ivermectin and, the term "Dipped Scabby Cattle" is changed to "Treated Scabby Cattle" so that it can be used for cattle that have been treated for scabies by dipping or treated for scabies with ivermectin.

The placard and billing provisions are necessary to help advise persons that the cattle have been treated with ivermectin and thereby help to ensure that they would remain physically separated from cattle not part of the group treated together with ivermectin for the 14-day period.

#### Changes to § 73.5

Section 73.5 of the regulations provides for the interstate shipment of noninfested cattle from a quarantined area directly to slaughter. Prior to the effective date of this document, this section provided, in part, that:

When it is determined by the Deputy Administrator, Veterinary Services, that all cattle of all herds in any quarantined area have been inspected for scabies by a Veterinary Services or State inspector, that all the infected or exposed herds have been identified, and that all the infected herds have been dipped twice, and all the exposed herds have been dipped in a permitted dip as prescribed in § 73.10, under the supervision of a Veterinary Services or Veterinary Services-approved inspector, cattle of herds in such area which are not diseased with or exposed to scabies may be moved interstate in accordance with this section, without further Veterinary Services inspection or certification, directly to a slaughtering plant where Federal Meat Inspection is maintained.

This section is amended to provide for treatment of an infected or exposed herd with ivermectin as an alternative to

dipping. However, if ivermectin is used, it is also necessary to require that the herd be kept physically separated for 14 days following treatment from all cattle not a part of the herd treated together with ivermectin in order to prevent the treated cattle from spreading the scabies mite to nontreated cattle moving interstate.

#### Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. On February 13, 1984, the Food and Drug Administration promulgated a final rule (49 FR 5343-5344) which approved the use of ivermectin for, among other things, use in cattle for the treatment and control of mite infestations. Research, tests and field trials conducted by this Department and others indicate that when used subject to limitations specified in the rule, ivermectin is safe and effective and the label approved by the Food and Drug Administration indicates that ivermectin is effective against scabies. Numerous individuals have expressed a desire to use ivermectin in order to qualify cattle for interstate movement and ivermectin is already being used for treatment of scabies. Further, it appears unnecessary to require treatment by dipping for scabies pursuant to the current regulations when the cattle are to be moved interstate and have been treated with ivermectin. It is therefore necessary to make this rule effective immediately in order to relieve unnecessary restrictions on the movement of cattle and to avoid confusion concerning the status of cattle treated with ivermectin.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this interim rule effective upon signature. Comments have been solicited for 60 days and a final document discussing comments received and any amendments required will be published in the Federal Register as soon as possible.

#### Executive Order 12291 and Regulatory Flexibility Act

This emergency action has been reviewed in accordance with Executive



Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a major rule. The Department has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The amendment of the regulations to allow the interstate movement of cattle regulated because of scabies if treated with ivermectin would not cause a significant effect on the number or cost of cattle moving interstate.

Additionally, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because this action only provides for the use of ivermectin as an alternative to dipping cattle with permitted dips.

#### List of Subjects in 9 CFR 73

##### *Federal Register Thesaurus Terms*

Animal diseases, Animal pests, Cattle, Quarantine, Transportation.

##### *Additional Terms*

Scabies, Mites.

#### PART 73—SCABIES IN CATTLE

Under the circumstances referred to above, 9 CFR Part 73 is amended as follows:

##### **§ 73.2 [Amended]**

1. In § 73.2(a)(2) "Dipped Scabby Cattle," is changed to "Treated Scabby Cattle,".

##### **§ 73.3 [Amended]**

2. In § 73.3 "Dipped Scabby Cattle," is changed to "Treated Scabby Cattle,".

3. Section 73.5 is amended by changing the period at the end of the second sentence to a colon and by adding the following:

##### **§ 73.5 Interstate shipment of undiseased cattle from quarantined area; when permitted.**

\* \* \* *Provided further*, that treatment with ivermectin may be used in lieu of dipping for a herd of cattle treated

together if the herd is physically separated for 14 days following treatment from all cattle not a part of the herd treated together with ivermectin. \* \* \*

##### **§ 73.6 [Amended]**

4. In § 73.6, "dipped" in the heading is changed to "treated", and "Dipped Scabby Cattle," is changed to "Treated Scabby Cattle," each of the four times it appears in the section.

5. A new § 73.12 is added to read as follows:

##### **§ 73.12 Ivermectin.<sup>1</sup>**

(a) Cattle affected with scabies or which just prior to movement were affected with or exposed to scabies may be moved interstate from a nonquarantined area after being treated with ivermectin under the supervision of a Veterinary Services inspector or State inspector in accordance with the directions on the label of the drug if the following conditions are met:

(1) Such cattle are kept physically separated for 14 days following treatment from all cattle not part of the group treated together with ivermectin (regardless of whether the cattle are moved interstate before the end of the 14-day period); and

(2) If such cattle are moved interstate before the end of the 14th day following treatment, at the time of interstate movement they are accompanied by a certificate issued and signed by a Veterinary Services inspector or State inspector identifying the group of cattle treated with ivermectin and stating the date on which the cattle were treated with ivermectin; and

(3) If such cattle are moved interstate before the end of the 14th day following treatment, at the time of interstate movement the means of conveyance carrying them is placarded and the billing marked in accordance with § 73.6.

<sup>1</sup>Tissue residues remain following treatment with ivermectin. Cattle treated with ivermectin are not allowed to be slaughtered for food purposes until the expiration of such period as may be required under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*). Further, the animal drug regulations in 21 CFR Parts 522 and 556 promulgated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) contain limitations on the use of ivermectin and contain tolerances for ivermectin in edible cattle tissue. With respect to the limitations 21 CFR Part 522 provides the following: "For subcutaneous use only. Not for intramuscular use. Do not treat cattle within 35 days of slaughter. Because a withdrawal time in milk has not been established, do not use in female dairy cattle of breeding age. Federal law restricts this drug to use by or on the order of a licensed veterinarian."

**Note.**—Cattle from nonquarantined areas which are not affected with scabies or which just prior to movement were not affected with or exposed to scabies may be moved interstate without restrictions under this Part. Accordingly, cattle from nonquarantined areas which had been treated with ivermectin more than 14 days before movement interstate may be moved interstate without restriction under this Part unless following treatment they become affected with scabies or just prior to movement become affected with or exposed to scabies.

(b) Cattle may be moved interstate from a quarantined area after being treated with ivermectin under the supervision of a Veterinary Services inspector or State inspector in accordance with the directions on the label of the drug if the following conditions are met:

(1) Such cattle are moved interstate within 21 days following treatment with ivermectin; and

(2) Such cattle are kept physically separated for 14 days following treatment from all cattle not part of the group treated together with ivermectin (regardless of whether the cattle are moved interstate before the end of the 14 day period); and, if such cattle are moved within the 15- to 21-day period following treatment, they remain kept physically separated from all cattle not a part of the group treated together with ivermectin until after they are moved interstate; and

(3) Such cattle are accompanied at the time of interstate movement by a certificate issued and signed by a Veterinary Services inspector or State inspector identifying the group of cattle treated with ivermectin and stating the date on which the cattle were treated with ivermectin; and

(4) If such cattle are moved interstate before the end of the 14 day period following treatment, at the time of interstate movement the means of conveyance carrying them is placarded and the billing marked in accordance with § 73.6.

**Authority:** Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791, 792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132, 76 Stat. 663; 7 U.S.C. 450 and 21 U.S.C. 111-113, 115, 117, 120, 121, 123-128, 134b and 134f; 7 CFR 2.17, 2.51, 371.2(d).

Done at Washington, D.C., this 16th day of March 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-7056 Filed 3-19-84; 12:28 pm]

BILLING CODE 3410-34-M



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Vol. 49, No. 55

Tuesday, March 20, 1984

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**S.J. Res. 205 / Pub.L. 98-234**

Authorizing and requesting the President to designate the second full week in March 1984 as "National Employ the Older Worker Week". (Mar. 16, 1984; 98 Stat. 63) Price: \$1.50





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*Franklin D. Roosevelt*  
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